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ILLINOIS REGISTER

Rules of Governmental Agencies

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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity of governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. Rulemaking activity consists of proposed or adopted new amendments to or repealers of existing rules, including those by emergency or peremptory action.

The Register also contains Executive Orders and Proclamations issued by the Governor, notices of 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. In addition, the Register contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred, the current Register volume and a Sections Affected Index listing, by Title of the *Illinois Administrative Code*, each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume. Both indices are action coded and are designed to aid the public in monitoring rulemaking activity.

The Register will serve as the update to the *Illinois Administrative Code*, a compilation of the rules of the State agencies. The most recent edition of the Code along with the Register comprise the most current and complete set of the State agencies' rules.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Code Act (Ill. Rev. Stat. 1985, ch. 127, pars. 1001 et seq., as amended).

REGISTER PUBLICATION SCHEDULE 1990

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Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

14 111. Reg. 1650	Amendment	1.240
14 111. Reg. 1650	Amendment	1.280
14 111. Reg. 1650	Amendment	1.290
14 111. Reg. 1650	Amendment	1.320
14 111. Reg. 1650	Amendment	1.420
14 111. Reg. 1650	Amendment	1.430
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14 111. Reg. 1650	Amendment	1.640
14 111. Reg. 1650	Amendment	1.730
14 111. Reg. 1650	Amendment	1.735
14 111. Reg. 1650	Amendment	Appendix A
14 111. Reg. 1650	Amendment	Appendix B

10) Statement of statewide Policy objectives:

The policy objective of this rulemaking is to comply with P.A. 86-195, which requires that the State Board of Education promulgate rules governing fee waivers. Compliance with the statute cannot be achieved without the adoption of these proposed requirements.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Enno Lietz
 Illinois State Board of Education
 100 North First Street
 Springfield, Illinois 62777.
 (217) 782-4980

12) Initial Regulatory Flexibility Analysis: These rules will not affect small businesses.

The full text of the Proposed Rule(s) begins on the next page:

1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision

2) Code Citation: 23 Ill. Adm. Code 1

3) Section Numbers: Proposed Action: New Section 1.245

4) Statutory Authority: P.A. 86-195

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

A new Section 1.245 is added to this part, setting forth requirements to govern districts' policies regarding the waiver of school fees as contemplated by P.A. 86-195. The term "school fees" is defined in detail, and the necessary elements of districts' fee waiver policies are identified. These include eligibility standards, notification of parents, and procedures for the resolution of disputes; the proposed new Section contains the standards applicable to each of these elements. The rule also contains provisions regarding the notification of parents when a district's policy is changed in any substantive way; the confidentiality of student records used in establishing eligibility for fee waivers; and the impermissibility of punishing or discriminating against students whose parents or guardians are unable to purchase required materials or pay school fees.

6) Will this proposed rule 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 incorporations by reference?

The rules do not contain an incorporation by reference under Section 6.02(b) of the Illinois Administrative Procedure Act.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

PART 1

PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: RECOGNITION AND SUPERVISION

Section

- 1.10 Periodic Evaluation
- 1.20 Evaluation by Public School Approval Section and Regional Superintendent
- 1.30 Written Program Plan to be Filed
- 1.40 Pending Further Audit
- 1.50 Three Types of Recognition Status
- 1.60 Reevaluation
- 1.70 Effective Dates for Recognition Status
- 1.80 Appeals

SUBPART B: SCHOOL GOVERNANCE

Section

- 1.210 Powers and Duties
- 1.220 Duties of Superintendent
- 1.230 Board of Education and The School Code
- 1.240 Equal Opportunities for all Students
- 1.245 Waiver of School Fees
- 1.250 District to Comply with 23 Ill. Adm. Code 175 and 185
- 1.260 Commemorative Holidays to be Observed by Public Schools
- 1.270 Book and Material Selection
- 1.280 Discipline
- 1.290 Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

Section

- 1.310 Administrative Responsibilities
- 1.320 Duties
- 1.330 Hazardous Materials Training

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section

- 1.410 Determination of the Instructional Program
- 1.420 Basic Standards
- 1.430 Additional Criteria for Elementary Schools

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- 1.440 Additional Criteria for High Schools
- 1.450 Special Programs
- 1.460 Credit Earned Through Proficiency Examinations
- 1.462 Uniform Annual Consumer Education Proficiency Test
- 1.465 Ethnic School Foreign Language Credit and Program Approval
- 1.470 Adult and Continuing Education
- 1.480 Correctional Institution Educational Programs

SUBPART E: SUPPORT SERVICES

Section

- 1.510 Transportation
- 1.520 School Food Services
- 1.530 Health Services
- 1.540 Pupil Personnel Services

SUBPART F: STAFF CERTIFICATION REQUIREMENTS

Section

- 1.610 Public School Districts
- 1.620 Accreditation of Staff
- 1.630 Noncertificated Personnel
- 1.640 Requirements for Different Certificates
- 1.650 Transcripts of Credits
- 1.660 Records of Professional Personnel

SUBPART G: STAFF QUALIFICATIONS

Section

- 1.705 Minimum Requirements for Teachers
- 1.710 Minimum Requirements for Elementary Teachers
- 1.720 Minimum Requirements for Teachers of Junior High and Departmentalized Upper Elementary Grades
- 1.730 Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades Six (6) and Above
- 1.740 Standards for Reading
- 1.750 Standards for Media Services
- 1.760 Standards for Pupil Personnel Services
- 1.770 Standards for Special Education Personnel
- 1.780 Standards for Teachers in Bilingual Education Programs
- 1.781 Requirements for Bilingual Education Teachers in Grades K-12
- 1.782 Requirements for Teachers of English as a Second Language in Grades K-12
- 1.790 Substitute Teacher

NOTICE OF PROPOSED AMENDMENTS

the student's participation in any curricular or extracurricular program of the school or school district. A school or school district does not impose a "fee" when it requires that a student provide his or her own ordinary supplies or materials (e.g., pencil, paper, notebooks), which are necessary to participate in any curricular or extracurricular program.

1) "School fees" include, but are not limited to, the following:

- A) All charges and deposits collected by a school for use of school property (e.g., locks, towels, laboratory equipment).
 - B) Charges for field trips made during school hours, or made after school hours if the field trip is a required or customary part of a class or extracurricular activity (e.g., annually scheduled trips to museums, concerts, places of business and industry or field trips related to instruction in social studies, the fine arts, career/vocational education or the sciences).
 - C) Charges or deposits for uniforms or equipment related to varsity and intramural sports, or to fine arts programs.
- 2) "School fees" do not include:
- A) Library fines and other charges made for the loss, misuse, or destruction of school property.
 - B) Charges for the purchase of class rings, yearbooks, pictures, diploma covers or similar items.
 - C) Charges for optional travel undertaken by a school club or group of students outside of school hours (e.g., a trip to Spain by the Spanish club or a senior class trip).
 - D) Charges for admission to school dances, athletic events or other social events.

NOTICE OF PROPOSED AMENDMENTS

APPENDIX A Professional Staff Certification
 APPENDIX B Certification Quick Reference Chart
 APPENDIX C Glossary of Terms

AUTHORITY: Implementing Sections 2-3.25, 2-3.43, 2-3.44, 2-3.93, 10-17a, 10-20.14, 10-22.43a, 14C-8, 26-13, 27-12.1 and 27-22, and 1987 and 1988 Supp., ch. 122, pars. 2-3.25, 2-3.43, 2-3.44, 2-3.93, 10-17a, 10-20.14, 10-22.43a, 14C-8, 26-13, 27-12.1, 27-22, and 2-3.6).

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800, effective February 26, 1988; amended at _____ Ill. Reg. _____.

NOTE: Capitalization denotes statutory language.

SUBPART B: SCHOOL GOVERNANCE

Section 1.245 Waiver of School Fees

This Section provides the rules required by Section 2-3.93 of The School Code (added by P.A. 86-195, effective August 14, 1989) under which each school district is required to adopt a written policy for the waiver of school fees as required by Sections 10-20.13 and 34-21.6 of The School Code (Ill. Rev. Stat. 1987, ch. 122, pars. 10-20.13 and 34-21.6, as amended by P.A. 86-195, effective August 14, 1989).

a) Each school board shall adopt a written policy and administrative procedures for the waiver of school fees. The policy and procedures must:

- 1) be implemented no later than the start of the 1990-1991 school year; and
- 2) contain at least the elements set forth in subsection (c) or (d).

b) For the purposes of this Section "school fees" or "fees" means any monetary charge collected by a public school or public school district from a student or the parents or guardian of a student as a prerequisite for

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- c) School boards that do not charge school fees must adopt a policy so stating. Parents must be notified of this policy as provided in this Section.
- d) School boards that charge school fees must adopt a policy and procedures containing at least the following elements:

1) Standards to determine eligibility

- A) Standards must include a waiver of fees for all students who qualify for free lunches or breakfasts under the Community School Lunch Program (Ill. Rev. Stat. 1987, ch. 122, par. 712.1 et seq.).
- B) Standards must also include a description of other extenuating circumstances under which the district will grant a waiver of school fees. Examples include: students who are eligible to receive reduced price lunch or breakfast; very significant loss of income due to severe illness or injury in the family or unusual expenses such as fire, flood, or storm damage; or similar emergency situations that the district determines to include in its policy.

2) Notification of parents

The district's policy for the waiver of school fees shall be communicated in writing to the parents of all students enrolled in the district at the start of the 1990-1991 school year and thereafter to the parents of all students enrolling in the district for the first time. The notification must be in English or the home language of the parents (if translation of the notice is not feasible, the use of interpreters is permitted - e.g., other students or neighbors). The notice shall at least describe:

- A) the district's policy, including the criteria and other circumstances under which the district will waive school fees;
- B) the fees subject to waiver under the district's policy;

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- C) the procedure to be used by parents in applying for a waiver of school fees, including the availability of forms that may be used to request a fee waiver; and
- D) the procedure to be used by parents in resolving disputes concerning the waiver of school fees.
- 3) Procedures for the resolution of disputes
- A) The district's policy must provide that if it denies a request for a fee waiver, then it shall mail a copy of its decision to the parents within thirty (30) calendar days of receipt of the request. The decision shall state the reason for the denial and shall inform the parents of their right to appeal, including the process and timelines for that action.
- B) An appeal shall be decided within thirty (30) calendar days of the receipt of the parents' request for an appeal. Parents shall have the right to meet with the person who will decide the appeal in order to explain why the fee waiver should be granted. If the appeal is denied, then the district shall mail a copy of its decision to the parents. The decision shall state the reason for the denial.
- C) No fee shall be collected from any parent who is seeking a fee waiver in accordance with the district's policy until the district has acted on the initial request or appeal (if any is made), and the parents have been notified of its decision.
- e) If the fee waiver policy and/or procedures are substantively amended, then parents of students enrolled in the district must be notified in writing within thirty (30) calendar days following the adoption of the amendments.
- f) School records that identify individual students as applicants for or recipients of fee waivers are subject

1) Heading of the Part: USE OF X-RAYS IN THE HEALING ARTS INCLUDING MEDICAL, DENTAL, PODIATRY, AND VETERINARY MEDICINE

2) Code Citation: 32 Ill. Adm. Code 360

Section Number:	Proposed Action:
360.20	Amendment
360.30	Amendment
360.40	Amendment
360.60	Amendment
360.70	Amendment
360.71	New Section
APPENDIX B	New Section
ILLUSTRATION A	New Section
ILLUSTRATION B	New Section
TABLE C	Amendment

5) A Complete Description of the Subjects and Issues Involved: This rulemaking adds a new Section 360.71, which sets forth the specific requirements applicable to facilities performing mammography. Section 360.71 provides a dose limit for the cranio-caudal mammography view. Although other mammography views are performed, the Department is prescribing dose limits only for the cranio-caudal view because this is the view most commonly used. A new Appendix B, which provides a measurement protocol for determining compliance with the mammography dose limits specified in Section 360.71 is also being added. Illustrations that are helpful in understanding the measurement protocol are also being added. This rulemaking provides definitions for three new terms: "mammography," "mammography dosimetry test phantom," and "mammography system." In addition, the definition of "healing arts screening" is being amended to specify that it does not include mammography procedures performed on self-referred patients. Finally, this rulemaking deletes the subsection headings in the definitions section.

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

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

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

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

to the Illinois School Student Records Act, (Ill. Rev. Stat. 1987, ch. 122, par. 50-1 et seq.) Information from such records is confidential and may be disclosed only as provided in the Act.

9) NO DISCRIMINATION OR PUNISHMENT OF ANY KIND, INCLUDING THE LOWERING OF GRADES OR EXCLUSION FROM CLASSES, MAY BE EXERCISED AGAINST A STUDENT WHOSE PARENTS OR GUARDIANS ARE UNABLE TO PURCHASE REQUIRED TEXTBOOKS OR INSTRUCTIONAL MATERIALS OR TO PAY REQUIRED FEES (Ill. Rev. Stat. 1987, ch. 122, par. 28-19.2(a)).

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

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED AMENDMENTS

10) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their 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: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. The Department will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Betsy Salus
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 785-9880

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: April 27, 1990
- B) Types of small businesses affected: This rule will affect medical practices in Illinois that provide mammography services.
- C) Reporting, bookkeeping or other procedures required for compliance: No new reporting, bookkeeping, or other procedures would be required for compliance. This amendment adds equipment specifications for mammography systems.
- D) Types of professional skills necessary for compliance: In order to comply with the mammography requirements being proposed in this rulemaking, mammography facilities must be operated and mammography procedures must be performed under the supervision of a physician licensed under the Medical Practice Act of 1987. In addition, at facilities where mammography procedures are performed by a person other than a licensed physician, the skills of an accredited radiologic technologist are also required.

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

DEPARTMENT OF NUCLEAR SAFETY
NOTICE OF PROPOSED AMENDMENTS

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 360
USE OF X-RAYS IN THE HEALING ARTS INCLUDING MEDICAL, DENTAL,
PODIATRY, AND VETERINARY MEDICINE

Section	
360.10	Scope
360.20	Definitions
360.30	General Requirements and Administrative Controls
360.40	General Equipment and Operation Requirements for Diagnostic X-Ray Systems
360.50	Fluoroscopic Systems
360.60	Stationary Radiographic Systems Other Than Fluoroscopic, Dental Intraoral, or Veterinary, or Systems Used Solely for Mammography
360.70	Mobile/Portable Radiographic Systems Other Than Systems Used Solely for Mammography
360.71	Requirements for Facilities Performing Mammography
360.80	Photofluorographic Systems
360.90	Intraoral Dental Radiographic Systems
360.100	Veterinary Radiographic Systems
360.110	Therapeutic X-Ray Installations
360.120	Special Requirements for X-Ray Therapy Equipment Operated at Potential of Fifty (50) kVp and Below
APPENDIX A	Medical Radiographic Exposure Limits
APPENDIX B	Mammography Dose Limit
ILLUSTRATION A	Thimble and Pancake Chamber
ILLUSTRATION B	Dose Evaluation Graph
TABLE A	Filtration Required as a Function of Operating kVp (Repealed)
TABLE B	Half-Value Layer as a Function of Tube Potential
TABLE C	Entrance Exposure Limits Per Intraoral Bitewing Film

AUTHORITY: Implementing and authorized by the Radiation Protection Act (Ill. Rev. Stat. 1987, ch. 111½, pars. 211 et seq.)

SOURCE: Filed April 20, 1974 by the Department of Public Health; old rules repealed, new rules adopted at 4 Ill. Reg. 25, p. 157, effective July 1, 1980; transferred to the Department of Nuclear Safety by P.A. 81-1516, effective December 3, 1980; codified at 7 Ill. Reg. 16406; amended at 10 Ill. Reg. 13271, effective July 28, 1986; amended at 13 Ill. Reg. 803, effective April 1, 1989; amended at ___ Ill. Reg. ___, effective _____.

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k) "Control panel" means that part or parts of the x-ray system upon which are mounted the switches, knobs, pushbuttons, and other hardware necessary for setting the technique factors prior to initiating an x-ray exposure.

t) "Dead-man switch" means a switch so constructed that a circuit-closing contact can be maintained only by continuous pressure on the switch by the operator.

m) "Diagnostic source assembly" means an x-ray tube housing assembly, designed for use in diagnostic x-ray applications, with a beam limiting device attached.

n) "Diagnostic-type protective tube housing" means an x-ray tube housing constructed so that when a beam limiting device is attached, the leakage radiation measured at a distance of 1 meter from the source cannot exceed 100 mR in 1 hour when the tube is operated at its maximum continuous rated current for the maximum rated tube potential.

e) "Diaphragm" means a device or mechanism by which the x-ray beam is restricted in size (see {g} "Beam-limiting device").

p) "Filter" means material placed in the useful beam to absorb, preferentially, radiations based on energy level (see {q} "filtration" and {x} "inherent filtration").

q) "Filtration" means the act of preferentially absorbing radiation with filters or inherent filtration (see {p} "Filter" and {x} "Inherent filtration").

r) "General purpose radiographic x-ray system" means any radiographic x-ray system which, by design, is not limited to radiographic examination of specific anatomical regions.

s) "Gonad shield" means a protective device for the testes or ovaries which provides a minimum of 0.50 mm lead equivalent protection.

t) "Half-value layer (HVL)" means the thickness of a specified material that attenuates the beam of radiation to an extent such that the exposure rate is reduced to one-half of its original value.

AGENCY NOTE: The contribution of all scattered radiation, other than any that might be present initially in the beam concerned, is minimized.

Section 360.20 Definitions
As used in this Part, the following definitions apply:

a) "Accelerator" means any therapeutic machine capable of producing a useful beam of x-rays or charged particles with energies greater than 500 keV.

b) "Added filtration" means the effect of the material (filter) added to the inherent filtration.

e) "Aluminum equivalent" means the thickness of type 1100 aluminum alloy affording the same attenuation, under specified conditions, as the material in question. The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper.

d) "Automatic exposure control" means a device which automatically controls 1 or more technique factors in order to obtain at a preselected location(s) a required quantity of radiation (see {t} "Phototimer").

e) "Barrier" (see {ee} "Protective barrier").

f) "Beam axis" means a line from the source through the center of the x-ray field.

g) "Beam-limiting device" means a device which provides a means to restrict the dimensions of the x-ray field (see {t} "Collimator", {e} "Diaphragm", and {vv} "Shutter").

h) "Certified system" means an x-ray system which is subject to regulations promulgated under Public Law 90-602, the Radiation Control for Health and Safety Act of 1968 (42 U.S.C.A. 263(b) et seq.), 21 CFR 1000.3 et seq., in effect as of April 1, 1988, exclusive of subsequent amendments or editions. A copy of this document is available for public inspection at the Illinois Department of Nuclear Safety (Department), 1035 Outer Park Drive, Springfield, Illinois.

t) "Collimator" means a device or mechanism by which the x-ray beam is restricted in size (see {g} "Beam-limiting device").

f) "Contact therapy system" means an x-ray system used for therapy with the x-ray tube port placed in contact with or within 5 centimeters of the surface being treated.

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- u) "Healing arts screening" means the examination of human beings using x-ray machines for the detection or evaluation of health indications potential diseases when such examinations are not specifically ordered by a licensed practitioner of the healing arts legally authorized to prescribe such x-ray examinations for the purpose of diagnosis or treatment. However, healing arts screening does not include mammography on self-referred patients.
- v) "Image intensifier" means a device, installed in a housing, which converts an x-ray pattern into a corresponding light image.
- w) "Image receptor" means any device, such as a fluorescent screen or radiographic film, which transforms incident x-ray photons either into a visible image or into another form which can be made into a visible image by further transformations.
- x) "Inherent filtration" means the filtration permanently in the useful beam; it includes the effect of the x-ray tube window and any permanent tube or source enclosure (see {p} "Filter" and {q} "Filtration").
- y) "Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.
- z) "Kilovolts peak (kVp)" means the crest value, in kilovolts, of the electric potential applied to the x-ray tube between the cathode and anode of a pulsating electric potential generator.
- aa) "Lead equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.
- bb) "Leakage radiation" means all radiation emanating from the diagnostic source assembly except for:
- 1) The useful beam; and
 - 2) The radiation produced when the exposure switch or timer is not activated.
- ee) "Leakage technique factors" means the technique factors used to measure leakage radiation from the diagnostic source assembly. They are defined as follows:

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- 1) For capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs, i.e. 10 milliamperere seconds, or the minimum obtainable from the unit, whichever is larger.
 - 2) For field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of x-ray pulses in an hour for operation at the maximum-rated peak tube potential.
 - 3) For all other equipment, the maximum-rated peak tube potential and the maximum-rated continuous tube current for the maximum-rated peak tube potential.
- dd) "Light field" means that area of the intersection of the light beam from the beam-limiting device and any one of the sets of planes parallel to and including the plane of the image receptor. The edge of the light field is defined as the locus of points at which the illumination is 25 percent of that at the center of the light field.
- "Mammography" means radiography of the breast for the purpose of enabling a physician to determine the presence, size, location and extent of cancerous or potentially cancerous tissue in the breast.
- "Mammography dosimetry test phantom" means a phantom for determining the mean glandular breast dose. For automatic exposure control mammography systems it shall be any phantom material that is equivalent to a 4.5 centimeter compressed breast thickness.
- "Mammography System" means an x-ray system that is used to perform mammography.
- ee) "Medical Radiographer" means a person other than a licensed practitioner, accredited in accordance with the provisions of 32 Ill. Adm. Code 401, or an individual exempt from the provisions of 32 Ill. Adm. Code 401, who performs medical radiation procedures and applies x-radiation, to any part of the human body, for diagnostic purposes while under the supervision of a licensed practitioner.
- ff) "Mobile equipment" (see {ggg} "X-ray equipment").
- gg) "Non-certified system" means an x-ray system which is not subject to regulations promulgated under Public Law 90-602, the Radiation Control for Health and Safety Act of 1968 (see {h} "Certified system").

- pp} "Protective glove" means a glove made of radiation absorbing materials, at least 0.25 mm lead equivalent, used to reduce exposure from stray radiation (see {ddd} "Stray radiation").
- qq} "Qualified expert" means an individual who has demonstrated to the satisfaction of the Department that he or she possesses the knowledge and training to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs. Satisfactory demonstration of such knowledge and training should include certification by a nationally recognized credentialing entity in the field of radiation protection.
- rr} "Radiation therapy simulation system" means a radiographic/fluoroscopic x-ray system used exclusively for localizing the volume to be exposed during radiation therapy and confirming the position and size of the therapeutic irradiation field.
- ss} "Radiologist" means a physician or veterinarian who is either:
 - 1} Certified by the American Board of Radiology in diagnostic radiology or general radiology;
 - 2} Certified by the American Osteopathic Board of Radiology;
 - 3} Certified by the American Chiropractic Board of Radiology; or
 - 4} Certified by the American College of Veterinary Radiology; or
 - 5} Eligible for certification by any College or Board identified in {1} through {4} above.
- tt} "Scatter radiation" means radiation that, during passage through matter, has been deviated in direction.
- uu} "Secondary protective barrier" (see {ee} "Protective barrier").
- vv} "Shutter" means an adjustable beam-limiting or attenuating device, usually made of lead, fixed to an x-ray tube housing to intercept or collimate the useful beam (see {gg} "Beam-limiting device").
- ww} "SID" means source-image receptor distance (see {xy} "Source-image receptor distance").
- xx} "Source" means the focal spot of the x-ray tube.
- yy} "Source-image distance" means the distance from the source to the center of the input surface of the image receptor.

- hh} "Personnel monitoring" means the determination of radiation exposure to a person. Devices used for this purpose may include, but are not limited to, film badges, pocket dosimeters, and thermoluminescent dosimeters worn by the individual.
- ii} "Phototimer" means a method for controlling radiation exposures to image receptors by the amount of radiation which reaches a radiation monitoring device(s). The radiation monitoring device(s) is part of an electronic circuit which controls the duration of time the tube is activated (see {d} "Automatic exposure control").
- jj} Portable equipment" (see ggg} "X-ray equipment").
- kk} "Position indicating device" means a device on intraoral dental x-ray equipment used to indicate the beam position and to establish a definite source-skin distance.
- ll} "Positive beam limitation" means a beam-limiting device which will, at the source-image receptor distance for which the device is designed, either cause automatic adjustment of the x-ray field in the plane of the image receptor to the image receptor size within 5 seconds after insertion of the image receptor or, if adjustment is accomplished automatically in a time interval greater than 5 seconds or is manual, prevent production of x-rays until such adjustment is completed. For SIDs at which the device is not intended to operate, the device prevents the production of x-rays.
- mm} "Primary protective barrier" (see {ee} "Protective barrier").
- nn} "Protective apron" means an apron of radiation absorbing materials, at least 0.25 mm lead equivalent, used to reduce exposure from stray radiation (see {ddd} "Stray radiation").
- oo} "Protective barrier" means a barrier of radiation absorbing material(s) used to reduce radiation exposure. The types of protective barriers are as follows:
 - 1} "Primary protective barrier" means the material, excluding filters, placed in the useful beam to reduce the radiation exposure.
 - 2} "Secondary protective barrier" means a barrier sufficient to attenuate the stray radiation to the required degree (see {ddd} "Stray radiation").

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- zz} "Source-skin distance (SSD)" means the distance measured along the central ray from the center of the front surface of the x-ray focal spot to the surface of the irradiated object.
- aaa} "Special purpose x-ray system" means any radiographic x-ray system which, by design, is limited to radiographic examination of a specific anatomical region.
- bbb} "Spot film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.
- eee} "Stationary equipment" (see {ggg} "X-ray equipment").
- ddd} "Stray radiation" means the sum of leakage and scatter radiation.
- eee} "Technique factors" means the electrical potential (kilovolts), current (milliamperes), exposure time parameters (seconds or pulses) or a combination thereof, selectable at the control panel of an x-ray system (see {k} "Control panel").
- fff} "Useful beam" means the radiation which passes through the tube housing port and the aperture of the beam-limiting device when the exposure switch or timer is activated.
- ggg} "X-ray equipment" means an x-ray system, sub-system, or component thereof. Types of x-ray equipment are as follows:
- 1} "Mobile x-ray equipment" means x-ray equipment mounted on a permanent base with wheels and/or casters for moving while completely assembled.
 - 2} "Portable x-ray equipment" means x-ray equipment designed to be hand-carried.
 - 3} "Stationary x-ray equipment" means x-ray equipment which is installed in a fixed location.
- hhh} "X-ray field" means, for diagnostic purposes, that area of the intersection of the useful beam and any 1 of the set of planes parallel to and including the plane of the image receptor. The edge of the x-ray field is defined as the locus of points at which the exposure is 25 percent of that at the center of the x-ray field.

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- iii} "X-ray system" means an assemblage of components for the controlled production of x-rays. It includes minimally an x-ray high-voltage generator, an x-ray control panel, an x-ray tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

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

Section 360.30 General Requirements and Administrative Controls

The requirements in this Section apply to all uses of x-rays in veterinary medicine and to all uses of x-rays in the Healing Arts including the use of x-rays for both diagnostic and therapeutic purposes. Additional requirements for all diagnostic x-ray systems are in Section 360.40 and specific equipment application classes are contained in Sections 360.50 through 360.100. For therapeutic x-ray systems also see Sections 360.110 and 360.120.

- a) Registrant - The registrant shall:
- 1) Direct the operation of the x-ray system(s);
 - 2) Register with the Department, in accordance with the provisions of 32 Ill. Adm. Code 320, all x-ray equipment which is used at the facility;
 - 3) Register with the Department, in accordance with the provisions of 32 Ill. Adm. Code 320, all portable or mobile x-ray equipment used by the Registrant;
 - 4) Submit an application for inspection of radiation machines to the Department in accordance with 32 Ill. Adm. Code 410 and, if the inspection is performed by a qualified nondepartment inspector, submit a copy of the radiation inspection report to the Department;
 - 5) Permit operation of the x-ray system(s) only by individuals who are licensed in accordance with State law (See Section 360.10(a)), or who are accredited by the Department or are exempt from such requirements in accordance with the provisions of 32 Ill. Adm. Code 401;
 - 6) Inform all individuals who work in activities pursuant to the operator's registration of their rights in accordance with the provisions of 32 Ill. Adm. Code 400; and

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- 1) Separate records of maintenance and modifications performed on each x-ray system with the name(s) of the individual(s) who performed such services and the date(s) performed.
- 2) A copy of all correspondence with the Department regarding the registrant's x-ray program.
- i) Staff Qualifications - The registrant shall maintain for review by the Department:
 - 1) A current staffing plan indicating the names of all individuals responsible for operating x-ray equipment and the scope of their duties at the facility.
 - 2) Current certificates of accreditation (clear, legible copies are acceptable), issued by the Department in accordance with the provisions of 32 Ill. Adm. Code 401, for all individuals who are required to be so accredited.
- j) Radiation Safety Program - The registrant shall provide for annual in-service training for individuals (excluding licensed practitioners) that apply ionizing radiation at the facility, to ensure their awareness of the registrant's radiation safety practices and policies.
 - 1) The in-service training must include the following topics:
 - A) Operating and emergency procedures for the radiation machine(s);
 - B) Use of personnel and patient protective devices;
 - C) Procedures to minimize patient and personnel exposure, as required by Section 360.40;
 - D) Use of personnel monitoring devices (if such devices are used at the facility);
 - E) Film processing procedures; and
 - F) Prohibited uses of fluoroscopic machines (if such machines are used at the facility), as described in Section 360.40(f).

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- 7) Maintain records showing the receipt, transfer, use, storage, and disposal of all sources of radiation in accordance with the provisions of 32 Ill. Adm. Code 310 and 320.
- b) Shielding - Each installation shall be provided with such primary barriers and/or secondary barriers as are necessary to assure compliance with the provisions of 32 Ill. Adm. Code 340.1010, 340.1040 and 340.1050.
- c) An x-ray system which does not meet the provisions of this Part shall not be operated for diagnostic or therapeutic purposes if so ordered by the Director.
- d) If an x-ray system is identified as not being in compliance with the provisions of this Part and if that system is accessible for use, it shall be rendered inoperable (i.e. dismantle the x-ray source from the source support assembly) if so ordered by the Director.
- e) Unauthorized Exposure - Individuals shall not be exposed to the useful beam except for healing arts purposes and only when such exposure has been authorized by a licensed practitioner of the healing arts. This provision specifically prohibits deliberate exposure for the following purposes:
 - 1) Exposure of individuals for training, demonstration, or other non-healing arts purposes.
 - 2) Exposure of individuals for the purpose of "healing arts screening" (see Section 360.20).
- f) Personnel Monitoring and Reporting Requirements - All persons who are associated with the operation of an x-ray system are subject to the occupational exposure limits and the requirements for the determination of the doses which are contained in 32 Ill. Adm. Code 340.1010, 340.1020, 340.1040, 340.2010, and 340.2020 and the reporting requirements as stated in 32 Ill. Adm. Code 340.4010 through 340.4080.
- g) The registrant shall comply with the requirements of the Department's rules entitled, Notices, Instructions and Reports to Workers; Inspections, 32 Ill. Adm. Code 400.
- h) Maintenance Records and Associated Information - The registrant shall maintain, for a period of at least 3 inspection cycles (see 32 Ill. Adm. Code 410.60(d)), the following information for each x-ray system for inspection by the Department:
 - f) Personnel Monitoring and Reporting Requirements - All persons who are associated with the operation of an x-ray system are subject to the occupational exposure limits and the requirements for the determination of the doses which are contained in 32 Ill. Adm. Code 340.1010, 340.1020, 340.1040, 340.2010, and 340.2020 and the reporting requirements as stated in 32 Ill. Adm. Code 340.4010 through 340.4080.
 - g) The registrant shall comply with the requirements of the Department's rules entitled, Notices, Instructions and Reports to Workers; Inspections, 32 Ill. Adm. Code 400.
 - h) Maintenance Records and Associated Information - The registrant shall maintain, for a period of at least 3 inspection cycles (see 32 Ill. Adm. Code 410.60(d)), the following information for each x-ray system for inspection by the Department:

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- 2) The registrant shall maintain for a period of at least 3 inspection cycles (see 32 Ill. Adm. Code 410.60(d)), documentation, signed by persons who apply ionizing radiation, that indicates the date and content of training provided.
- 3) The registrant shall provide to each individual subject to in-service training, a written policy statement outlining the registrant's radiation safety practices and policies specified in subsection (j)(1) above.

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

Section 360.40 General Equipment and Operation Requirements for Diagnostic X-ray Systems

The requirements of this Section apply to all diagnostic x-ray systems. Additional requirements for specific equipment application classes are in Sections 360.50 through 360.100.

- a) Half-Value Layer - The half-value layer of the useful beam for a given x-ray tube potential shall not be less than the values shown in Table B of this Part. If it is necessary to determine a half-value layer at an x-ray tube potential which is not listed in Table B, linear interpolation or extrapolation may be utilized to determine the appropriate value.
- b) Beam-On Indicators
 - 1) The control panel shall include a device (usually a milliammeter or labeled indicator lamp) which will give positive indication of the production of x-rays whenever the x-ray tube is energized.
 - 2) In addition, on certified systems, a signal audible to the operator shall indicate that the exposure has terminated.
- c) Mechanical Support of Tube Head - The tube housing assembly supports shall be adjusted such that the tube housing assembly will remain stable during an exposure unless tube housing movement is a designed function of the x-ray system.
- d) Diagnostic Source Assembly Leakage Radiation Limits - The leakage radiation measured at a distance of 1 meter from the source shall not exceed 100 milliroentgens in 1 hour when the tube is operated at its leakage technique factors.
- e) Exposure Switch - The exposure switch shall be a dead-man switch.

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- f) Patient or Film Support - When a patient or film must be provided with auxiliary support during a radiation exposure:
 - 1) No person shall be used routinely to hold film or patients; and
 - 2) Unless the procedure precludes their use, mechanical holding devices shall be used to restrain patients. For example, mechanical holding devices could not be used if the devices would preclude clear visualization of the tissue being examined.

AGENCY NOTE: The radiation dose received by radiation workers, patients, and the general public can be reduced if mechanical patient and film support devices are used for radiographic and fluoroscopic procedures. In the event that an individual must be used in lieu of mechanical patient or film support devices to hold patients or films, every effort should be made to limit the individual's exposure to radiation. This can be accomplished by not assigning to a single individual the task of supporting patients and films during radiographic and fluoroscopic examinations. Rather, a number of individuals may be rotated through the assignment, thereby reducing the radiation exposure to one individual.

- g) Personnel Protection -
 - 1) Except for patients who cannot be moved out of the room, only the staff and ancillary personnel required for the medical procedure or training shall be in the room during the radiographic/fluoroscopic exposure.
 - 2) Individuals who must be in the room with the patient being radiographed or fluoroscoped shall be positioned such that no part of the individual's body will be exposed to:
 - A) The useful beam unless protected by 0.5 millimeter lead equivalent apparel or device, and
 - B) Stray radiation unless protected by 0.25 millimeter lead equivalent apparel or device.

AGENCY NOTE: If apparel is used, it should cover as much of the individual's trunk and upper leg surface areas as possible. Apparel that protects both posterior and anterior surfaces is recommended. If a device, e.g., protective screen/barrier, is used in lieu of protective apparel, the device should be of such a width and height to afford protection as would be provided if apparel was worn.

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1) Gonadal Shielding

Except for cases in which it would interfere with the diagnostic procedure, gonadal shielding of not less than 0.50 millimeters of lead equivalent shall be used for patients (who have not passed the reproductive age) during those radiographic procedures in which the gonads are in the useful beam.

AGENCY NOTE: Protection of the embryo or fetus from radiation exposure during radiological examination or treatment of a woman of childbearing age (potentially pregnant) should be given special consideration. However, in practice, medical needs should be the primary factors in deciding when to administer the examination.

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

Section 360.60 Stationary Radiographic Systems Other Than Fluoroscopic, Dental Intraoral, or Veterinary, or Systems Used Solely For Mammography

In addition to the provisions of Sections 360.10, 360.30 and 360.40, the requirements of this Section apply to x-ray equipment and associated facilities used for radiography with stationary radiographic systems other than fluoroscopic, dental intraoral, or veterinary medical systems.

a) Beam Limitation - The useful beam shall be limited to the area of clinical interest. The size of the image receptor utilized for each radiographic projection shall be consistent with the objectives of the examination.

1) Stationary General Purpose X-ray Systems - Means shall be provided to limit the x-ray field in the plane of the image receptor so that such field does not exceed each dimension of the image receptor by more than 2 percent of the SID when the axis of the x-ray beam is perpendicular to the plane of the image receptor.

A) Variable X-Ray Field Limitation - There shall be provided a means for stepless adjustment of the size of the x-ray field.

B) Visual Indication of Field Size - Means shall be provided for visually defining the perimeter of the x-ray field. The total misalignment of the edges of the visually defined field, with respect to the edges of the x-ray field, shall

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not exceed 2 percent of the distance from the source to the center of the visually defined field when the surface upon which it appears is perpendicular to the axis of the x-ray beam.

C) Numerical Indication of Field Size -

i) The beam-limiting device shall numerically indicate the x-ray field size in the plane of the image receptor to which it is adjusted.

ii) The x-ray field dimensions shall be specified in inches and/or centimeters, and shall be such that aperture adjustments result in x-ray field dimensions in the plane of the image receptor that do not differ from the numerical indicated dimensions by more than + or - 2 percent of the SID when the beam axis is perpendicular to the plane of the image receptor.

iii) The beam-limiting device shall be provided with SID scales that reflect the actual SID(s) used for radiographic procedures.

D) SID Indication -

i) Means shall be provided to indicate the SID.

ii) SIDs shall be indicated in inches and/or centimeters and the measured SID shall correspond to the indicated value to within 2 percent.

E) X-Ray Field/Image Receptor Alignment - Means shall be provided to:

i) Indicate when the axis of the x-ray field is perpendicular to the plane of the image receptor; and

ii) Align the center of the x-ray field with respect to the center of the image receptor to within 2 percent of the SID.

F) Additional Requirements for Systems Equipped with Positive Beam Limitation -

i) The x-ray field size in the plane of the image receptor, whether automatically or manually adjusted, shall be such that neither the length nor the width of

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- B) Means shall be provided to limit the x-ray field in the plane of the image receptor so that such field does not exceed each dimension of the image receptor by more than 2 percent of the SID when the axis of the x-ray beam is perpendicular to the plane of the image receptor.
- C) Means shall be provided to align the center of the x-ray field with the center of the image receptor to within 2 percent of the SID.
- D) The requirements of subsection (a)(2)(B) above may be met:
 - i) With a system that meets the requirements specified in subsection (a)(1) above; or
 - ii) With an assortment of removable, fixed-aperture, beam-limiting devices sufficient to meet the requirement for each combination of image receptor size and SID for which such device having permanent, clearly legible markings, in inches and/or centimeters, to indicate the image receptor size and SID for which it is designed; or
 - iii) With a beam-limiting device having multiple fixed apertures sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is used. Permanent, clearly legible markings, in inches and/or centimeters, shall indicate the image receptor size and SID for which each aperture is designed and shall indicate which aperture is in position for use.
- 3) Single Purpose X-Ray Systems Designed for One Image Receptor Size - Radiographic equipment designed for only 1 image receptor size at a fixed SID shall be provided with means to limit the x-ray field at the plane of the image receptor to dimensions no greater than those of the image receptor when the axis of the x-ray beam is perpendicular to the plane of the image receptor. Systems designed for or provided with Special Attachments for Mammography - Radiographic systems designed only for mammography, and general purpose radiographic systems when special attachments for mammography are used, shall be provided with means to limit the use of beam such that the x-ray field at the plane of the image receptor does not extend beyond any edge
- 4) Systems designed for or provided with Special Attachments for Mammography - Radiographic systems designed only for mammography, and general purpose radiographic systems when special attachments for mammography are used, shall be provided with means to limit the use of beam such that the x-ray field at the plane of the image receptor does not extend beyond any edge

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- i) The x-ray field differs from that of the image receptor by greater than 3 percent of the SID and that the sum of the length and width differences without regard to sign be no greater than 4 percent of the SID when the equipment indicates that the beam axis is perpendicular to the plane of the image receptor.
- ii) The radiographic system shall be capable of operation, at the discretion of the operator, such that the field size at the image receptor can be adjusted to a size smaller than the image receptor. The minimum field size at a distance of 100 centimeters (40 inches) shall be equal to or less than 5 centimeters by 5 centimeters (2 inches by 2 inches). Return to positive beam limitation shall occur upon a change in image receptor.
- iii) Positive beam limitation may be bypassed when radiography is conducted which does not use the cassette tray or permanently mounted vertical cassette holder, or when either the beam axis or table angulation is not within 10 degrees of the horizontal or vertical during any part of the exposure, or during stereoscopic radiography. If the bypass mode is provided, return to positive beam limitation shall be automatic.
- iv) A capability may be provided for overriding positive beam limitation in the event of system failure or to perform special procedures which cannot be performed in the positive mode. If so provided, a key shall be required to override the positive mode. It shall be impossible to remove the key while the positive mode is overridden.
- 2) Special Purpose X-Ray Systems -
 - A) SID Indication -
 - i) Means shall be provided to indicate the SID.
 - ii) SIDs shall be indicated in inches and/or centimeters and the measured SID shall correspond to the indicated value to within 2 percent.

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of the image receptor at any designated SID except the edge of the image receptor designed to be adjacent to the chest wall where the x-ray field may not extend beyond this edge by more than 2 percent of the SID. This requirement can be met with a system which performs as prescribed in subsections (a)(2)(D)(i) and (ii) above. When the beam-limiting device and image receptor support device are designed to be used to immobilize the breast during a mammographic procedure and the SID may vary, the SID indication specified in subsections (a)(2)(D)(ii) and (iii) above shall be the maximum SID for which the beam-limiting device or aperture is designed.

b) Timers -

- 1) Means shall be provided to terminate the exposure at a preset time interval, preset product of current and time, preset number of pulses, or preset radiation exposure to the image receptor. Also, it shall not be possible to make an exposure when the timer is set to a zero or off position if either position is provided.
- 2) In addition, for certified systems, termination of exposure shall cause automatic resetting of the timer to its initial setting or to zero.

c) Operator's Control Station - Stationary protective barriers shall be provided for the x-ray operator.

d) Exposure Switch Arrangement - The exposure switch shall be arranged so that it cannot be operated by a person outside a stationary protective barrier.

e) Ancillary Personnel Protection - Individuals other than the patient whose presence is required in the radiographic room during an x-ray examination shall be protected from scatter radiation by protective aprons of not less than 0.25 millimeters lead equivalent or whole body protective barriers.

f) Medical Radiographic Exposure Limits - The exposure measured at the table top for the technique used for an average adult patient for routine medical radiography will be the following: (See Appendix A for measurement protocol).

- 1) "Abdomen Anterior Posterior (A.P.) View" exposure shall not exceed 500 milliroentgens per radiograph.

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- 2) "Lumbar Spine Lateral View" exposure shall not exceed 1400 milliroentgens per radiograph.
- 3) "Cervical Spine A.P. View" exposure shall not exceed 150 milliroentgens per radiograph.
- 4) "Skull Posterior Anterior (P.A.) View" exposure shall not exceed 400 milliroentgens per radiograph.

AGENCY NOTE: These exposures are maximums. With careful selection of technique factors, adjustment of film processing systems, and choice of film and film screen combinations, patient exposures can be further reduced. For example, the following patient exposures should not be exceeded for each of the exams listed: "Abdomen A.P. View" exposure should not exceed 350 milliroentgens per radiograph; "Lumbar Spine Lateral View" exposure should not exceed 1,000 milliroentgens per radiograph; "Cervical Spine A.P. View" exposure should not exceed 100 milliroentgens per radiograph; and "Skull P.A. View" exposure should not exceed 200 milliroentgens per radiograph.

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

Section 360.70 Mobile/Portable Radiographic Systems Other Than Systems Used Solely For Mammography

In addition to the provisions of Sections 360.10, 360.30 and 360.40, the requirements of this Section apply to x-ray equipment and associated facilities used for radiography with medical mobile/portable systems.

- a) Beam Limitation - The useful beam shall be limited to the area of clinical interest. The size of the image receptor used for each radiographic projection shall be consistent with the objectives of the examination.
 - 1) Limitation Criteria - Means shall be provided to limit the x-ray field in the plane of the image receptor so that the field does not exceed each dimension of the image receptor by more than 2 percent of the SID when the axis of the x-ray beam is perpendicular to the plane of the image receptor. Limitation of the x-ray field for certified x-ray systems shall be accomplished by the means specified in Section 360.60(a)(1)(A) and (B). For non-certified x-ray systems, the x-ray field shall be limited by the means specified in either Section 360.60(a)(1)(A) and (B) or Section 360.60(a)(2)(D)(i) and (ii).

- e) Radiation from Capacitor Energy Storage X-ray Equipment in Standby Status - Radiation emitted from the x-ray tube when the exposure switch or timer is not activated shall not exceed a rate of 2 milliroentgens per hour at 5 centimeters (2 inches) from any accessible surface of the diagnostic source assembly, with the beam-limiting device fully open.
 - f) Ancillary Personnel Protection - Individuals other than the patient whose presence is required in the radiographic room during an x-ray examination shall be protected from scatter radiation by protective aprons of not less than 0.25 millimeters lead equivalent or whole body protective barriers.
 - g) Medical radiographic Exposure Limits - Criteria specified in Section 360.60(f) apply.
- (Source: Amended at 111. Reg. _____, effective _____)
- Section 360.71 Requirements for Facilities Performing Mammography
- In addition to the provisions of Sections 360.30, 360.40 and 32 111. Adm. Code 400 and 401, the requirements of this Section apply to mammography systems and associated facilities used for mammography.
- a) Physician Supervision - Mammography operations and procedures shall be under the supervision of a physician licensed under the Medical Practice Act of 1987 (111. Rev. Stat., ch. 111, par. 4400) to practice medicine in all of its branches.

AGENCY NOTE: The individual interpreting clinical images of the breast should be a radiologist trained in the imaging modality being used and should be certified or eligible for certification by either the American Board of Radiology in diagnostic radiology or general radiology or the American Osteopathic Board of Radiology. A facility performing mammography should have a program that is accredited by the American College of Radiology or the Illinois Radiological Society or have a program that is comparable.
- b) Screen-film Mammography - Screen-film mammography shall only be performed with a special purpose radiation machine specifically designed for mammography procedures.
- c) Xeromammography - Xeromammography shall only be performed with a radiation machine that has been specifically designed for or modified to perform xeromammography.

- 2) SID Indication -
 - A) Means shall be provided to indicate the SID.
 - B) SIDs shall be indicated in inches and/or centimeters and the measured SID shall correspond to the indicated value to within 2 percent.
- b) Exposure Switch Arrangement -
 - 1) The exposure control switch shall be arranged so that the operator can stand at least 6 feet from the patient, the x-ray tube, and well away from the useful beam.
 - 2) All individuals operating mobile/portable x-ray systems shall wear protective aprons of not less than 0.25 millimeters lead equivalent.
 - 3) When a mobile/portable x-ray system is used in 1 location, it shall be considered a stationary system subject to the requirements specified in Section 360.60(c) and (d).
- c) Source-Skin Distance -
 - 1) Non-certified x-ray systems shall not be operable at a SSD of less than 20 centimeters (8 inches).
 - 2) Certified x-ray systems shall not be operable at a SSD of less than 30 centimeters (12 inches).
- d) Timers -
 - 1) Means shall be provided to terminate the exposure at a preset time interval, preset product of current and time, preset number of pulses, or preset radiation exposure to the image receptor. Also, it shall not be possible to make an exposure when the timer is set to a zero or off position if either position is provided.
 - 2) In addition, for certified systems, termination of exposure shall cause automatic resetting of the timer to its initial setting or to zero.

DEPARTMENT OF NUCLEAR SAFETY
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- 1) Means shall be provided to limit the useful beam so that the x-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor at any designated source to image receptor distance (SID). However, the x-ray field may extend beyond the edge of the image receptor designed to be adjacent to the chest wall provided it does not extend beyond this edge by more than 2 percent of the SID.
- 2) The requirement of subsection (d)(1) above shall be met with a system that performs as prescribed in either Section 360.60(a)(1) or Section 360.60(a)(2)(D)(ii).

e) Beam Limiting Device Labeling -

- 1) If beam limitation is met with a device as prescribed in Section 360.60(a)(2)(D)(ii), such device must have permanent clearly legible markings in inches and/or centimeters indicating the image receptor size and SID for which each device is designed.
- 2) If the radiation machine is capable of using variable SIDs, the SID indication specified in subsection (e)(1) above shall be the maximum SID for which the beam limiting device is designed.

f) Exposure Switch Arrangement -

- 1) Stationary Mammography Systems - For mammography systems consisting of stationary x-ray equipment, the criteria specified in Section 360.60(d) shall apply.
- 2) Mobile and Portable Mammography Systems - For mammography systems consisting of mobile and portable x-ray equipment, the criteria specified in either Section 360.60(d) or Section 360.70(b)(1) shall apply.

g) Operator Shielding -

- 1) Stationary Mammography Systems - For mammography systems consisting of stationary x-ray equipment, the criteria specified in Section 360.60(c) shall apply.
- 2) Mobile and Portable Mammography Systems - For mammography systems consisting of mobile and portable x-ray equipment, the criteria specified in either Section 360.60(c) or Section 360.70(b)(2) shall apply.

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- 3) Mobile and Portable X-Ray Equipment Used in Only One Location - When mobile or portable x-ray equipment is used in only one location, it shall be considered a stationary system and shall be subject to the requirements specified in Sections 360.60(c) and (d).
- h) Timers - The criteria specified in Section 360.60(b) shall apply.
- i) SID Indicator - For radiation machines capable of operating at variable SIDs, the criteria specified in Section 360.60(a)(1)(D) shall apply.
- j) X-ray Field/Image Receptor Alignment - Section 360.60(a)(2)(C) shall apply.
- k) Backup Timer - Radiation systems with automatic exposure control (AEC) shall incorporate a backup timer to terminate the radiation exposure in the event of AEC failure.
- l) SSD - Except with respect to magnification for mammography projections, mammography systems shall satisfy the requirements of Section 360.70(c).
- m) Focal Spot Size - The nominal focal spot size, as specified by the x-ray tube manufacturer, shall not exceed 0.7 millimeters.
- n) Reproducibility of Exposures - For all systems, regardless of whether they are equipped with AEC, the estimated coefficient of variation of radiation exposures shall be no greater than 0.05 for any specific combination of selected technique factors. It will not be necessary to calculate the coefficient of variation if for 4 consecutive measurements taken within a time period of 1 hour the difference between the highest and lowest exposures does not exceed 10 percent. If there is a difference greater than 10 percent, 6 additional exposures shall be made and the coefficient of variation shall be calculated.

AGENCY NOTE: "Coefficient of variation" means the ratio of the standard deviation to the mean value of a population of observations. It is calculated using the following equation:

$$C = \frac{s}{\bar{X}} = \frac{1}{\bar{X}} \left[\sum_{i=1}^n \frac{(X_i - \bar{X})^2}{n-1} \right]^{1/2}$$

where:

s = Estimated standard deviation of the population.

X = Mean value of observations in sample.

Xi = ith observation sampled.

n = Number of observations sampled.

Mammography Exam Dose Limits (See Appendix B for the required measurement protocol.) - The mean glandular dose for one craniocaudal view of a 1.8 inch (4.5 centimeter) compressed breast (50 percent adipose/50 percent glandular) must not exceed:

1) 100 millirads (1 milligray) for film/screen radiographs not employing the use of grids,

2) 300 millirads (3 milligrays) for film/screen radiographs employing the use of grids, or

3) 400 millirads (4 milligrays) for xerography.

AGENCY NOTE: A facility performing mammography should have a phantom specifically designed for breast imaging. This phantom should enable the individual interpreting clinical images of the breast to readily determine the x-ray system's ability to identify masses and calcifications on a month to month basis.

(Source: Added at 111. Reg. _____, effective _____)

Section 360. APPENDIX B Mammography Dose Limit

MEASUREMENT PROTOCOL

The technique factors used for performing a mammography examination shall not permit the mean glandular absorbed dose to exceed the following limits:

Film/Screen Without Grid - 0.1 Rad (1 milligray) per craniocaudal view

Film/Screen With Grid - 0.3 Rad (3 milligrays) per craniocaudal view

Xerography - 0.4 Rad (4 milligrays) per craniocaudal view

The above limits are based on an average compressed breast value of 4.5 centimeters having an average density (i.e., 50 percent adipose and 50 percent glandular). While other sizes and densities may be present in the actual population of interest, this average compressed breast of 4.5 centimeters and density of 50 percent adipose and 50 percent glandular tissue will suffice as a dose model reference within the accuracies needed to provide safety to the general public.

a)

Non-Automatic Exposure Control Systems - Perform the following steps to determine the mean glandular dose to a 4.5 centimeter compressed breast:

1) Determine the x-ray tube target material.

2) Identify the curve which represents a 4.5 centimeter compressed breast thickness from the "Dose Evaluation" graph (see Illustration B).

3) Measure and record the x-ray system's useful beam half-value layer (HVL). (See Section 360.40(a).) Any compression device normally in the useful beam during mammography procedures shall be required to be placed between the x-ray tube target and measuring device and as far as possible from the device when determining the HVL. The measuring device shall be placed midway between the x-ray tube target and the breast support assembly. Filters used for the HVL evaluation shall be placed as close to the target as possible. The useful beam shall be collimated to a size just greater than the size of the measuring device's detector chamber.

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AGENCY NOTE: The HVL for film/screen mammography should not exceed 0.4 millimeters of aluminum and 1.6 millimeters of aluminum for xerography.

- 4) Estimate the normalized rad per roentgen factor from the "Dose Evaluation" graph (see Illustration B) using the coordinates for a 4.5 centimeter compressed breast thickness and the appropriate HVL.

Example: A radiation machine is provided with a molybdenum target and its HVL is determined to be 0.3. Therefore, for a 4.5 centimeter compressed breast, the normalized rad per roentgen factor would be 0.16.

- 5) Set the appropriate craniocaudal source to image receptor distance (SID) for the image receptor system used.
- 6) Place a radiation measuring device in the useful beam so that the center axis of the device is parallel to the breast support assembly (BSA). The geometric center of the measuring device shall be positioned so that it is centered 4.5 centimeters above the BSA, 2.54 centimeters (1 inch) from the chest wall edge of the BSA and at the center line of the BSA. (see Illustration A) The radiation measuring device shall be an integrating type appropriate to the high beam intensity and mammographic kilovoltage peak (kVp) used. No part of the device's detector chamber shall be outside of the useful beam.
- 7) Collimate the x-ray field to the size normally used.
- 8) Set the milliamperage (mA), kilovoltage peak (kVp) and exposure time technique factors normally used for a 4.5 centimeter compressed breast.
- 9) Position, in the useful beam and as close to the measuring device as possible, any compression apparatus normally used.
- 10) Measure and record the exposure in air with the radiation measuring device.
- 11) Calculate the mean glandular dose for a 4.5 centimeter compressed breast by multiplying the measured exposure in roentgens by the normalized rads per roentgen figure established in subsection (a)(4) above.

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Example: The rad (milligray) per roentgen figure of 0.16 established in subsection (a)(4) will be used. The measured roentgen output (subsection (a)(10) is determined to be 1.8 roentgens. Therefore, the mean glandular dose would be 288 millirads (2.88 milligrays). If the image receptor type used was film/screen with grid, the system would be in compliance with Section 360.71(o)(2).

- b) Systems Equipped with AEC That Have A Means To Determine Exposure Elapsed Time - Perform one of the following two procedures to determine the mean glandular dose to a 4.5 centimeter compressed breast for systems equipped with either a milliamp second (mAs) meter or an exposure time indicator.

1) Mammography dosimetry test phantom procedure

- A) Follow the procedures outlined in subsections (a)(1), (2), (3), (4) and (5) above.
- B) Place a mammography dosimetry test phantom (see the definition for "Mammography dosimetry test phantom" in Section 360.20) on the breast support assembly. Center the phantom on the assembly to assure the phantom is over the automatic exposure control device(s).
- C) Limit the useful beam to the size of the phantom.
- D) Set the milliamperage (mA) and kilovoltage peak (kVp) technique factors normally used for a 4.5 centimeter compressed breast.
- E) Position, in the useful beam, any compression apparatus normally used.
- F) Make an exposure and record the mAs or exposure on-time/mA value.
- G) Remove the phantom from the useful beam.
- H) Leave the useful beam collimated to the same dimensions used in subsection (b)(1)(C) above.

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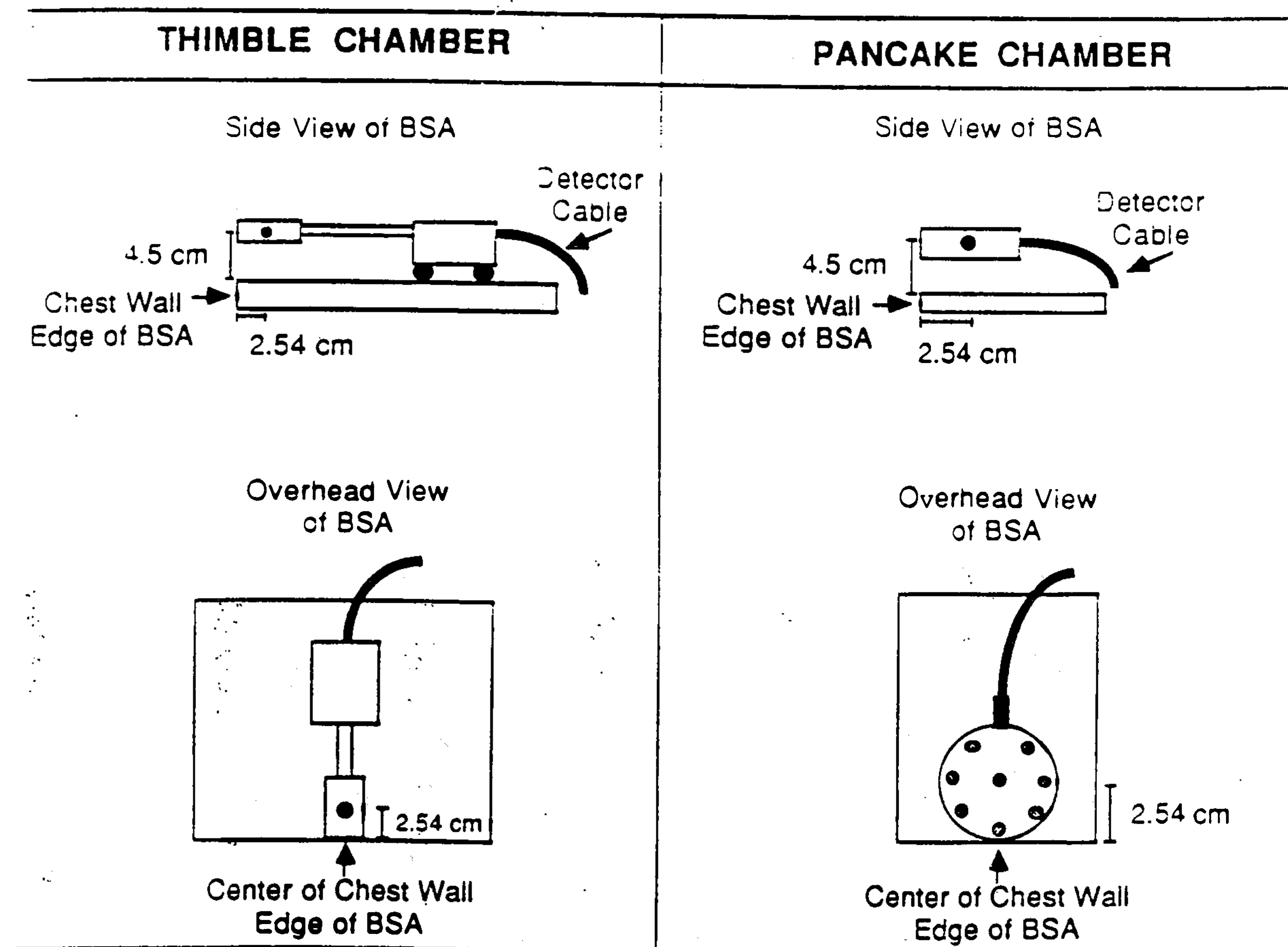
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- B) Place a radiation measuring device in the useful beam so the center axis of the device is parallel to the breast support assembly (BSA). The geometric center of the measuring device shall be positioned so that it is centered 4.5 centimeters above the BSA, 2.54 centimeters (1 inch) from the chest wall edge of the BSA and immediately adjacent to either side of the breast dosimetry test phantom.
- C) Limit the useful beam to only include the breast dosimetry test phantom and the detector area of the radiation measuring device.
- D) Set the milliamperage (mA) and the kilovoltage peak (kVp) technique factors normally used for a 4.5 centimeter compressed breast.
- E) Position, in the useful beam, as close to the measuring device as possible, any compression apparatus normally used.
- F) Perform the exposure measurement and calculate the mean glandular dose. (See subsection (a)(11) above)

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

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Section 360. APPENDIX B ILLUSTRATION A Thimble and Pancake Chamber



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

Section 360. TABLE C Entrance Exposure Limits Per Intraoral Bitewing Film

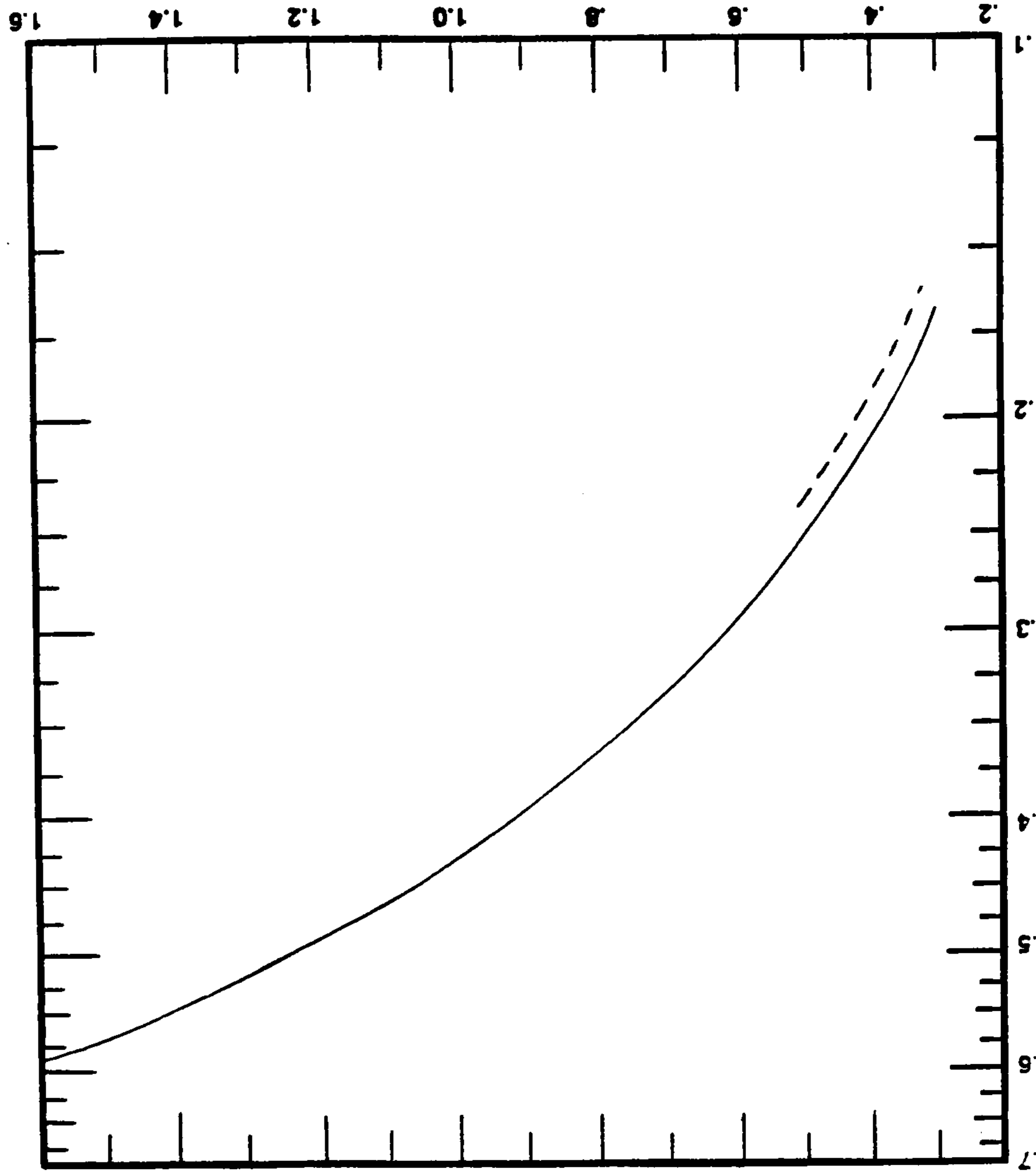
Operating (kvp)	Maximum Exposure (1) (milliroentgens)	Minimum Exposure (2) (milliroentgens)
45	640	90
50	600	95
55	560	100
60	520	115
65	480	140
70	440	175
75	400	220
80	360	270
85	320	320
90	280	370
95	240	400
100	200	430

(1) AGENCY NOTE: Linear extrapolation or interpolation may be made for an x-ray tube potential (kvp) not listed in Table B above (e.g., bitewing radiographs taken at 44 kVp and 72 kVp, the maximum entrance exposure permitted would be 648 milliroentgens and 424 milliroentgens respectively).

(2) AGENCY NOTE: The minimum exposures specified in the above table are included as recommendations only. They were empirically determined by a panel of dentists in a U.S. FDA, BRH study. They represent the minimum exposure which was found to be necessary to produce a diagnostic quality radiograph when a dental phantom, speed group "D" film, and adequate film development procedures were used. However, some x-ray units manufactured after 1980, or x-ray units used in conjunction with dental film of the ultra speed group "F₁", may be capable of generating exposures lower than listed in this table.

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

Section 360. APPENDIX B ILLUSTRATION B Dose Evaluation Graph



Working curves for evaluating the average glandular dose delivered by 1 R in air incident on a 4.5 centimeter compressed breast thickness (vertical axis) vs. first HVL in mmAl (horizontal axis). The solid line represents tungsten target tube data. The broken line represents molybdenum target tube data. (Excerpt from NCRP 85) (Source: Added at Ill. Reg. _____, effective _____)

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- 1) The Heading of the Part: Emission Standards for Motor Vehicles And Motor Vehicle Engines.
- 2) Code Citation: 35 Ill. Adm. Code 241
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
241.100	new section
241.101	new section
241.102	new section
241.103	new section
241.104	new section
241.120	new section
241.140	new section
241.141	new section
241.142	new section
241.143	new section
241.144	new section
241.145	new section
241.160	new section
241.161	new section
241.162	new section
241.163	new section
241.164	new section
241.165	new section
241.180	new section
241.220	new section
241.221	new section
241.223	new section
241.224	new section
241.225	new section
241.226	new section
241.227	new section
241.228	new section
241.229	new section
241.230	new section
241.231	new section
241.232	new section
241.233	new section
241.250	new section
241.251	new section
241.252	new section
241.253	new section
241.254	new section
241.255	new section
241.256	new section
241.257	new section
241.258	new section
241.259	new section
241.270	new section

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- 4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 111½, pars. 1010 and 1027.
- 5) A Complete Description of the Subjects and Issues Involved:
In this rulemaking, the Board proposes to adopt the California emission standards for passenger cars, light-duty trucks, and medium-duty vehicles. (The proposed rules do not include adoption of the California program for heavy-duty vehicles.) The Clean Air Act allows the states to choose between the federal emission standards and the stricter California emission controls. Evidence in this rulemaking states that the adoption of the California standards in Illinois could result in significant reductions in mobile source emissions of hydrocarbons, carbon monoxide, and nitrogen oxide, which contribute to the formation of ozone. In its continuing effort to reduce air pollution in Illinois, the Board proposes that the California standards be adopted in Illinois.
- 6) Will this proposed rule replace an emergency rule currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date?
Yes X No
If "yes," please specify the date: _____
- 8) Does this proposed amendment contain incorporations by reference? Yes.
- 9) Are there any other amendments pending on this Part? No.

<u>Section Number</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
-----------------------	------------------------	-----------------------------------
- 10) Statement of Statewide Policy Objective (if applicable)?
These proposed rules will apply to all persons or entities which purchase new cars, light-duty trucks, or medium-duty vehicles, beginning with the 1993 model year. These proposed rules will impose only minimal and infrequent additional expenditures on units of local government, only to the extent that any new vehicles purchased may cost slightly more (approximately \$150 per vehicle).
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:
Send written comments concerning this rulemaking within 45 days of publication in the Illinois Register to Dorothy M. Gunn, Clerk, Illinois Pollution Control Board, 100 West

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PART 241
EMISSION STANDARDS FOR MOTOR VEHICLE
AND MOTOR VEHICLE ENGINES

SUBPART A: APPLICABILITY AND DEFINITIONS

Section
241.100
241.101
241.102
241.103
241.104

Applicability
Definitions
Severability
Incorporations By Reference
Appeal of Agency Determinations

SUBPART B: CERTIFICATION OF CONFORMITY

241.120

Prohibitions

SUBPART C: IMPORTATION

Section
241.140
241.141
241.142
241.143
241.144
241.145

Prohibition Against Use
Prohibition Against Possession
Prohibition Against Sale
Special Test Procedures for New Modifier
Certified Motor Vehicles
Definitions
Special Test Procedures for Used Modifier
Motor Vehicles

SUBPART D: TESTING

Section
241.160
241.161
241.162
241.163
241.164
241.165

Classification
Plans submitted
Prohibitions
Material Similarity
Certification for 1993 and Subsequent Model Year
Vehicles
Assembly-line Test Procedures for 1993 and Subsequent
Model Years

SUBPART E: INSPECTION AND COMPLIANCE

Section
241.180

In-use Vehicle Emissions-Related Defects Reporting
Procedures

SUBPART G: SURVEILLANCE & STANDARDS

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Randolph Street, Suite 11-500, Chicago, Illinois 60601.
Please include the docket number of this rulemaking (R89-
17(A)) on all comments.

12) Initial Regulatory Flexibility Analysis (if applicable):

A) Date rule submitted to Small Business Office:
April 17, 1990

B) Types of small businesses affected:
The proposed rules will affect new car dealerships, and
may also affect used car dealerships and aftermarket
parts dealers.

C) Reporting, bookkeeping or other procedures required for
compliance:
Car dealers will be required to sell only vehicles
which conforms to the requirements of these rules.
However, the burden of certification is imposed upon
the manufacturer of the vehicle.

D) Professional skills necessary for compliance: No
specific professional skills are required for
compliance.

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

POLLUTION CONTROL BOARD
NOTICE OF PROPOSED RULES

- Section
- 241.220 New Motor Vehicle Dealer Surveillance
- 241.221 Surveillance of Used Cars at Dealerships
- 241.223 Mandatory Inspection Exhaust Emissions-Light Duty and Medium-Duty Vehicles
- 241.224 Emission Standards
- 241.225 Test Procedures
- 241.226 Small Volume Manufacturer
- 241.227 Optional Nitrogen Oxide Standards
- 241.228 Emission Control Labels - 1993 and Subsequent Model Year Motor Vehicles
- 241.229 Malfunction and Diagnostic Systems - 1993 and Subsequent Model Year
- 241.230 Malfunction and Diagnostic Systems - 1994 and Subsequent Model Year
- 241.231 Fuel Evaporative Emissions
- 241.232 Ringlemann Chart
- 241.233 Prohibitions

SUBPART H: USED MOTOR VEHICLES AND AFTERMARKET PARTS
ACCREDITATION OF AIR CONTAMINANT EMISSION CONTROL SYSTEMS

- Section
- 241.250 Applicability
- 241.251 Requirements
- 241.252 Prohibition
- 241.253 Replacement Parts
- 241.254 Advertisement and Sale
- 241.255 Surveillance
- 241.256 Corrective Action
- 241.257 Business Prohibitions
- 241.258 Remedy
- 241.259 Prohibition

SUBPART I: SPECIFICATION FOR FILL PIPES AND OPENINGS OF
MOTOR VEHICLE FUEL TANKS

- Section
- 241.270 Requirements

Appendix A Table I

AUTHORITY: Implementing Section 10 of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 $\frac{1}{2}$, par. 1010) and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 $\frac{1}{2}$, par. 1027).

SOURCE: Adopted in R89-17 at _____ Ill. Reg. _____, effective _____.

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SUBPART A: APPLICABILITY & DEFINITIONS

Section 241.100 Applicability

- a) This Part shall apply to all 1993 and subsequent model-year motor vehicles; motor vehicle engines, and air contaminant emission control systems offered for sale, or sold, for registration in this state.
- b) The provisions of this Part apply to motor vehicles of the United States or its agencies, to the extent authorized by federal law.

Section 241.101 Definitions

The following definitions shall govern the provisions of this Part:

"Act" means the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 $\frac{1}{2}$, par. 1001 et seq.)

"Add-on-part" means any aftermarket part which is not a modified part or a replacement part.

"Aftermarket part" means any part of an air contaminant emission control system sold for installation on a vehicle after the original retail sale of the vehicle.

"Agency" means the Illinois Environmental Protection Agency.

"Air contaminant emission control system" means equipment designed for installation on a motor vehicle or motor vehicle engine for the purpose of reducing the air contaminants emitted from the motor vehicle or motor vehicle engine, or a system or engine modification on a motor vehicle or motor vehicle engine which causes a reduction of air contaminants emitted from the motor vehicle or motor vehicle engine, including but not limited to exhaust control systems, fuel evaporation control systems and crankcase ventilating systems.

"Certification" means a finding by the Agency that a motor vehicle, motor vehicle engine, or air contaminant emission control system has satisfied the criteria established in this Part for the control of specified air contaminants from motor vehicles.

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NOTICE OF PROPOSED RULES

by a person other than the original manufacturer of the device.

"Inspection and maintenance certificate" means a document issued by the Agency certifying that a vehicle has passed the inspection and maintenance program. In areas of the state where a federally approved inspection and maintenance program has not been adopted, the inspection shall consist of the present vehicle inspection required for that area.

"Light-duty truck" means any motor vehicle, rated at 6000 pounds gross vehicle weight or less, which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

"Medium-duty vehicle" means any motor vehicle having a manufacturer's gross vehicle weight rating of 8500 pounds or less.

"Model year" means the manufacturer's annual production period which includes January 1 of a calendar year or, if the manufacturer has not annual production period, the calendar year. In the case of any motor vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis.

"Modified part" means any aftermarket part intended to replace an original equipment emissions-related part and which is not functionally identical to the original equipment part in all respects which in any way affect emissions, excluding a consolidated part.

"Motor vehicle" is a vehicle which is self-propelled. "New motor vehicle" means a motor vehicle, the equitable or legal title to which has never been transferred to the ultimate purchaser.

"New motor vehicle engine" means a new engine in a motor vehicle.

"Passenger car" means any motor vehicle designed capability for transportation of persons and having a design capacity of twelve persons or less.

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"Certificate of conformity" means a document issued by the Agency certifying an engine family for sale in the State of Illinois.

"Certified device" means an air contaminant emission control system with a certification.

"Consolidated part" means a part which is designed to replace a group of original equipment parts.

"Director" means the Director of the Illinois Environmental Protection Agency.

"Emissions-related-part" means any automotive part which affects any regulated emissions from a motor vehicle or motor vehicle engine which is subject to Illinois state or federal emission standards. This includes, at a minimum, those parts specified in the California "Emission-Related Part Lists," (see Section 241.103).

"Emission standards" means specified limitations on the discharge of air contaminants into the atmosphere. "Engine family" means the basic classification unit of a manufacturer's product line used for the purpose of test fleet selection and in accordance with regulations promulgated by the department.

"Fuel evaporative loss emissions" means vaporized fuel emitted into the atmosphere from the fuel system of a motor vehicle.

"Fuel system" means the combination of fuel tank, fuel lines and carburetor, or fuel injector, and includes all vents and fuel evaporative emission control systems or devices.

"Gaseous fuels" means any liquefied petroleum gas, liquefied natural gas, compressed natural gas fuels, or hydrogen fuels for use in motor vehicles.

"Identical device" means a crankcase or air contaminant emission control system or device identical in all respects, including design, materials, manufacture, installation and operation, with a device which has been certified by the Agency, but which is manufactured

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"Replacement part" means any aftermarket part intended to replace an original equipment emissions-related part and which is functionally identical to the original equipment part in all respects which in any way affect emissions (including durability), or a consolidated part.

"Sale" means the transfer of title to a motor vehicle or motor vehicle engine to the ultimate or subsequent purchaser, or the lease or rental of a new motor vehicle to a person.

"Subgroup" means a set of motor vehicles within an engine family distinguishable by characteristics contained in the manufacturer's application for certification.

"Ultimate purchaser" means, with respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.

"Used motor vehicle" means any motor vehicle which is not a new motor vehicle.

"Useful life" means a period of use to be determined by the Agency consistent with section one hundred seventy-seven of the Clean Air Act (42 U.S.C. §7507).

"Vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

Section 241.102 Severability

Each Section of this Part shall be deemed severable, and in the event that any Section of this Part is held to be invalid, the remainder of this Part shall continue in full force and effect.

Section 241.103 Incorporations By Reference

The following materials are incorporated by reference. These incorporations do not include any later amendments or editions.

- a) California Emissions Related Parts List (May 19, 1981).

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- b) 40 CFR Part 86.
- c) California Certification and Compliance Test Procedures for New Modifier Certified Motor Vehicles (February 3, 1986).
- d) California Certification Procedures for 1975 and Later Model-Year Used Modifier-Certified Motor Vehicles (January 8, 1988).
- e) California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles (May 20, 1987).
- f) California Assembly-line Test Procedures for 1983 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles (August 21, 1984).
- g) California New Vehicle Compliance Test Procedures (May 9, 1979).
- h) California Vehicle Emissions-Related Defects Reporting Procedures for 1978 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, Medium and Heavy-Duty Vehicles, and Motorcycles (April 25, 1986).
- i) California Motor Vehicle Emission Control Label Specifications (July 21, 1988).
- j) Malfunction and Diagnostic System Requirements - 1994 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles with Feedback Fuel Control Systems (September 14, 1989).
- k) California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Liquefied Petroleum Gas - or Gasoline-Powered Motor Vehicles (October 30, 1985).
- l) Criteria for Evaluation of Add-on Parts and Modified Parts (May 19, 1981).
- m) Specifications for Fill Pipes and Openings of Motor Vehicles Fuel Tanks (December 7, 1982).

Section 241.104 Appeals of Agency Determination

All determinations made by the Director or the Agency, pursuant

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engine, or vehicle with a new motor vehicle engine, which is intended primarily for use or for registration in this state, and which has not been certified.

Section 241.143 Special Test Procedures for New Modifier Certified Motor Vehicles

New modifier motor vehicles shall be certified in accordance with "California Certification and Compliance Test Procedures for New Modifier Certified Motor Vehicles" (See Section 241.103). The results of testing performed by the manufacturer pursuant to this Section shall be maintained by the manufacturer and furnished to the Agency at the Agency's request.

Section 241.144 Definitions

a) For purposes of this Subpart:

- 1) "Direct import used vehicle" means a 1993 or subsequent model-year light-duty motor vehicle not originally intended by the manufacturer for sale in the United States which is at least two years old and was not certified by the Agency.
- 2) "New direct import vehicle" means any light-duty motor vehicle manufactured outside of the United States and not intended by the manufacturer for sale in the United States which is less than two years old and was not certified by the Agency.

b) For purposes of this Subpart, it is conclusively presumed that:

- 1) the equitable or legal title to any motor vehicle with an odometer reading of 7,500 miles or more has been transferred to an ultimate purchaser, except as provided in subdivision (c), and that the equitable or legal title to any motor vehicle with an odometer reading of less than 7,500 miles has not been transferred to an ultimate purchaser.
- 2) The equitable or legal title to any new direct import vehicle which is less than two years old, has not been transferred to an ultimate purchaser and that the equitable or legal title to any new direct import vehicle, which is at least two years old, has been transferred to an ultimate purchaser.

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c) For purposes of this Section, the age of a motor vehicle shall be determined by the following, in descending order of preference.

- 1) From the first calendar day of the model year as indicated in the vehicle identification number.
- 2) From the last calendar day of the month the vehicle was delivered by the manufacturer as shown on the foreign title document.
- 3) From January 1 of the same calendar year as the model year shown on the foreign title document.
- 4) From the last calendar day of the month the foreign title document was issued.

Section 241.145 Special Test Procedures for Used Modifier Motor Vehicles

Used modifier motor vehicles shall be certified in accordance with "California Certification Procedures for 1975 and Later Model-Year Used Modifier-Certified Motor Vehicles" (see Section 241.103). The results of testing performed pursuant to this Section shall be maintained by the person who caused the testing and furnished to the Agency at the Agency's request.

SUBPART D: TESTING

Section 241.160 Classification

Motor vehicles and portable or mobile internal combustion engines for which air contaminant emission control systems will be certified or accredited are divided into the following classifications:

- a) Under 50 cubic inches engine displacement.
- b) 50 through 100 cubic inches engine displacement.
- c) Over 100 through 140 cubic inches engine displacement.
- d) Over 140 through 200 cubic inches engine displacement.
- e) Over 200 through 250 cubic inches engine displacement.
- f) Over 250 through 300 cubic inches engine displacement.

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No new motor vehicle or new motor vehicle engine shall be certified by the Agency, unless the vehicle or engine meets the emission standards established by this Part, and passes the test procedures for certification set forth in Section 241.225.

Section 241.165 Assembly-Line Test Procedures for 1993 and Subsequent Model Years

New 1993 and subsequent model year passenger cars, light-duty trucks, and medium-duty vehicles subject to certification and manufactured for sale in Illinois shall be tested by the manufacturer in accordance with the "California Assembly-Line Test Procedures for 1983 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" (see Section 241.103). The results of actual testing pursuant to this Section shall be maintained by the manufacturer and furnished to the Agency at the Agency's request.

SUBPART E: INSPECTION AND COMPLIANCE

Section 241.180 In-use Vehicle Emissions-Related Defects Reporting Procedures

All 1993 and subsequent model-year passenger cars, light-duty trucks, and medium-duty vehicles certified for sale and registered in Illinois shall be subject to the "California Vehicle Emissions-Related Defects Reporting Procedures for 1978 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, Medium and Heavy-Duty Vehicles, and Motorcycles" (see Section 241.103).

SUBPART G: SURVEILLANCE AND STANDARDS

Section 241.220 New Motor Vehicle Dealer Surveillance

No dealer shall sell, or offer or deliver for sale a new passenger car, light-duty truck or medium-duty vehicle which is required to meet emission standards of this Part unless such vehicle conforms to the following standards and requirements:

- a) Ignition timing shall be set to manufacturer's specification with an allowable tolerance of ±3%;
- b) Idle speed shall be set to manufacturer's specification with an allowable tolerance of ±100 rpm;
- c) Required exhaust and evaporative emission controls,

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- g) Over 300 through 375 cubic inches engine displacement.
- h) Over 375 cubic inches engine displacement.
- i) Motor vehicles which because of unusual engine design cannot be classified, for purposes of emissions control, by engine displacement.

Section 241.161 Plans Submitted

Any person seeking approval, accreditation, or certification by the Agency for any device to control emissions from motor vehicles shall submit plans thereof to the Agency. Such plans shall be accompanied by reliable test data indicating compliance with the appropriate emission standards and test procedures established by this Part.

Section 241.162 Prohibitions

No new motor vehicle, new motor vehicle engine, or motor vehicle standards established pursuant to this Part shall be sold to the ultimate purchaser, offered or delivered for sale to the ultimate purchaser, or registered in this state if:

- a) the manufacturer has failed to provide a valid certificate of conformity for the engine family, or
- b) the manufacturer has violated emission standards or test procedures and has failed to take corrective action specified by the Agency.

Section 241.163 Material Similarity

Each new motor vehicle or engine required pursuant to this Part to meet the emission standards shall be, in all material respects, substantially the same in construction as the test motor vehicle or engine, as the case may be, which has been certified by the Agency in accordance with this Part. However, changes with respect to new motor vehicles or engines previously certified may be made if such changes do not increase emissions above the standards under which those motor vehicles or engines, as the case may be, were certified and the changes are approved in advance by the Agency.

Section 241.164 Certification for 1993 and Subsequent Model Year Vehicles.

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such as Emission Gas Recirculator (EGR) valves, are operating properly;

- d) Vacuum hoses and electrical wiring for emission controls are correctly routed; and
- e) Idle mixture is set to manufacturer's specification or according to manufacturer's recommended service procedure.

Section 241.221 Surveillance of Used Cars at Dealerships

- a) No dealer shall sell, or offer or deliver for sale a used passenger car, light-duty truck, or medium-duty vehicle which is required to meet emission standards unless such vehicle conforms to the following requirements:
 - 1) Ignition timing shall be set to retrofit device or vehicle manufacturer's specification with an allowable tolerance of $\pm 3^\circ$;
 - 2) Idle speed shall be set to retrofit device or vehicle manufacturer's specifications with an allowable tolerance of ± 100 rpm;
 - 3) Required exhaust and evaporative emission controls, such as EGR valves, are operating properly;
 - 4) Vacuum hoses and electrical wiring for emission controls are correctly routed connected and;
 - 5) Idle mixture shall be set to retrofit device or vehicle manufacturer's specification or according to manufacturer's recommended service procedure.
- b) The requirements set forth in subparagraphs (a)(1) through (a)(5) shall also apply to a dealer when servicing emission related components. However, only that requirement(s) appropriate to the service performed shall apply.

Section 241.223 Mandatory Inspection Exhaust Emissions-Light Duty and Medium-Duty Vehicles.

- a) Exhaust emissions from light-duty (6000 pounds or less gross vehicle weight) and medium-duty (8500 pounds or

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less gross vehicle weight) vehicles subject to inspection shall not exceed the standards set forth in this Subpart by vehicle class as shown in Table I of Appendix A. "Vehicles subject to inspection" shall mean every motor vehicle owned by a resident of an affected county.

- b) For purposes of this Section, "affected counties" shall mean COOK COUNTY; AND THOSE PARTS OF DUPAGE COUNTY WHICH ARE NOT INCLUDED WITHIN ANY OF THE FOLLOWING ZIP CODE AREAS, AS DESIGNATED BY THE U.S. POSTAL SERVICE: 60103, 60120, 60174, 60184, 60185, 60187, 60188, 60189, 60190, 60504, 60505, 60519, 60540, 60555 AND 60565; AND THOSE PARTS OF LAKE COUNTY WHICH ARE NOT INCLUDED WITHIN ANY OF THE FOLLOWING ZIP CODE AREAS, AS DESIGNATED BY THE U.S. POSTAL SERVICE: 60002, 60010, 60013, 60020, 60021, 60030, 60041, 60042, 60046, 60047, 60050, 60060, 60073, 60075, 60081, 60083 AND 60084; AND THOSE PARTS OF MADISON COUNTY WHICH ARE NOT INCLUDED WITHIN ANY OF THE FOLLOWING ZIP CODE AREAS, AS DESIGNATED BY THE U.S. POSTAL SERVICE: 62001, 62012, 62021, 62025, 62026, 62034, 62035, 62046, 62058, 62061, 62062, 62067, 62074, 62088, 62097, 62234, 62249, 62269, 62275, 62281 and 62294; AND THOSE PARTS OF ST. CLAIR COUNTY WHICH ARE NOT INCLUDED WITHIN ANY OF THE FOLLOWING ZIP CODE AREAS, AS DESIGNATED BY THE U.S. POSTAL SERVICE: 62208, 62220, 62221, 62222, 62223, 62225, 62232, 62234, 62236, 62243, 62248, 62254, 62254, 62255, 62257, 62258, 62260, 62264, 62269, 62278, 62282, 62285, 62289 AND 62298. (Ill. Rev. Stat. 1987, ch. 95 $\frac{1}{2}$, par. 13A-102(a).)

Section 241.224 Emission Standards

The emission standards for 1993, 1994, 1995, and subsequent model year vehicles subject to this Part are set forth in Appendix A, Table I.

Section 241.225 Test Procedures

All vehicles required to meet the standards as set forth in Section 241.224 and Appendix A are subject to the "California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" (see Section 241.103).

year sales" shall mean projected Illinois model-year sales.

Notwithstanding any other provisions of this subpart, a small volume manufacturer may certify 1993 through 1995 model year passenger cars, light-duty trucks (0-3999 lbs. EIW) and medium-duty vehicles (0-3999 lbs. EIW) to the optional 0.7 gm/mile NOX standard subject to the following limitations:

1) For each model year, the total number of passenger cars (0-5000 lbs. EIW) each manufacturer may certify at 0.7 gm/mile NOX shall be limited to a maximum of 10% of the total previous Illinois model-year sales of these vehicles.

2) For each model year, the total number of light duty trucks (0-3999 lbs. EIW) each manufacturer may certify at 0.7 gm/mile NOX shall be limited to a maximum of 15% of the combined total previous Illinois model-year sales of these vehicles.

3) For manufacturers certifying for the first time in Illinois "previous Illinois model-year sales" shall mean projected Illinois model-year sales.

c) Testing of vehicles certified under this section shall be conducted in accordance with the "Illinois Exhaust Emission Test Procedures" applicable to 1993 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles certified to the primary Illinois standards for 50,000 miles.

Section 241.228 Emission Control Labels - 1993 and Subsequent Model Year Motor Vehicles

In addition to all other requirements, emission control labels required by Illinois certification procedures shall conform to the "California Motor Vehicle Emission Control Label Specifications" (see Section 241.103).

Section 241.229 Malfunction and Diagnostic Systems - 1993 and Subsequent Model Year

a) All 1993 and subsequent model year passenger cars, light-duty trucks, and medium-duty vehicles equipped with a three-way catalyst system and feedback control

Section 241.226 Small Volume Manufacturer

For the purposes of this subpart, "small volume manufacturer" is any vehicle manufacturer which was subject to "in lieu" standards pursuant to Section 202(b)(1)(B) of the Federal Clean Air Act (42 U.S.C. Section 7521(b)(1)(B)), as amended November 16, 1977) or a vehicle manufacturer with Illinois sales not exceeding 3,000 new motor vehicles per model year based on previous model-year sales; however, for manufacturers certifying for the first time in Illinois, model year sales shall be based on projected Illinois sales.

Section 241.227 Optional Nitrogen Oxide Standards

Optional nitrogen oxide (NOX) standards for 1993 and later model passenger cars, and light-duty trucks and medium-duty vehicles less than 4000 lbs, equivalent inertia weight (EIW) or 3751 lbs, loaded vehicle weight (LVM) are as follows:

a) Notwithstanding any other provision of this subpart, a vehicle manufacturer may certify 1993 model vehicles to optional NOX standards as follows:
1) 1993 Model year passenger cars weighing more than 5000 lbs. EIW may be certified to the 0.7 gm/mile NOX standard.

2) For the 1993 model year, a vehicle manufacturer may certify passenger cars, light-duty trucks (0-3999 lbs. EIW), and medium-duty vehicles (0-3999 lbs. EIW) to the optional 0.7 gm/mile NOX standard subject to the following limitations:

a) The total number of passenger cars (0-5000 lbs. EIW) each manufacturer may certify at 0.7 gm/mile NOX shall be limited to a maximum of 10% of the total previous Illinois model-year sales of these vehicles.

b) The total number of light-duty trucks (0-3999 lbs. EIW) and medium-duty vehicles (0-3999 lbs. EIW) each manufacturer may certify at 0.7 gm/mile NOX shall be limited to a maximum of 15% of the combined total previous Illinois model-year sales of these vehicles.

c) For manufacturers certifying for the first time in Illinois, "previous Illinois model-

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shall be equipped with a means of informing the vehicle operator of the malfunction of the computer-sensed emission-related components, and of the on-board computer processor, and of the malfunction of the emission-related functioning of the fuel metering device and EGR system on vehicles so equipped, and which provides for on-board diagnosis of the likely area of the malfunction without the aid of any external device. The system shall include a means of informing the vehicle operator, upon initiation of engine starting, that it is functioning properly. No malfunction and diagnostic system shall be required for malfunction which would significantly impair vehicle driveability or prevent engine starting.

- b) This Section shall be implemented as specified in this subsection. The vehicles shall be equipped with a malfunction indicator light and an on-board self-diagnostic system. The on-board computer processor shall interrogate input parameters from computer-sensed emission-related components and shall also interrogate the functioning of the fuel metering device and of the EGR system on vehicles so equipped. Upon detection of a malfunction of any such component, device, or system, the computer processor shall cause the malfunction indicator light to illuminate. An on-board computer processor malfunction shall also cause the malfunction indicator light to illuminate. In the case of any such component, device or system whose malfunction would significantly impair vehicle driveability or prevent engine starting, no malfunction indication or diagnostic code shall be required. The indicator light shall also illuminate in the engine-run key position before cranking to indicate that the malfunction indication is functioning. The self-diagnostic system shall provide an on-board means of identifying, without the aid of any external device, the likely area responsible for the detected malfunction when the vehicle is serviced. The malfunction indicator light shall be located on the instrument panel and shall when illuminated, display the phrase "Check Engine" or "Service Engine Soon" or may display such other phrases determined by the Director to be likely to cause a vehicle owner to seek corrective action.

- c) For purposes of this Section:

1) A "computer-sensed emissions-related component of

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the three-way catalyst emission control system" means a component which provides emission control system input to the on-board computer processor.

- 2) "Malfunction" means the partial or total failure of one or more computer-sensed emission-related components or the on-board computer processor, or of the emission-related functioning of a fuel metering device or EGR system to a degree which would likely cause the emissions of an average certification vehicle with the failure or failures, individually or in combination, to exceed the applicable emissions standards.

Section 241.230 Malfunction and Diagnostic Systems - 1994 and Subsequent Model Year

All 1994 and subsequent model-year passenger cars, light-duty trucks, and medium-duty vehicles with feedback fuel control systems shall be equipped with a malfunction and diagnostic system that conforms to the proposed California "Malfunction and Diagnostic System Requirements-1994 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles with Feedback Control Systems" (see Section 241.103).

Section 241.231 Fuel Evaporative Emissions

- a) Evaporative emissions for 1993 and subsequent model year gasoline-powered or liquefied petroleum gas-powered motor vehicles shall not exceed:

<u>Hydrocarbons</u> <u>Vehicle Type</u>	<u>Model Year</u>	<u>(grams per test)</u>
Passenger cars	1993 and subsequent	2.0
Light-duty trucks		
Medium-duty vehicles		

The standards set forth above shall apply only to those liquefied petroleum gas or gasoline-powered motor vehicles which are subject to exhaust emission standards under this Subpart.

- b) The procedure for determining compliance with these standards is set forth in the "California Evaporative Emission Standards and Test Procedures for 1978 and

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Section 241.252 Prohibition

No air contaminant emission control system intended for installation on used motor vehicles shall receive accreditation from the Agency unless it meets the following criteria:

- a) Such system shall be designed so as to have no adverse effect on engine operation or vehicle performance, unless a test procedure otherwise specifies.
- b) The adequacy of methods of distribution, the financial responsibility of the applicant, and other factors affecting the economic interests of the motoring public shall be satisfactory to protect the motorist.

Section 241.253 Replacement Parts

- a) Any replacement part subject to the provisions of this Subpart shall be presumed to be in compliance with this Subpart unless the Director makes a finding to the contrary pursuant to Section 241.255.
- b) The manufacturer of any replacement part subject to the provisions of this Subpart shall maintain sufficient records, such as performance specifications, test data, or other information, to substantiate that such a replacement part is in compliance with this Subpart. Such records shall be open for reasonable inspection by the Agency. All such records shall be maintained for four years from the year of manufacture of the replacement part.

Section 241.254 Advertisement and Sale

- a) As used in this section, the terms "advertise" and "advertisement" include, but are not limited to, any notice, announcement, information, publication, catalog, listing for sale, or other statement concerning a product or service communicated to the public for the purpose of furthering the sale of the product or service.
- b) No person or company doing business solely in Illinois or advertising only in Illinois shall advertise any device, apparatus, or mechanism which alters or modifies the original design or performance of any required air contaminant emission control system unless such part, apparatus, or mechanism has been exempted

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Subsequent Model Liquefied Petroleum Gas- or Gasoline-Powered Motor Vehicles" (See Section 241.103).

No motor vehicle covered by this Subpart shall discharge into the atmosphere at elevation of less than 4,000 feet any air contaminant for a period of more than 10 seconds which is:

- a) As dark or darker in shade at that designated as No. 1 on the Ringlemann Chart, as published by the United States Bureau of Mines, or
- b) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (a).

Section 241.233 Prohibitions

No person shall operate or leave standing upon any highway any motor vehicle which is required to be equipped with an air contaminant emission control system required by any other state law or any rule or regulation adopted pursuant to such law, or required to be equipped with an air contaminant emission control system pursuant to the Clean Air Act (42 U.S.C., Sec. 7401 et seq.) and the standards and regulations promulgated thereunder, unless the motor vehicle is equipped with the required air contaminant emission control system which is correctly installed and in operating condition. No person shall disconnect, modify, or alter any such required device.

SUBPART H: USED MOTOR VEHICLES & AFTERMARKET PARTS ACCREDITATION OF AIR CONTAMINANT EMISSION CONTROL SYSTEMS

Section 241.250 Applicability

This Subpart shall apply to all aftermarket parts which are sold, offered for sale, or advertised for sale or use on 1993 and subsequent model-year vehicles subject to Illinois state or federal emission standards.

Section 241.251 Requirements

No air contaminant emission control system shall be accredited unless such device meets the standards set forth in this Subpart.

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from Section 241.259, and the limitations of the exemption, if any, are contained within the advertisement in type size to give notice of such limitations.

- 1) No person shall advertise, offer for sale, or install a part as an air contaminant emission control system or as an approved or certified device, when in fact such part is not an air contaminant emission control system or is not approved or certified by the Agency.
- 2) No person shall advertise, offer for sale, sell or install an add-on or modified part as a replacement part.
- 3) The Director may exempt add-on and modified parts based on an evaluation conducted in accordance with the California "Criteria for Evaluation of Add-on Parts and Modified Parts" (see Section 241.103).
- 4) Each person engaged in the business of retail sale or installation of an add-on or modified part which has not been exempted from Section 241.259 shall maintain records of such activity which indicate date of sale, purchaser name and address, vehicle model and work performed if applicable. Such records shall be open for inspection by the Agency. All such records shall be maintained for four years from the date of sale or installation.

Section 241.255 Surveillance

- a) Replacement parts. The Director may require the manufacturer of any replacement part subject to the provisions of this Subpart to submit any records relating to such part which are maintained pursuant to Section 241.254(b). The Director may require the manufacturer of any replacement part subject to the provisions of this Subpart to submit a reasonable number of parts typical of the manufacturer's production for testing and evaluation. If after a review of all records submitted by the manufacturer and of the results of any tests conducted by the manufacturer or the Agency, the Director finds that such part is not in fact a replacement part, the Director may invoke Section 241.256. Replacement parts evaluated pursuant to this section shall be compared

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with the specifications contained in the applicable vehicle manufacturer's application for certification.

- b) Add-on parts and modified parts. The Director may require the manufacturer of any add-on or modified part subject to the provisions of this Subpart to submit a reasonable number of parts typical of the manufacturer's production for testing and evaluation. If after review of the results of any test or evaluations conducted by the manufacturer or the Agency and of any information submitted by the manufacturer, the Director finds that an add-on part or a modified part does not conform to the California "Criteria for Evaluation of Add-on Parts and Modified Parts" (see Section 241.103), the Director may invoke Section 241.256.

Section 241.256 Corrective Action

- a) When this Section is invoked pursuant to other sections of this Subpart, the Director may require the manufacturer to submit a plan for correcting any deficiencies found by the Agency. The manufacturer shall submit the plan within 30 calendar days after notification. The Director may require any of the actions contained in the plan, and/or may declare a part of the plan to be not in compliance with Section 241.259 unless he or she finds the plan adequate to correct the deficiencies found by the Agency. The plan may be required to include such corrective actions as the cessation of sale of non-complying parts and corrective advertising to correct misleading information regarding the emission control capabilities of the device and to ensure compliance with Illinois laws. Nothing in this Section shall prevent the Director from also seeking fines for violations of Section 241.259 or other laws or regulations.
- b) The manufacturer may, within 15 calendar days of its receipt of the Director's demand for corrective action, request a public hearing on the necessity for or scope of any corrective action required by the Director.

Section 241.257 Business Prohibitions

No person engaged in a business which involves the selling of air contaminant emission control systems shall offer for sale, sell,

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- 5 The emissions standards are phase-in standards. Each manufacturer must certify a minimum of 40% of vehicles for 1993; 80% for 1994; and 100% for 1995 and subsequent model years to the phase-in standards. The percentages are determined from the total previous Illinois model-year production of these vehicles. For manufacturers certifying for the first time in Illinois, "previous Illinois model-year production" shall mean projected Illinois production.
- 6 Diesel passenger cars, light-duty trucks and medium-duty vehicles are subject to a 50,000 mile particulate exhaust emissions standard of 0.08 g/mile for 1993 and subsequent model years.
- 7 The applicable CO standard for the 1994 model year LDT and MDV with a loaded weight between 0 and 3750 pounds is 7.0 g/mile.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

- 1) The Heading of the Part: FOOD STAMPS
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) Section Number: 121.23 Proposed Action: Amendment
- 4) Statutory Authority: Sections 12-4.6 and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, Ch. 23, Pars. 12-4.6 and 12-13)
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking adds a reference to the East St. Louis work and training pilot program to the list of possible work registration or participation requirements under the Food Stamp Program. Interested parties should also see 89 Ill. Adm. Code 114.85, proposed in this issue of the Illinois Register.
- 6) Will this Proposed Amendment replace an Emergency Amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date?
 Yes No
- 8) Does this Proposed Amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes
- | <u>Section Number</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
|-----------------------|------------------------|---------------------------------------|
| 121.61 | Amendment | April 20, 1990
(14 Ill. Reg. 5935) |
- 10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning the proposed rulemaking. All comments must be in writing and should be addressed to Anita Williams, Office of the General Counsel, Illinois Department of Public Aid, 100 South Grand Avenue East, Springfield, Illinois 62762 (217) 782-1233. The Department will

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NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
FOOD STAMPS

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consider all written comments it receives within 30 days of the date of publication of this notice.

12) Initial Regulatory Flexibility Analysis:

- A) Date Proposed Amendment was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: April 27, 1990
- B) Types of small businesses affected: Individuals providing education, training and employment opportunities.
- C) Reporting, bookkeeping or other procedures required for compliance: No additional bookkeeping or other procedures will be required.
- D) Types of professional skills necessary for compliance: No unique professional skills required.

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

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Section

121.53 Income From Rental Property
 121.54 Earned Income In-Kind
 121.55 Sponsors of Aliens
 121.57 Assets
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 121.90 Monthly Reporting and Retrospective Budgeting
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 121.93 Direct Mail Issuance of Food Stamp Coupons
 121.94 Replacement of Food Stamp Coupons or ATP Documents
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 121.96 Uses For Food Coupons
 121.97 Supplemental Payments
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 121.154 Court Imposed Disqualification

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 121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
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 121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
 121.208 Suspension and Termination of Claims (Recodified)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, ch. 23, pars. 12-4.4 through 12-4.6 and 12-3).

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875 effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399 effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p.

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December 9, 1985; amended at 10 111. Reg. 229, effective December 20, 1985; peremptory amendment at 10 111. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 111. Reg. 7941, effective May 1, 1986; amended at 10 111. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 111. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 111. Adm. Code 165 at 10 111. Reg. 21094; peremptory amendment at 11 111. Reg. 3761, effective February 11, 1987; emergency amendment at 11 111. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 111. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 111. Reg. 10269, effective May 22, 1987; amended at 11 111. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 111. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 111. Reg. 11855, effective June 30, 1987; emergency amendment at 11 111. Reg. 12043, effective July 6, 1987; amended at 11 111. Reg. 13635, effective August 1, 1987; amended at 11 111. Reg. 14022, effective August 10, 1987; emergency amendment at 11 111. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 111. Reg. 15480, effective September 4, 1987; amended at 11 111. Reg. 15634, effective September 11, 1987; amended at 11 111. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 111. Reg. 18374, effective October 30, 1987; amended at 12 111. Reg. 877, effective December 30, 1987; emergency amendment at 12 111. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 111. Reg. 4204, effective February 5, 1988; amended at 12 111. Reg. 9678, effective May 23, 1988; amended at 12 111. Reg. 9922, effective June 1, 1988; amended at 12 111. Reg. 11463, effective June 30, 1988; amended at 12 111. Reg. 12824, effective July 22, 1988; emergency amendment at 12 111. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 111. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 111. Reg. 16271, effective October 1, 1988, amended at 12 111. Reg. 20161, effective November 30, 1988; amended at 13 111. Reg. 3890, effective March 10, 1989; amended at 13 111. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 111. Reg. 15859, effective October 1, 1989; amended at 14 111. Reg. 729, effective January 1, 1990; amended at 14 111. Reg. 6349, effective April 13, 1990; amended at 14 111. Reg. _____, effective _____.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section 121.23 Work Registration/Participation Requirements

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96, effective November 13, 1979; amended at 3 111. Reg. 48, p. 1; effective November 15, 1979; peremptory amendment at 4 111. Reg. 3, p. 49, effective January 9, 1980; peremptory amendment at 4 111. Reg. 10, p. 253, effective February 27, 1980; amended at 4 111. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 111. Reg. 29, p. 294, effective July 8, 1980 for maximum of 150 days; amended at 4 111. Reg. 37, p. 797, effective September 2, 1980; amended at 4 111. Reg. 45, p. 134, effective October 17, 1980; amended at 5 111. Reg. 766, effective January 2, 1981; amended at 5 111. Reg. 1131, effective January 16, 1981; amended at 5 111. Reg. 4586, effective April 15, 1981; peremptory amendment at 5 111. Reg. 5722, effective June 1, 1981; amended at 5 111. Reg. 7071, effective June 23, 1981; peremptory amendment at 10062, effective June 23, 1981; amended at 5 111. Reg. 10733, effective October 1, 1981; amended at 5 111. Reg. 12736, effective October 29, 1981; amended at 6 111. Reg. 1653, effective January 17, 1982; amended at 6 111. Reg. 2707, effective March 2, 1982; amended at 6 111. Reg. 8159, effective July 1, 1982; amended at 6 111. Reg. 10208, effective August 9, 1982; amended at 6 111. Reg. 11921, effective September 21, 1982; amended at 6 111. Reg. 12318, effective October 1, 1982; amended at 6 111. Reg. 13754, effective November 1, 1982; amended at 7 111. Reg. 394, effective January 1, 1983; codified at 7 111. Reg. 5195; amended at 7 111. Reg. 5715, effective May 1, 1983; amended at 7 111. Reg. 12899, effective October 4, 1983, peremptory amendment at 7 111. Reg. 13655, effective October 4, 1983, peremptory amendment at 7 111. Reg. 16067, effective November 22, 18, 1983; amended at 7 111. Reg. 16169, effective November 22, 1983; amended at 8 111. Reg. 5673, effective April 18, 1984; amended at 8 111. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 111. Reg. 10086, effective July 1, 1984; amended at 8 111. Reg. 13284, effective July 16, 1984; amended at 8 111. Reg. 17900, effective September 14, 1984; amended (by adding section being codified with no substantive change) at 8 111. Reg. 17898; peremptory amendment at 8 111. Reg. 19690, effective October 1, 1984; peremptory amendment at 8 111. Reg. 22145, effective November 1, 1984; amended at 9 111. Reg. 302, effective January 1, 1985; amended at 9 111. Reg. 6804, effective May 1, 1985; amended at 9 111. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 111. Reg. 8898, effective July 1, 1985; amended at 9 111. Reg. 11334, effective July 8, 1985; amended at 9 111. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 111. Reg. 15582, effective October 1, 1985; amended at 9 111. Reg. 16889, effective October 16, 1985; amended at 9 111. Reg. 19726, effective

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NOTICE OF PROPOSED AMENDMENT

Section 121.23 Work Registration/Participation Requirements
(Cont'd.)

- a) All non-exempt adults who are eligible members of a food stamp household, shall register for employment, participate in an employment and training program and accept suitable employment. Compliance with this requirement is a prerequisite to certification and program benefits shall not be granted conditionally prior to registration by non-exempt household members. However, under expedited services, the applicant must register but registration of other members may be postponed.
- b) All non-exempt individuals must register in the following circumstances:
 - 1) prior to initial certification;
 - 2) for new member, prior to addition to the case;
 - 3) once every twelve months; and
 - 4) when as a result of a change which the household is required to report, a member loses exempt status. (See 89 Ill. Adm. Code 102.50(c).)
- c) Registration with Project Chance for General Assistance (GA) purposes shall meet the Food Stamp work registration requirement for non-exempt City of Chicago GA/Food Stamp applicants and recipients.
- d) Registration with Project Chance for Aid to Families With Dependent Children (AFDC) purposes shall meet the food stamp work registration requirement.
- e) Registration with a Refugee Placement Agency or Illinois Job Service for Refugee Assistance/Food Stamp recipients shall meet the Food Stamp work registration requirements.
- f) Each household member who is required to register for employment is also required to:
 - 1) Participate in an employment and training program, if assigned by Project Chance in accordance with 89 Ill. Adm. Code 112.78;

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Section 121.23 Work Registration/Participation Requirements
(Cont'd.)

- 2) Respond to requests for supplemental information regarding employment status or availability for work;
- 3) Report to employers to whom referred;
- 4) Accept a bona fide offer of suitable employment (see Section 121.27(b) for a definition of "suitable employment"); and
- 5) Cooperate with comparable work requirements of Project Chance for GA and AFDC (See 89 Ill. Adm. Code 112.70 through 112.85 and 114.60 through 114.80, 114.85 and 114.120 through 114.130).

(Source: Amended at 14 Ill. Reg. _____, effective _____)

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ILLINOIS REGISTER

NOTICE OF PROPOSED AMENDMENT

Section Numbers	Proposed Action	Illinois Register Citation
114.251	Amendment	March 16, 1990 (14 Ill. Reg. 4070)
114.270	Amendment	December 8, 1989 (13 Ill. Reg. 19146)
114.430	Amendment	April 27, 1990 (14 Ill. Reg. 5945)
114.450	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.452	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.454	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.456	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.458	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.460	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.462	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.464	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.466	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.500	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.502	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.504	New Section	April 13, 1990 (14 Ill. Reg. 5385)

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ILLINOIS REGISTER

NOTICE OF PROPOSED AMENDMENT

The Heading of the Part: GENERAL ASSISTANCE	Code Citation: 89 Ill. Adm. Code 114	Section Number:	Proposed Action:
1) The Heading of the Part: GENERAL ASSISTANCE	Code Citation: 89 Ill. Adm. Code 114	Section Number:	Proposed Action:
		114.85	New Section
4) Statutory Authority: Sections 6-8, 9-6 and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, Ch. 23, pars. 6-8, 9-6 and 12-13)		114.430	Amendment
5) A Complete Description of the Subjects and Issues Involved: This rulemaking establishes an Illinois Department of Public Aid employment and training pilot program in East St. Louis Township for General Assistance recipients who receive Food Stamps. Interested parties should also see the proposed amendments to 89 Ill. Adm. Code 121.23, in this issue of the Illinois Register.		114.452	New Section
6) Will this Proposed Amendment replace an Emergency Amendment currently in effect? No		114.456	New Section
7) Does this rulemaking contain an automatic repeal date? Yes X No		114.458	New Section
8) Does this Proposed Amendment contain incorporations by reference? No		114.460	New Section
9) Are there any other Proposed Amendments pending on this Part? Yes		114.462	New Section
		114.464	New Section
		114.466	New Section
		114.500	New Section
		114.502	New Section
		114.504	New Section
		114.241	Amendment
		114.235	Amendment
		114.210	Amendment
		114.140	Repealed
		114.9	Amendment
			December 22, 1989 (13 Ill. Reg. 2821)
			April 13, 1990 (14 Ill. Reg. 5385)
			March 16, 1990 (14 Ill. Reg. 4070)
			Illinois Register Citation

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<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
114.506	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.508	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.510	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.512	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.514	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.516	New Section	April 13, 1990 (14 Ill. Reg. 5385)
114.518	New Section	April 13, 1990 (14 Ill. Reg. 5385)

10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning the proposed rulemaking. All comments must be in writing and should be addressed to Anita Williams, Staff Attorney, Office of the General Counsel, Illinois Department of Public Aid, Jesse B. Harris Building II, 3rd Floor, 100 South Grand Avenue East, Springfield, Illinois 62762 (217)782-1233. The Department will consider all written comments it receives within 30 days of the date of publication of this notice.

12) Initial Regulatory Flexibility Analysis:

A) Date Proposed Amendment was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: April 27, 1990

B) Types of small businesses affected: Individuals providing education, training and employment opportunities

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- C) Reporting, bookkeeping or other procedures required for compliance: No additional bookkeeping or other procedures will be required.
- D) Types of professional skills necessary for compliance: No unique professional skills required.

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

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Section	
114.240	Income From Work/Study/Training Program (Repealed)
114.241	Earned Income From Self-Employment
114.242	Earned Income From Roomer and Boarder
114.243	Earned Income From Rental Property
114.244	Earned Income In-Kind
114.245	Payments from the Illinois Department of Children and Family Services
114.246	Budgeting Earned Income For Contractual Employees
114.247	Budgeting Earned Income For Non-contractual School Employees
114.250	Assets
114.251	Exempt Assets
114.252	Asset Disregards
114.260	Deferral of Consideration of Assets (Repealed)
114.270	Property Transfers
114.280	Supplemental Payments

SUBPART F: PAYMENT AMOUNTS

Section	
114.350	Payment Levels for General Assistance
114.351	Payment Levels in Group I Counties
114.352	Payment Levels in Group II Counties
114.353	Payment Levels in Group III Counties

SUBPART G: OTHER PROVISIONS

Section	
114.400	Persons Who May Be Included In the Assistance Unit
114.401	Eligibility of Strikers
114.402	Special Needs Authorizations
114.403	Institutional Status
114.404	Retrospective Budgeting
114.405	Budgeting Schedule
114.420	Redetermination of Eligibility
114.430	Six Month Extension of Medical Assistance Due to Increased Income From Employment

AUTHORITY: Implementing Article VI and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, ch. 23, pars. 6-1 et seq. and 12-13).

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory

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amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979, peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982;_

days; amended at 11 III. Reg. 18689, effective November 1, 1987; emergency amendment at 11 III. Reg. 18791, effective November 1, 1987, for a maximum of 150 days; amended at 11 III. Reg. 20129, effective December 4, 1987; amended at 11 III. Reg. 20889, effective December 14, 1987; amended at 12 III. Reg. 889, effective January 1, 1988; SUBPARTS C, D and E recodified to SUBPARTS E, F and G at 12 III. Reg. 2147; Section 114.110 recodified to Section 114.52 at 12 III. Reg. 2984; amended at 12 III. Reg. 3505, effective January 22, 1988; amended at 12 III. Reg. 6170, effective March 18, 1988; amended at 12 III. Reg. 6719, effective March 22, 1988; amended at 12 III. Reg. 9108, effective May 20, 1988; amended at 12 III. Reg. 9699, effective May 24, 1988; amended at 12 III. Reg. 9940, effective May 31, 1988; amended at 12 III. Reg. 11474, effective June 30, 1988; amended at 12 III. Reg. 14255, effective August 30, 1988; emergency amendment at 12 III. Reg. 14364, effective September 1, 1988, for a maximum of 150 days; amended at 12 III. Reg. 16729, effective September 30, 1988; amended at 12 III. Reg. 20171, effective November 28, 1988; amended at 13 III. Reg. 89, effective January 1, 1989; amended at 13 III. Reg. 1546, effective January 20, 1989; amended at 13 III. Reg. 3900, effective March 10, 1989; amended at 13 III. Reg. 8580, effective May 20, 1989; emergency amendment at 13 III. Reg. 16169, effective October 2, 1989 for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 III. Reg. 16015, effective October 6, 1989; amended at 14 III. Reg. 746, effective January 1, 1990; amended at 14 III. Reg. 3460, effective February 23, 1990; amended at 14 III. Reg. 6360, effective April 16, 1990; amended at 14 III. Reg. _____, effective _____.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

114.85 Downstate General Assistance - Food Stamps Employment and Training Pilot Project

a) The Department shall establish an employment and training pilot project in East St. Louis Township in St. Clair County for General Assistance recipients who receive Food Stamps.

b) The project will maintain a maximum of 500 non-exempt and voluntary individuals at any period during the duration of the project. Individuals determined by Project Chance staff who will most benefit from the

peremptory amendment at 6 III. Reg. 6912, effective May 20, 1982; emergency amendment at 6 III. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 III. Reg. 8115, effective July 1, 1982; amended at 6 III. Reg. 8159, effective July 1, 1982; amended at 6 III. Reg. 10970, effective August 26, 1982; amended at 6 III. Reg. 11921, effective September 21, 1982; amended at 6 III. Reg. 12293, effective October 1, 1982; amended at 6 III. Reg. 12318, effective October 1, 1982; amended at 6 III. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 III. Reg. 907, effective January 7, 1983; amended (by adding sections being codified with no substantive change) at 7 III. Reg. 14747; amended (by adding section being codified with no substantive change) at 7 III. Reg. 14747; amended (by adding section being codified with no substantive change) at 7 III. Reg. 16408, effective November 30, 1983; amended at 7 III. Reg. 16652, effective December 1, 1983; amended at 8 III. Reg. 243, effective December 27, 1983; amended at 8 III. Reg. 5233, effective April 9, 1984; amended at 8 III. Reg. 6764, effective April 27, 1984; amended at 8 III. Reg. 11435, effective June 27, 1984; amended at 8 III. Reg. 13319, effective July 16, 1984; amended at 8 III. Reg. 16237, effective August 24, 1984; amended (by adding sections being codified with no substantive change) at 8 III. Reg. 17896; amended at 9 III. Reg. 314, effective January 1, 1985; emergency amendment at 9 III. Reg. 823, effective January 3, 1985, for a maximum of 150 days; amended at 9 III. Reg. 9557, effective June 5, 1985; amended at 9 III. Reg. 10764, effective July 5, 1985; amended at 9 III. Reg. 15800, effective October 16, 1985; amended at 10 III. Reg. 1924, effective January 17, 1986; amended at 10 III. Reg. 3660, effective January 30, 1986; emergency amendment at 10 III. Reg. 4646, effective February 3, 1986, for a maximum of 150 days; amended at 10 III. Reg. 4896, effective March 7, 1986; amended at 10 III. Reg. 10681, effective June 3, 1986; amended at 10 III. Reg. 11041, effective June 5, 1986; amended at 10 III. Reg. 12662, effective July 14, 1986; amended at 10 III. Reg. 15118, effective September 5, 1986; amended at 10 III. Reg. 15640, effective September 19, 1986; amended at 10 III. Reg. 19079, effective October 24, 1986; amended at 11 III. Reg. 2307, effective January 16, 1987; amended at 11 III. Reg. 5297, effective March 11, 1987; amended at 11 III. Reg. 6238, effective March 20, 1987; emergency amendment at 11 III. Reg. 12449, effective July 10, 1987, for a maximum of 150 days; emergency amendment at 11 III. Reg. 12948, effective August 1, 1987, for a maximum of 150 days; amended at 11 III. Reg. 18311, effective November 1, 1987, for a maximum of 150

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114.85 Downstate General Assistance - Food Stamps Employment and Training Pilot Project (Cont'd.)

project will be selected based on the individual's employability assessment of skills proficiencies and deficiencies, education level, work history, employment goals, interests, aptitudes, and employment preferences as well as factors affecting employability or ability to meet participation requirements (e.g., health, physical or mental limitations).

c) Individuals participating in this project are subject to Sections 114.121 and 114.124 through 114.130 (City of Chicago General Assistance - Food Stamps Project Chance Program) with the following exceptions:

- 1) Section 114.123 (Work Rehabilitative Services (WRS)) referenced in Section 114.121(e) is not applicable. The following applies:
 - A) Individuals who are participating and cooperating in a rehabilitative program to assist them in overcoming drug and alcohol related barriers to employment shall be referred to existing Drug or Alcohol Abuse programs in the community when the Department determines that drug and alcohol abuse is raising a substantial barrier to the client's ability to participate in employment and training programs. (A substantial barrier in this case shall include but is not limited to skills deficiencies, education level, work history, and employment goals). However, the client may also voluntarily participate and cooperate in employment or training programs to the extent such participation does not interfere with treatment under the rehabilitation program.
 - B) Individuals who are mentally incapacitated shall be referred to existing public and private social service agencies, such as the Department of Mental Health and Developmental Disabilities, when the Department determines that such mental incapacity raises a substantial barrier to the client's ability to participate in

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NOTICE OF PROPOSED AMENDMENT

114.85 Downstate General Assistance - Food Stamps Employment and Training Pilot Project (Cont'd.)

employment and training programs. (A substantial barrier in this case shall include but is not limited to skills deficiencies, education level, work history, and employment goals). However, the client may also voluntarily participate and cooperate in employment and training programs to the extent such participation does not interfere with treatment under the rehabilitation program.

- 2) Section 114.122 (SSI Advocacy Program) and 114.123 (Work Rehabilitative Services) referenced in Section 114.124(c)(2)(E)(v) are not applicable. Good faith effort exists when the client's job search performance indicates that he be placed into a different Project Chance component, apply for SSI, or is in need of rehabilitation services due to a mental or substance abuse disorder.
- 3) The Work Rehabilitative Services (WRS) program referenced in Section 114.129(a)(11) is not applicable. Good cause for not complying with employment and training participation requirements exists when the individual fails to cooperate due to symptoms of conditions for which the client has been referred to existing rehabilitation services in the community.
- 4) The Work Rehabilitative Service (WRS) component and SSI Advocacy referenced in Section 114.129(a)(15) are not applicable. Good cause exists when the individual fails to cooperate because it is determined that the client should be in a different Project Chance component, be in an existing rehabilitation program in the community, or apply for SSI.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section Numbers Proposed Action Illinois Register Citation

140.421	Amendment	January 26, 1990 (14 Ill. Reg. 1570)
140.435	Amendment	February 2, 1990 (14 Ill. Reg. 1737)
140.436	Amendment	February 2, 1990 (14 Ill. Reg. 1737)
140.461	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.462	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.463	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.475	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.476	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.477	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.478	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.479	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.480	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.481	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.542	Amendment	March 16, 1990 (14 Ill. Reg. 4415)
140.543	Amendment	March 16, 1990 (14 Ill. Reg. 4415)

1) The Heading of the Part: MEDICAL PAYMENT

2)	Code Citation: 89 Ill. Adm. Code 140
3)	Section Number: Proposed Action:
4)	Statutory Authority: Sections 5-5.1 et seq. 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Pars. 5-5.1 et seq. 12-13)
5)	A Complete Description of the Subjects and Issues Involved: This proposed rule change is implementing an annual QIP assessment to be done concurrently with the annual IOC survey. There is no fiscal impact anticipated.
6)	Will this Proposed Amendment replace an Emergency Amendment currently in effect? Yes
7)	Does this rulemaking contain an automatic repeal date? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
8)	Does this Proposed Amendment contain incorporations by reference? No
9)	Are there any other Proposed Amendments pending on this Part: Yes

Section Numbers Proposed Action Illinois Register Citation

140.7	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.24	Amendment	April 13, 1990 (14 Ill. Reg. 5417)
140.400	Amendment	February 2, 1990 (14 Ill. Reg. 1737)
140.413	Amendment	March 23, 1990 (14 Ill. Reg. 4860)
140.420	Amendment	January 26, 1990 (14 Ill. Reg. 1570)

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<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.544	Repealed	March 16, 1990 (14 Ill. Reg. 4415)
140.545	Amendment	March 16, 1990 (14 Ill. Reg. 4415)
140.642	Amendment	March 2, 1990 (14 Ill. Reg. 3019)
140.646	Amendment	March 16, 1990 (14 Ill. Reg. 4415)
140.647	Amendment	March 16, 1990 (14 Ill. Reg. 4415)
140.648	Amendment	March 16, 1990 (14 Ill. Reg. 4415)
140.649	Amendment	March 16, 1990 (14 Ill. Reg. 4415)
140.650	Amendment	March 16, 1990 (14 Ill. Reg. 4415)
140.652	Amendment	March 16, 1990 (14 Ill. Reg. 4415)
140.Table D	Amendment	January 26, 1990 (14 Ill. Reg. 1570)
140.Table H	Amendment	March 2, 1990 (14 Ill. Reg. 3019)

10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning the proposed rulemaking. All comments must be in writing and should be addressed to Daniel Leikvold, Staff Attorney, Office of the General Counsel, Illinois Department of Public Aid, Jesse B. Harris Building II, 100 South Grand Avenue East, 3rd Floor, Springfield, Illinois 62762 (217) 782-1233. The Department will consider all

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written comments it receives within 30 days of the date of publication of this notice.

12) Initial Regulatory Flexibility Analysis:

- A) Date Proposed Amendment was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: April 27, 1990
- B) Types of small businesses affected: Medical Providers
- C) Reporting, bookkeeping or other procedures required for compliance: No new procedures required
- D) Types of professional skills necessary for compliance: No new skills required

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment which appears in this issue of the Register on page 7253.

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Attorney, Office of the General Counsel, Illinois Department of Public Aid, Jesse B. Harris Building II, 100 South Grand Avenue East, 3rd Floor, Springfield, Illinois 62762, (217) 782-1233. The Department will consider all written comments it receives within 30 days of the date of publication of this notice.

12) Initial Regulatory Flexibility Analysis: This rulemaking has no effect on small businesses.

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

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NOTICE OF PROPOSED REPEALER

1) The Heading of the Part: POINT COUNT GUIDELINES FOR ICF/MR AND SNF/PED FACILITIES

2) Code Citation: 89 Ill. Adm. Code 146

3) Section Numbers: Proposed Action:

146.5	Repealed
146.25	Repealed
146.50	Repealed
146.75	Repealed
146.100	Repealed
146.105	Repealed
146.125	Repealed
146.150	Repealed
146.175	Repealed
146.200	Repealed

4) Statutory Authority: Sections 5-5 and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, Ch. 23, Pars. 5-5 and 12-13)

5) A Complete Description of the Subjects and Issues Involved: This rulemaking repeals obsolete rules, i.e., rules that have been superseded by 89 Ill. Adm. Code 144. Will this Proposed Repealer replace an Emergency Repealer currently in effect? No

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

8) Does this Proposed Repealer contain incorporations by reference? No

9) Are there any other Proposed Amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning the proposed rulemaking. All comments must be in writing and should be addressed to Anita Williams, Staff

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMSPART 146
POINT COUNT GUIDELINES FOR ICF/MR AND
SNF/PED FACILITIES

Section	
146.5	Facility/Client Participation <u>(Repealed)</u>
146.25	Evaluation Of Need For Care <u>(Repealed)</u>
146.50	Payment <u>(Repealed)</u>
146.75	Definitions <u>(Repealed)</u>
146.100	Guidelines <u>(Repealed)</u>
146.105	Intermediate Care (ICF/MR) <u>(Repealed)</u>
146.125	Skilled Care (SNF/PED) <u>(Repealed)</u>
146.150	Statewide Rates <u>(Repealed)</u>
146.175	Reimbursement for ICF/MR-15 and Under Facilities <u>(Repealed)</u>
146.200	Night Shift Reimbursement <u>(Repealed)</u>
146.225	Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 5503-1 et seq.) and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13)

SOURCE: Sections 146.5 thru 146.225 recodified from 89 Ill. Adm. Code 140.850 thru 140.896 at 13 Ill. Reg. 7040; Section 146.225 recodified to 89 Ill. Adm. Code 144.275 at 14 Ill. Reg. ____; repealed at 14 Ill. Reg. ____, effective ____.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

Section 146.5 Facility/Client Participation (Repealed)

- a) These guidelines are to be used only for facilities licensed and/or certified as Skilled Nursing Facilities for Pediatrics (SNF/PED) or Intermediate Care Facilities for the Mentally Retarded (ICF/MR) (including sections of State-operated facilities certified for these levels).

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Section 146.5 Facility/Client Participation (Repealed)
(Cont'd)

- b) A SNF/PED or ICF/MR facility delivers structured rehabilitative programs for substantially handicapped individuals. Substantially handicapped individuals are those who are mildly, moderately, or severely/profoundly mentally retarded; cerebral palsied; epileptic; autistic; or who have related conditions.
- c) Such a facility is also to provide appropriate medical and nursing care required for each resident.
- d) SNF/PED residents must be certified by a physician as requiring skilled level care. ICF/MR residents must also be certified by the physician.
- e) The Department of Mental Health and Developmental Disabilities (DMHDD) will be responsible for the evaluation of and certification for the need for care of individuals as DD residents. The Department of Public Aid (DPA) will be responsible for actual point count assessment for payment.

(Source: Repealed at 14 Ill. Reg. ____, effective ____)

Section 146.25 Evaluation Of Need For Care (Repealed)

- a) The SNF/PED and ICF/MR Assessment Guidelines are used to evaluate the need for care and level of care and to determine assessment allowance for residents of or new admissions to group care facilities. The level of care is based on the resident's condition and the complexity and range of services required by the resident. The levels of care are SNF/PED and ICF/MR, including specialized living centers (ICF/MR-SLC), and shelter care (SC). If the caseworker determines the client is receiving an inappropriate level of care, the procedure in Section 146.105(c) must be followed for intermediate care and Section 146.125(d) for skilled care.
- b) A pound sign (#) next to any topic item in the assessment guidelines in Section 146.100 identifies SNF/PED level services. The need for skilled care may also exist even if skilled level services listed in Section 146.100 are not applicable in an individual

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Section 146.50 Payment (Repealed) (Cont'd)

made every 12 months thereafter. The determination and redetermination will be made on a case by case basis considering factors such as the child's condition, access of family to the facility, and other types of facilities available.

- d) The Department will not pay for an ICF level of care resident admitted to an ICF/MR licensed and certified facility or bed on or after July 1, 1983.
- e) Payment authorization is approved only for the level of care required and level of care the facility is qualified to provide. Payment authorization is approved only for the period beginning the day the Department is notified by the facility or Departmental personnel of a resident's admission. Payment is not to be made for any date prior to the first date of eligibility for Public Aid.
- f) Beginning July 1, 1983, reimbursement for services provided during a six month period or cycle to SNF/PED or ICF/MR level of care Medicaid recipients occupying a SNF/PED licensed or ICF/MR licensed and certified bed will be based on the average assessment of Medicaid residents occupying similarly licensed and certified beds in the facility. Reimbursement will be calculated as follows:
 - 1) Each average assessment for the first two reimbursement cycles (July through December, 1983, and January through June, 1984) will be calculated from all assessments of Medicaid residents for the same licensed beds in a facility effective for the most recent six month period available. (October 1982 through March 1983 and April through September 1983, respectively.)
 - 2) A) Commencing with third reimbursement cycle (beginning July 1, 1984) each average assessment will be based on assessment determinations for a 50% random sample of Medicaid residents occupying the same licensed beds in a facility. In facilities with less than 50 Medicaid recipients of one licensure, a 100% sample will be evaluated.

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Section 146.50 Payment (Repealed) (Cont'd)

- B) For facilities, with ICF/MR licensed and certified beds, the random sample will be drawn and the determinations will be conducted every other quarter.
- C) In facilities with SNF/PED licensed beds the random sample for those beds will be drawn every other quarter. One-half of the sample assessments (determined on a random basis) will be conducted in the quarter the sample is drawn and the second-half of the sample determinations will be conducted in the succeeding quarter. The combination of results of these two assessments are used for the next reimbursement cycle.
- D) The sample from April through September will be used to determine rates for the following January through June reimbursement cycle and the sample from October through March will be used for the following July through December reimbursement cycle.
- E) A copy of the resident's assessment determination will be left with the facility by the DPA caseworker at the completion of each assessment determination.
- 3) A facility may request an appeal of its average assessment because of an error in the mathematical calculation of the assessment and/or the average. The Department must consider all appeals on this basis received within 30 days of the date of Department notification to facilities of their average assessments. Appeals will be resolved by the Department and facilities notified of the Department's finding within 30 days of receipt of the appeal.
- 4) A facility may request an appeal of its reimbursement rate if the facility believes the sample assessment determinations do not accurately reflect the level of services provided to its residents or the assessment tool has not been properly interpreted. Such a request must

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Section 146.50 Payment (Repealed) (Cont'd)

Formula that multiplies the level of staff times the number of staff needed to perform the procedure times the frequency the procedure is conducted in a 30 day month, times the number of minutes each procedure takes, times the staff to patient ratio. Per diem minutes by level of staff can also be derived using some of the components above: multiplying the number of minutes for each procedure times the frequency of the procedure in a 30 day month divided by 30 days). If the staffing reports show a discrepancy between actual statewide staffing and the staffing in the assessments, reimbursement may be correspondingly changed to more accurately reflect available staffing. If a facility's actual staffing level is below what is indicated through the assessments, the Department will refer the facility to the Department of Public Health where a determination will be made whether an inspection of the facility to determine the adequacy and quality of care is necessary. In addition, the Department may:

- 1) conduct a facility inspection and assessment determination of residents by a central office representative to determine the source and magnitude of the discrepancy, and/or
- 2) target the facility for possible audit and investigation by the Department.

If findings from the above actions indicate that minimally adequate care is being provided to recipients but that facility staffing was at least two standard deviations below the staffing level necessary to provide the services reflected in the assessments, the Department will reduce the rate and recover amounts paid previously to insure that payments reflect actual staffing hours until such time as the facility submits a supplemental report showing that staffing levels have increased sufficiently to provide the service indicated in the assessments. The Department may also reduce the rate if the discrepancy is less than two standard deviations. Reductions in rates will not begin until July 1, 1984. Prior to the third quarter facilities will be notified of the discrepancy between staffing and point counts assessments.

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Section 146.50 Payment (Repealed) (Cont'd)

be specified in writing and submitted within 30 days of the date of the assessment.

- 5) Upon receipt of a request for appeal, another sample determination will be conducted and will serve as the basis for the facility's reimbursement for the rate period in question. In those cases where the facility believes the assessment tool has not been properly interpreted, the Department will send a different evaluator to complete the second sample. This second rate will be effective for the entire reimbursement period.

6) The Department will have the right to request a redetermination if: the sample determination results in an average assessment which varies from the previous average by more than 10 percent. The Department will notify the facility within 30 days of the date of the assessment determination of its intent to complete a redetermination. Another reassessment within the cycle will be conducted and will serve as the basis for the facility's reimbursement for the rate period in question. This second rate will be effective for the entire reimbursement period. The facility may request an appeal of this reassessment according to the specifications in Section 146.50(f)(5) above.

g) Determination of Sufficient Staffing: In order to insure that the facility has sufficient staff to provide the services indicated in the assessments, facilities are required to file staffing reports on a semiannual basis. The report must be filled out completely in accordance with the instructions accompanying the staffing reports. The facility or organization must also file documentation, in the form of the Federal Withholding Form 941, and Illinois UC-3 and UC-40 to insure proper reporting of data.

h) The Department intends to compare the staffing data, excluding licensed therapist consultant data, to the amount of nursing time required, based on the assessments, to meet the services provided to the residents (the assessment items are derived from a

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Section 146.50 Payment (Repealed) (Cont'd)

- j) For certain SNF/PED facilities it is possible that local school districts are responsible for funding some covered services. However, caseworkers should not consider this possibility in making assessment determinations or applying credits since appropriate offsets will be made centrally prior to payment.

(Source: Repealed at 14 Ill. Reg. _____, effective _____)

Section 146.75 Definitions (Repealed)

As used in these guidelines:

"Appropriately Constituted Interdisciplinary Team." All professions, disciplines, or service area representatives identifying a resident's needs and designing a program to meet those needs. This team shall include at least a physician, a social worker, and other professionals. At least one member of the team shall be a Qualified Mental Retardation Professional.

"Daily Basis." Every day during an evaluation period, 7 days a week unless:

the service required and received is only offered 5 days during a week; or

the resident is newly admitted or absent from a facility during part of the evaluation period. The resident's records must indicate that the service was required and received on a daily basis during the residents inpatient stay; or

there is a single instance of a break in service of one or two days during the evaluation period.

"Developmentally Disabled." Chronic disability of a person which --

Is attributable to a mental or physical impairment or combination of mental and physical impairments;

Is manifested before the person attains age 22;

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Section 146.75 Definitions (Repealed) (Cont'd)

Is likely to continue indefinitely:

Results in substantial functional limitations in three or more of the following areas of major life activity:

Self-care.

Receptive and expressive language.

Learning.

Mobility.

Self-director.

Capacity for independent living.

Economic self-sufficiency.

Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

"Documentation." The recording of services ordered, services rendered, observations, assessments, and plans made by the appropriate individuals. Documentation shall be made at the frequency necessary to meet applicable DPH minimum standards.

"Evaluation Period." Billing period for the specific Processing Cycle.

"Group." More than one resident is receiving assistance, supervision, and/or a structured program from staff at a time. While individual attention may be provided periodically during the duration of the service, the residents are simultaneously participating in the service.

"Habilitation." Process directed toward the alleviation of a disability or toward increasing an individual's level of physical, mental, social, or economic functioning. Habilitation may include but is

Section 146.75 Definitions (Repealed) (Cont'd)

not limited to: diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling, and other services.

"Individual Habilitation Plan." A total individualized program that is developed on the basis of assessment by an appropriately constituted interdisciplinary team. Each resident shall have an individual habilitation plan developed within one month of admission. This plan shall be updated approximately every six (6) months thereafter, or more frequently as necessary, to assure continuing appropriateness of goals, consistency of management methods with goals and objectives, and the achievement of progress toward goals. Additionally, a nursing care plan shall be reviewed by appropriate facility designated staff as specified in DPH Minimum Standards.

"Multidaily." More than once daily.

"One-to-One Basis." One resident is receiving assistance, supervision, total care, and/or a structured program from one or more staff for the duration of that service to the resident. While there may be more than one resident present in the same service area, staff is providing the service exclusively to that resident for an identifiable period of time as indicated in the resident's individual habilitation plan. Time given on a one to one basis is limited to that time spent with the individual.

"Qualified Health Professional (QHP)."

an educator with a degree in education from an accredited program.

a registered physical or occupational therapist, a physician licensed by the State of Illinois to practice medicine or osteopathy.

a psychologist with a valid current Illinois registration.

Section 146.75 Definitions (Repealed) (Cont'd)

a registered nurse with a valid current Illinois registration.

a registered speech pathologist or audiologist.

a registered social worker with a Bachelor's Degree in social work from an accredited program, or a Bachelor's Degree in a field other than social work and at least 3 years social work experience under the supervision of a qualified social worker.

a therapeutic recreation specialist who is a graduate of an accredited program and eligible for registration in the National Therapeutic Recreation Society.

a rehabilitation counselor who is certified by the Committee on Rehabilitation Counselor Certification.

"Qualified Mental Retardation Professional (QMRP)." A qualified health professional (as defined above) who has specialized training or one year of experience in working with the mentally retarded.

"Receives." Provided and documented covered services.

"Rehabilitation." Process directed toward the

alleviation of a disability or toward maximizing a resident's remaining capacity of physical, mental, social, spiritual, and/or economic functioning.

Rehabilitation includes physical therapy, restorative nursing, occupational therapy, speech therapy, and social (re)habilitation. Rehabilitation services must be ordered by a physician.

"Requires." Needed Medicaid services ordered by a physician or Medicaid services necessitated by the resident's physical, mental, and psycho/social condition. All required services must be identified

in the resident's record. An attending physician's order must be present for all medications, treatments (including restorative), diet, and special procedures or orders required for the safety and well-being of the resident. There shall be a written order, with

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Section 146.75 Definitions (Repealed) (Cont'd)

any contraindications stated, given by the attending physician for participation in activity and training programs.

"Resident's Care Plan." Total individualized program developed on the basis of assessment by staff representing all disciplines. The plan is used to guide the entire staff in identifying and fulfilling the total needs of the resident and as an aid to understanding the resident. The physician initiates a resident's care plan within forty-eight (48) hours of admission by providing written orders. The resulting care plan must be reviewed and revised as necessary by appropriate individuals at least every three (3) months.

"Structured Program." Individualized systematic process to bring about change in a resident which will maximize the ability to function appropriately. The structured program is directed toward skill acquisition and/or maintenance of a resident's level of functioning.

A structured program must include, in written form, in the resident's record:

an assessment of the resident's needs provided by the appropriate QMRP;

clearly defined long term goals and short term objectives which detail the desired outcome;

a current physician's order for the structured program or approval by the physician for participation in a program which may be done in conjunction with the physician's approval of the resident's care plan or individual habilitation plan.

a systematic plan for achieving the defined goals and objectives developed by the appropriate QMRP. This plan identifies specific staff involved in the program who have been trained by the QMRP or their trained designee; objective levels or steps;

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Section 146.75 Definitions (Repealed) (Cont'd)

specific days and periods of program; duration of session(s); and program setting;

documentation which indicates the resident's frequency of participation in and response to the program; and

documentation of periodic review by the appropriate QMRP to determine resident's status and the appropriateness of the program at least every six (6) months or in the case of Ostomy Care at least every two (2) months.

A structured program may be given more than once if the resident requires such a program and the resident's records establish that the resident's condition has changed so as to justify continuance or that there has been a revised program to train the resident in the desired skill(s). If the program's continuance is not justified, points will be discontinued.

"Supervision of." Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Unless otherwise stated, the supervisor must be on the premises. Direct supervision means visual observation of all or part of a procedure or service.

(Source: Repealed at 14 Ill. Reg. _____, effective _____)

Section 146.100 Guidelines (Repealed)

All topics are listed in alphabetical order.

a) Appliance

Appliances are devices applied to a part of the body for performing or for facilitating the performance of a particular function.

- 1) 0 - Does not require assistance or total care with the application of an appliance.

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Section 146.100 Guidelines (Repealed) (Cont'd)

- Whether the bath is given in a bed, shower, or tub. This includes shampooing. This does not include transfer into or out of a shower or tub.
- 1) 0 - Does not require assistance, supervision, total care, or a structured program for bathing.
 - 2) 3 - Requires and receives assistance, supervision, or total care with bathing on a one to one basis less than daily.
 - 3) A) 6 - Requires and receives a structured program to develop bathing self help skills less than daily. The structured program must be given on a one to one basis; or B) Requires and receives total care by more than one staff to bathe on a less than daily basis due to physical size or disability; or C) Requires and receives assistance, supervision, or total care with bathing on a one to one basis daily.
 - 4) A) 11 - Requires and receives a structured program to develop bathing self help skills daily. The structured program must be given on a one to one basis; or B) Requires and receives total care by more than one staff to bathe on a daily basis due to physical size or disability.
- c) Behavior Development
- 1) A behavior pattern does not refer to personality characteristics or medical diagnosis but is based on direct and documented observation of the resident's action. Inappropriate behavior is that which is violent and destructive, anti-social, rebellious, untrustworthy, withdrawn, stereotyped, inappropriate, abusive, hyperactive, sexually aberrant, interpersonal, unacceptable and eccentric, self psychologically disturbed, and/or aggressive. Structured programs for behavior development must be developed by a QMRP, who has had one year

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Section 146.100 Guidelines (Repealed) (Cont'd)

- A) The resident does not require an appliance; or
 - B) The resident requires appliances such as dentures, breast prostheses, slings, scrotals, trusses, artificial eyes, eye glasses, walkers, canes, crutches, wheelchairs, geriatric chairs, restraints, protective devices; or
 - C) Any device not specifically mentioned; or
 - D) The resident applies an appliance without staff assistance.
- 2) 5 - Requires and receives assistance or total care on a daily basis with the application and monitoring of one or more of these specific items:
 - A) a hearing device,
 - B) a prescribed ace bandage,
 - C) joint supports,
 - D) cervical collars,
 - E) ted or jobst hose,
 - F) an arm brace,
 - G) a neck brace,
 - H) a head brace,
 - I) a back brace,
 - J) a leg brace,
 - K) a splint, and/or
 - L) an artificial limb
- b) Bathing
- Bathing is the process of washing the entire body

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Section 146.100 Guidelines (Repealed) (Cont'd)

experience or education in behavior sciences, and conducted by designated staff specifically trained to perform the service.

- 2) An incident is an occurrence of an identified inappropriate behavior. A crisis is an incident which requires physical intervention to control a behavior that jeopardizes the well being and safety of self or others or is destructive of property.
 - A) 0 - Does not require a structured program for behavior development.
 - B) 11* - Requires and receives a daily structured program of scheduled reinforcement for behavior development. The resident does not require incident intervention.
 - C) 17* - Requires and receives incident intervention as identified in the structured program and a daily structured program of scheduled reinforcement for behavior development.
 - D) 26* - Requires and receives more than 8 but less than 16 staff hours of crisis intervention as identified in the structured program and requires and receives a daily structured program of scheduled reinforcement for behavior development.
 - E) 35* - Requires and receives 16 or more staff hours of crisis intervention as identified in the structured program and requires and receives a daily structured program of scheduled reinforcement for behavior development.

d) Catheterization

- 1) The resident requires catheterization (not retained in the bladder) to express and measure the retention of urine in the bladder or the resident requires a retention catheter (retained

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Section 146.100 Guidelines (Repealed) (Cont'd)

in the bladder) to keep the bladder drained of urine or the resident requires an external catheter.

- 2) When a resident is involved in a structured bowel and/or bladder training program and has a retention catheter or is catheterized, points are to be given under Incontinence for a structured bowel and/or bladder training program and not under Catheterization.
 - A) 0 - Does not require a catheter.
 - i) The resident does not require a catheter or
 - ii) The resident has a catheter and is involved in a structured bowel and/or bladder training program.
 - B)
 - i) 3* - Requires and receives an indwelling catheter for a period of two weeks or less. The resident requires and receives a catheter, as ordered by a physician, which is retained in the bladder for a period of two weeks or less; or
 - ii) Requires and receives an external catheter; or
 - iii) Requires and receives occasional catheterization for a specified medical reason.
 - C)
 - i) 5* - Requires and receives an indwelling catheter for a period longer than two weeks; or
 - ii) Requires and receives daily catheterization for a specified medical reason.

e) Clothing

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Section 146.100 Guidelines (Repealed) (Cont'd)

- vii) a low cholesterol diet;
- viii) a facility prepared tube feeding formula; and/or
- ix) a supplemental meal.

C) 13* - Requires and receives daily oral supplements. The oral supplement, which is ordered by the physician for a specified medical reason, may be used exclusively or in combination with a regular diet or a specific diet.

g) Douche, Enema, and/or Impaction Removal

A douche (vaginal) and/or enema must be ordered by a physician for a specified medical reason indicating type or kind. Impaction removal means the manual removal of feces from the lower bowel. Times includes any combination of these services as provided.

- 1) 0 - Does not require a douche, an enema, and/or an impaction removal.
- 2) 1* - Requires and receives a douche, an enema, and/or an impaction removal less than 4 times during an evaluation period.
- 3) 2* - Requires and receives a douche, an enema, and/or an impaction removal 4 or more times during an evaluation period.

h) Dressing and/or Skin Treatment

- 1) All dressings and skin treatments must be ordered by a physician.
- 2) Dressing indicates the application of various material for protecting a wound. The procedure includes removal of an existing dressing, cleansing and preparation of the diseased or injured part as prescribed, and application of the covering material. Dressings may indicate skilled level, regardless of frequency, when required as ordered by a physician and provided

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for conditions such as extensive burns; deep areas requiring application of medication, irrigation, or sterile dressing; etc.

- 3) Skin treatment including care for cast indicates management and care of the skin for the purpose of combatting disease or disorder (excluding comfort lotions). The procedure includes cleansing and preparation of the diseased area and application of a prescribed agent.
- 4) Therapeutic agents such as whirlpools, soaks, moist packs, dry hot or cold packs, or heat lamps may be included as either a dressing or a skin treatment and if not considered as part of a treatment under the topic Motor Development.
- 5) Consideration for an allowance under this item will not be given if the dressing and/or skin treatment is for ostomy care.
- 6) The word "times" refers to each treatment period. A treatment period may include dressings and/or skin treatments to one or multiple sites.
 - A) 0 - Does not require a prescribed dressing and/or a prescribed skin treatment.
 - i) The resident does not require a prescribed dressing and/or a prescribed skin treatment or
 - ii) The resident requires and receives a minor treatment such as a bandaid for a minor cut or abrasion.
 - B) 1* - Requires and receives a prescribed dressing(s) and/or a prescribed skin treatment(s) 14 times or less during an evaluation period.
 - C) 4* - Requires and receives a prescribed dressing(s) and/or a prescribed skin treatment(s) 15 through 31 times during an evaluation period.

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require application of individual adaptive devices in order to eat independently. Staff may be giving assistance to more than one resident during a meal.

11 - Requires and receives a daily structured program to assure self feeding in a group. A group may consist of no more than seven residents to one staff. The structured program may range from the most elementary level in the eating process to the more complex. This may include, but is not limited to, discrimination and manipulation of utensils, rate of intake, and chewing. The structured program may be given in a group training session but must include at least two meals a day.

38* - Requires and receives constant intervention or hand feeding daily to ensure adequate intake. The resident cannot adequately self-feed and requires a staff member on a one-to-one basis for the duration of the feeding period.

43* - Requires and receives a daily structured program to self-feed on a one-to-one basis for the duration of the feeding period. The structured program may range from the most elementary level in the eating process to the more complex. This may include, but is not limited to, discrimination and manipulation of utensils, rate of intake, and chewing. The structured program must be given on a one-to-one basis for the duration of the feeding period and must include at least two meals a day.

69# - Requires and receives tube feedings and/or gastrostomy feedings. A resident is being fed (by or under the direct supervision of a licensed nurse) a prescribed liquid diet by a tube based on a physician's orders.

90# - Requires and receives daily feeding periods amounting to at least 135 minutes per day. Due to poor sucking and/or swallowing responses, a staff member must spend at least 135 accumulative minutes per day with a resident on a one-to-one

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8* - Requires and receives a prescribed dressing(s) and/or a prescribed skin treatment(s) 32 through 62 times during an evaluation period.

17# - Requires and receives a prescribed dressing(s) and/or a prescribed skin treatment(s) 63 through 123 times during an evaluation period. This service must be provided under the direct supervision of licensed nursing personnel.

68# - Requires and receives a prescribed dressing(s) and/or a prescribed skin treatment(s) 124 times or more during an evaluation period. This service must be performed by licensed nursing personnel; or

11) Requires and receives multiple complex treatments for severe and extensive conditions requiring a daily treatment or more each day. This service must be performed by licensed nursing personnel.

Eating is the intake of food, fluids, and sustenance for adequate nourishment. 0 - Does not require assistance with eating. The resident is capable of eating without a staff member overseeing the process to assure adequate intake.

6 - Requires and receives individual assistance to cut food, butter bread, open cartons, etc.; or

Requires and receives some individual assistance in eating. A resident requires and receives complete feeding by staff on some days and partial feeding by staff on others. This includes those residents who

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basis during each feeding period. Poor sucking and/or swallowing responses may require tube feeding in addition to the feeding periods to ensure adequate intake.

j) Hygiene

Hygiene is the process of caring for oral hygiene, hair grooming, nail care, shaving, face washing, hand washing, and personal care.

- 1) 0 - Does not require assistance, supervision, total care, or a structured program for hygiene.
- 2) 3 - Requires and receives assistance, supervision, or total care with hygiene.
- 3) 11 - Requires a daily structured program to develop self help skills with hygiene. A structured program need not be given on a one-to-one basis.

k) Incontinence

- 1) Incontinence is an involuntary emptying or loss of urine and/or evacuation of feces.
- 2) When an indwelling catheter is used (as opposed to a catheter used to obtain a sterile specimen or a catheter used to measure retained urine) points are not allowed for bladder incontinence except when involved in a structured bowel and/or bladder training program.
- 3) Points for bladder incontinence are not allowed if points are allowed under the topic Ostomy Care because of care required for a cystostomy, an ileocystostomy, or an ureterostomy. An allowance for bowel incontinence is excluded if an allowance has been made under the topic Ostomy Care because of care required for a colostomy or an ileostomy.
- 4) Points for a structured program under the topic Incontinence are limited to programs directed toward the physical aspects of bowel and/or

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bladder control. The other aspects relating to the toileting process may be addressed in structured programs under other topics.

A) 0 - Does not require care due to incontinence.

- i) The resident has complete bowel and bladder control; or
- ii) has complete bowel control and has a catheter; or
- iii) is continent but has an occasional accident (less than daily); or
- iv) is continent but is careless with elimination.

B) 3 - Requires and receives periodic care due to incontinence. The resident has some bowel and bladder control but can be expected to require and receive care due to incidents of incontinence on a daily basis.

- i) 22* - Requires and receives total care for incontinence. The resident has no bowel and/or bladder control and requires and receives total care for cleanliness and comfort. The resident may or may not require a crede (urine expressed by downward pressure on the bladder) at regular intervals; or
- ii) Requires and receives time scheduling. The resident has bowel and/or bladder control or has partial bowel and/or bladder control due to time scheduling. This includes assistance and supervision to reinforce bowel and/or bladder control following a structured program.

D) 45* - Requires and receives a daily structured program on a one to one basis. The resident requires and is involved in a

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structured program for bowel and/or bladder training.

1) Injection

1) Injections may be intramuscular or intradermal. All injections must be ordered by a physician and administered by a licensed nurse.

2) Structured programs for injections must be conducted by designated licensed nursing personnel.

A) 0 - Does not require a prescribed injection.

1) The resident does not require a prescribed injection, or

ii) the resident is permitted to self administer by written order from a physician, or

iii) the injection administered is an influenza vaccine.

B) 2* - Requires and receives a prescribed injection(s) less than daily. This may include multiple injections given during the same treatment period less than daily. This also includes consideration for the administration of the pneumovax vaccine for one evaluation period, once every three years.

C) 1) 5* - Requires and receives a prescribed injection(s) on a daily basis. This may include multiple injections given during the same treatment period daily; or

ii) Requires and receives a prescribed multiday injection(s) on a less than daily basis. This may include multiple injections given during more than one treatment period less than daily.

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D) 9* - Requires and receives a daily structured program. The resident requires and is involved in a structured program directed toward self administration in preparation for discharge to a lower level of care or to the community as indicated in the resident's care plan or individual habilitation plan. The program must be given on a one-to-one basis.

E) 14* - Requires and receives a prescribed multiday injection(s) on a daily basis. This may include multiple injections given during more than one treatment period daily.

m) Intravenous Medication or Fluid and/or Subcutaneous Fluid

All intravenous medications or fluids or subcutaneous fluids including an IV push must be prescribed by a physician and administered by a registered nurse.

1) 0 - Does not require intravenous medication or fluid and/or subcutaneous fluid.

2) 4# - Requires and receives intravenous medication or fluid and/or subcutaneous fluid for 3 days or less.

3) 8# - Requires and receives intravenous medication or fluid and/or subcutaneous fluid for more than 3 days.

n) Language Development

1) Language Development may involve language, articulation, rhythm, and/or voice.

2) Language is receptive and expressive. Receptive language is the comprehension or understanding of the spoken word, gesture, signing, or a combination of these. Need for a structured program for receptive language skills may be caused by a hearing impairment which is a loss of hearing acuity that reduces the reception of oral language. Reading and writing are not included

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as components of receptive language. Expressive language is the use of the spoken word, gesture, or signing to communicate.

- 3) Articulation is the production of speech sounds (consonants and vowels). An articulation program involves training in the correct production of speech sounds to make the spoken word intelligible.
- 4) Rhythm is the ability to produce words, phrases, and sentences in spontaneous speech without pauses, hesitations, repetitions, or prologations.
- 5) Voice is the ability to speak without drawing listener attention to quality of production which is occasioned by such things as harshness, hoarseness, breathiness, raspiness, deviant pitch, and/or nasal or denasal quality of voice.
- 6) Any combination of language development structured programs may be provided. However, if more than one structured program is provided, each program must meet the requirements for a structured program as listed in definitions and must be given at least weekly. Structured programs need not be given on a one-to-one basis.
- 7) Structured programs for language development must be developed by a registered speech pathologist or audiologist and conducted by designated staff specifically trained to perform the service.
 - A) 0 - Does not require a structured program.
 - B) 5 - Requires and receives one structured program for language development.
 - C) 10 - Requires and receives two structured programs for language development.
 - D) 15 - Requires and receives more than two structured programs for language development.

o) Medication

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- 1) Medications may be oral, drops, or suppositories (rectal or vaginal). All medications must be prescribed by a physician and administered by a licensed nurse.
- 2) Structured programs for medications must be conducted by designated licensed nursing personnel.
 - A) 0 - Does not require a prescribed medication(s).
 - i) The resident does not require prescribed medication(s), or
 - ii) the resident is permitted to self administer by written order from a physician.
 - B) 1* - Requires and receives a prescribed medication(s) less than daily. This may include multiple medications given during the same treatment period less than daily.
 - C) i) 3* - Requires and receives a prescribed medication(s) on a daily basis. This may include multiple medications given during the same treatment period daily; or
 - ii) Requires and receives a prescribed multiday medication(s) on a less than daily basis. This may include multiple medications given during more than one treatment period less than daily.
 - D) i) 9* - Requires and receives a prescribed multiday medication(s) on a daily basis. This may include multiple medications given during more than one treatment period daily; or
 - ii) Requires and receives a daily structured program. The resident requires and is involved in a structured program directed toward self

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therapist and/or occupational therapist; approved by a physician; implemented by designated staff specifically trained to provide the service by the appropriate QMRP; and documented in the individual habilitation plan and the resident's record. Motor activities are for the large and small muscles which include:

- A) Gross motor activities such as, ambulation, stairclimbing, crawling, rolling, dancing, skipping, hopping, running, jumping, range of motion, and positioning. These could include the use of modalities or equipment such as whirlpools, hot and cold packs, heat lamps, parallel bars, weights, pulleys, etc.
- B) Fine motor activities designed to improve and/or maintain upper extremity function; may include activities employing eye-hand coordination, manipulation skills, speed and dexterity.
- C) Perceptual motor activities such as form and space conceptualization, figure-ground discrimination, perceptions in two and three dimensional planes, right-left discrimination.
- D) Stimulation of all five senses in order to elicit a response or facilitate a motor response.

2) When motor activities are a part of a structured program included under other topics, those activities are not to be considered for points under this topic. In order to receive points for structured programs provided in a group, there may be no more than eight residents to one staff during the period of service.

3) There are two types of service recognized under the topic Motor Development. One type indicates hours received while in a group. The other indicates hours received on a one-to-one basis. Residents may receive points for both types of service. The total points for Motor Development

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administration in preparation for discharge to a lower level of care or to the community or to facilitate community involvement as indicated in the resident's care plan or individual habilitation plan. This program need not be given on a one-to-one basis.

- p) Mobility
 - 1) 0 - Does not require assistance.
 - A) The resident is independent; or
 - B) the resident is capable with assistance of mechanical devices of moving or transferring without assistance from staff; or
 - C) the resident requires no more than verbal instruction; or
 - D) the resident is never taken out of bed due to physical condition.
- 2) 3 - Requires and receives occasional assistance.
- 3) 8* - Requires and receives continuous assistance or total care from one staff member.
- 4) 15* - Requires and receives continuous assistance or total care from more than one staff member. Two or more staff may be required because of the resident's size and/or other physical condition.

q) Motor Development

- 1) Motor Development involves activities undertaken to address coordination, balance, posture, and reflexes. Motor activities are structured activities developed by a registered physical

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is the sum of the points assigned for both types. For example: a resident requires and receives 6 cumulative hours of a structured program(s) for motor development in a group and 10 cumulative hours of a structured program(s) for motor development on a one-to-one basis. The total points to be assigned for the resident under the topic Motor Development is 12 (2 points for the group hours plus 10 points for the one to one hours). The resident's individual habilitation plan must clearly indicate whether the structured program(s) will be provided in a group and/or on a one-to-one basis and the duration of session(s) in either or both settings. The services received must be supported in the resident's record.

- 4) TYPE I. Structured Program-Group
- A) i) 0 - Does not require a structured program for motor development provided in a group; or
- ii) Requires and receives a structured program for motor development provided in a group less than one hour during an evaluation period.
- B) 1* - Requires and receives a structured program for motor development provided in a group 1 to 6 hours during an evaluation period.
- C) 2* - Requires and receives a structured program for motor development provided in a group 6 to 12 hours during an evaluation period.
- D) 4* - Requires and receives a structured program for motor development provided in a group 12 to 18 hours during an evaluation period.
- E) 6* - Requires and receives a structured program for motor development provided in a group 18 to 24 hours during an evaluation period.

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- F) 8* - Requires and receives a structured program for motor development provided in a group 24 or more hours during an evaluation period.
- 5) TYPE II. Structured Program - One-to-One
- A) i) 0 - Does not require a structured program for motor development provided on a one-to-one basis; or
- ii) Requires and receives a structured program for motor development provided on a one-to-one basis less than one hour during an evaluation period.
- B) 3* - Requires and receives a one-to-one structured program for motor development to 1 6 hours during an evaluation period.
- C) 10* - Requires and receives a one-to-one structured program for motor development 6 to 12 hours during an evaluation period.
- D) 17* - Requires and receives a one-to-one structured program for motor development 12 to 18 hours during an evaluation period.
- E) 23* - Requires and receives a one-to-one structured program for motor development 18 to 24 hours during an evaluation period.
- F) 30* - Requires and receives a one-to-one structured program for motor development 24 to 30 hours during an evaluation period.
- G) 36* - Requires and receives a one-to-one structured program for motor development 30 to 36 hours during an evaluation period.
- H) 43* - Requires and receives a one-to-one structured program for motor development 36 to 42 hours during an evaluation period.
- I) 50* - Requires and receives a one-to-one

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insure function, cleanliness, and prevention of skin irritation.

- D) 23* - Requires and receives a daily structured program on a one-to-one basis. The resident requires and is involved in a structured program in order to perform self ostomy care.

s) Oxygen, Humidity, Aerosol and/or Intermittent Positive Pressure Breathing Therapy

- 1) Oxygen Therapy is a treatment forcing oxygen inhalation by nasal catheter, nasal cannula, face mask, face tent, or oxygen tent. Humidity Therapy is a treatment that adds moisture into the lungs by means of an intermittent positive pressure breathing apparatus or an ultrasonic machine and may be used in combination with bronchodialator. (This excludes room humidifiers).
- 2) Aerosol Therapy is a treatment that uses a mycolytic agent to thin secretions in combination with an ultrasonic intermittent positive pressure breathing compressor and/or oxygen. Intermittent Positive Pressure Breathing (IPPR) Therapy is a treatment by which intermittent positive pressure is produced from an intermittent positive pressure breathing machine to assist breathing.
- 3) Hours include any combination of these therapies as provided.
 - A) Oxygen Therapy
 - B) Humidity Therapy
 - C) Aerosol Therapy
 - D) IPPB Therapy
 - E) 0 - Does not require oxygen, humidity, aerosol, and/or intermittent positive pressure breathing therapy.

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- F) 6* - Requires and receives oxygen, humidity, aerosol, and/or intermittent positive pressure breathing therapy less than 336 hours during an evaluation period. The resident requires any combination of these therapies less than 336 hours during an evaluation period or the resident, who is able to administer his own therapy must be given minimum assistance from licensed nursing personnel.

- G) 23# - Requires and receives oxygen, humidity, aerosol, and/or intermittent positive pressure breathing therapy at least 336 hours during an evaluation period.

t) Social (Re) Habilitation

- 1) Social (Re) Habilitation is a broad-based (re) habilitation program with the goal of maximizing the independent functions of a resident within his living and community environment using the principle of normalization.
- 2) If more than one program is provided for the resident, each program must meet the requirements for a structured program as listed in definitions and must be given at least weekly. Structured programs need not be given on a one-to-one basis.
- 3) Social habilitation programs may be provided within the facility and/or in a community setting when facility staff is conducting the program. Consideration will not be given under this topic if consideration for such programs has been given under another topic.
- 4) The program areas within social (re) habilitation include such general categories as: social skills, community skills, homemaking skills, and independence development.
- 5) Residents are placed in social (re) habilitation programs based on individual needs as identified in the resident's care plan or individual habilitation plan. The following are definitions

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Learning the basic skills to care for his living quarters and personal property.

I) Nutrition/Diet Programs include general nutrition training and special training for individuals on special diets (weight reduction, diabetics).

J) Health Care/First Aid Programs include programs designed to train an individual to identify and monitor health care needs and to respond appropriately and includes first aid programs. These programs exclude training for self administration of medications or injections.

K) Money Management/Budgeting Programs include the use of money, protection of money, shopping, saving, and planning for large purchases.

L) Reality Orientation Programs are programs which involve the awareness of the individual's physical relationship to reality and appropriate response to person, place, and time.

M) Remotivation Programs are programs of group interaction to stimulate residents into thinking about and discussing topics associated with the real world.

N) Time Orientation Programs involve programs ranging from learning general awareness of the passage of time to learning to tell time from a clock.

O) Sex Education Programs involve body image, sex roles, human reproduction, family planning, venereal disease, menstruation, and sexual appropriateness.

P) Emergency Procedure Programs deal with disaster procedures such as fire drills and tornado drills within the facility, as well as with emergencies that might occur while

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of program areas and components to be used as criteria for social rehabilitation programs:

A) Environmental Orientation Programs include identifying and knowing the various components and limits of the living facility, work setting, and the community at large.

B) Telephone Usage Programs include learning to take phone calls, making phone calls, appropriate use of the telephone, use of pay phones, and emergency use of phone.

C) Etiquette Programs include proper social behavior while eating, how to relate with staff of the facility, visitors, and strangers. Etiquette may relate to proper dress and grooming in social and group settings.

D) Transportation Programs involve all facets of transportation use ranging from the most elementary aspects to the more complex. They include learning to use all types of public transportation: taxi, bus, train, etc, and may also involve learning the facility transportation for travel to workshops, community activities, etc.

E) Food Preparation Programs include learning to prepare snacks and basic meals independently. This includes learning to buy and prepare food and the use of kitchen utensils and equipment.

F) Laundry Programs include learning to sort soiled clothes for the use of laundry equipment found in home and community laundromats.

G) Household Equipment and Maintenance Programs involve learning the use and care of common household equipment and appliances.

H) Room Care Programs involve the individual

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on community visits or emergencies that could occur while living in the community in a less dependent setting.

- i) 0 - Does not require a structured program(s) for social (re) habilitation.
- ii) 3 - Requires and receives one structured program for social (re) habilitation.
- iii) 6 - Requires and receives two structured programs for social (re) habilitation.
- iv) 9 - Requires and receives three structured programs for social (re) habilitation.
- v) 12 - Requires and receives four structured programs for social (re) habilitation.
- vi) 15 - Requires and receives five or more structured programs for social (re) habilitation.

u) Special Health Monitoring Procedure

- 1) Special Health Monitoring Procedures are indicated during an acute or unstable condition of illness warranting additional observation and/or assessment by licensed nursing personnel above and beyond the normal nursing routine. The special health monitoring procedures are to identify and evaluate the resident's need for possible modification of treatment and/or initiation of additional medical procedures. These procedures must be required for a specific medical reason as documented in the physician's orders and/or progress notes. The services must be documented in the nurse's notes as given. This does not include health monitoring procedures provided on a routine basis.

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- 2) Under this topic only, daily is defined as care given every day during an acute or unstable phase of illness.
 - A) 0 - Does not require a special health monitoring procedure.
 - B) 2# - Requires and receives a special health monitoring procedure(s) daily. This may include multiple special health monitoring procedures given during the same treatment period.
 - C) 8# - Requires and receives a multiday special health monitoring procedure(s) daily. This may include multiple special health monitoring procedures given during more than one treatment period.

v) Suctioning, Postural Drainage, Percussion, and/or Vibration

- 1) Suctioning, postural drainage, percussion, and vibration are treatments to relieve obstruction or spasms of the bronchus; prevent aspiration of secretions; and dislodge thick secretions. These services may be provided in any combination.
- 2) Nasotracheal or Tracheobronchial Suctioning is using a mechanical device to suction secretions that an individual cannot cough up. (This excludes a bulb syringe). Postural Drainage is positioning of an individual so that gravity drains the lung segments toward the trachea. Percussion is a striking or tapping with hands or suitable instrument over each lung segment being drained. Vibration is a rapid motion over lung segments with palm of hand or a mechanical device to help loosen secretions.
- 3) Suctioning, percussion, and vibration must be performed by or under the supervision of licensed nursing personnel.
 - A) Suctioning

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and receives one or a combination of treatments multtidaily because the resident cannot cough up any secretions; requires treatment because of permanent tracheostomy; or has a chronic respiratory disease that requires multtidaily treatments (bronchial pulmonary displasia and emphysema).

i) * If postural drainage is the only service provided, the service indicates intermediate level care.

ii) # If one of the other type services is provided, the service indicates skilled level care.

w) Therapeutic Community Activities

1) Therapeutic Activities include a range of structured programs implemented according to individual need to improve development, stimulation, and/or maintenance of recreational, leisure, and/or craft skills and/or spiritual practices. Structured programs need not be given on a one-to-one basis.

2) These skills are necessary in the development and maintenance of personal growth, well-being, and spiritual satisfaction and may assist in promoting mental and physical health in the total process of normalization.

3) Consideration under this topic is limited to community activities which include attendance at or participation in activities and functions outside the facility that require staff supervision, monitoring, and/or assistance during the resident's participation in the therapeutic community activity. Community activities include the use of local recreational facilities such as bowling alleys and ball courts; attendance at community functions such as fairs, carnivals, athletic events, circuses; and other community resources such as theatres, plays, musicals, and concerts; and special events such as field trips, tours, special olympics, picnics, and summer camp.

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0 - Does not require suctioning, postural drainage, percussion, and/or vibration.

F) 4*# - Requires and receives suctioning, postural drainage, percussion, and/or vibration less than daily. The resident requires and receives an occasional treatment because of an upper respiratory infection; an occasional asthma attack; aspiration or the danger of aspiration of vomit during an illness.

i) * If postural drainage is the only service provided, the service indicates intermediate level care.

ii) # If one of the other type services is provided, the service indicates skilled level care.

G) 7*# - Requires and receives suctioning, postural drainage, percussion, and/or vibration daily. The resident requires and receives one or a combination of treatments on a daily basis because the resident has a chronic respiratory disease that requires daily treatment or because the resident cannot cope with large amounts of mucus.

i) * If postural drainage is the only service provided, the service indicates intermediate level care.

ii) # If one of the other type services is provided, the service indicates skilled level care.

H) 28*# - Requires and receives suctioning, postural drainage, percussion, and/or vibration multtidaily. The resident requires

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- A) 0 - Does not require structured programs of therapeutic community activities. The resident is not involved in community activities which require staff assistance, supervision, guidance, and monitoring.
- B) 3 - Is ambulatory and requires and receives structured programs of community activities. The resident is ambulatory and requires and is involved in community activities which require staff assistance, supervision, guidance, and/or monitoring.
- C) 7 - Is semi-ambulatory, or visually handicapped and requires and receives structured programs of community activities. The resident is semi or non ambulatory or is visually handicapped and requires and is involved in community activities which require staff assistance, supervision, guidance, and/or monitoring.

(Source: Repealed at 14 Ill. Reg. _____, effective _____)

Section 146.105 Intermediate Care (ICF/MR)

- a) (To be applied only if resident has not received an asterisk under Section 146.100.)
- b) This item is applied only when a resident requires nursing care although the evaluation made according to Section 146.100 does not indicate a service designated by an asterisk (*) or a pound sign (#). In such cases, the needs being considered must be documented by nursing notes, physician's orders, and/or progress notes.
- c) If Section 146.105 is applied, the service requiring intermediate care must be noted in the case record. When the caseworker has questions regarding the need for intermediate care, the case should be referred to the Bureau of Provider Services, Group Care Programs Section for a determination of the level of care required.

(Source: Repealed at 14 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED REPEALER

Section 146.125 Skilled Care (SNF/PED) (Repealed)

- a) (To be applied only if resident has not received a pound sign under Section 146.100.)
- b) This item is applied only when a resident, as identified by the physician or facility staff and verified by the caseworker, requires consideration for skilled care although the evaluation made according to Section 146.100 does not indicate a service designated by a pound sign (#). The special needs, services, and techniques used to justify skilled level care for the resident must be explained in the resident's individual habilitation plan and supported by physician's orders and/or nursing/therapist notes. This documentation must demonstrate that services are required to be furnished by or under the direct supervision of licensed nursing or other professional personnel.
- c) Special needs, services, and techniques indicative of skilled level care exist when:
 - 1) The resident requires and receives observation, assessment, and monitoring of a response to care due to an unstable or complicated condition.
 - 2) The resident requires and receives attentive regulations of medication which has a probability of undesirable side effects.
 - 3) The resident requires and receives daily skilled assessment, monitoring, and coordination of all care and training due to the combination and severity of the resident's physical and functional disabilities.
 - 4) The resident requires and receives other specified and individually justified conditions required on a regular and continuous basis.
- d) If Section 146.125 is applied, the service requiring skilled care must be noted in the case record. When the caseworker has questions regarding the need for skilled care, the case should be referred to the Bureau of Provider Services, Group Care Program

NOTICE OF PROPOSED REPEALER

Section 146.150 Statewide Rates (Repealed) (Cont'd)

registered nurses, licensed practical nurses, nurses aides, activity assistants, social services workers and program assistants.

Allowable daily direct care time is determined from the relationship between a facility's actual daily direct care staff time and the distribution of actual daily direct care staff time for facilities within the licensure group.

A) If a facility's actual daily direct care staff time is less than the 75th percentile value of actual daily direct care staff time for the licensure group, the facility's allowable daily direct care time is equal to the sum of its actual daily direct care staff time plus 40 percent of the difference between the 75th percentile value for the licensure group and its actual daily direct care staff time.

B) If a facility's actual direct care staff time is equal to or greater than the 75th percentile value of actual daily direct care staff time for the licensure group, the facility's allowable daily direct care time is the sum of the 75th percentile value plus 40 percent of the difference between their actual daily direct care staff time and the 75th percentile value.

Mean wage rates for direct care staff are computed from mean direct care staff wages for all long term care facilities in this State. This computation weights these rates according to the statewide distribution of staff time for the direct care staff classifications. They are updated for inflation since the cost reporting period according to 89 Ill. Adm. Code 140.552.

(Source: Repealed at 14 Ill. Reg. _____, effective _____)

Section 146.175 Reimbursement for ICF/MR-15 and Under Facilities (Repealed)

a) Support rates for ICF/MR-15 and Under facilities will

NOTICE OF PROPOSED REPEALER

Section 146.125 Skilled Care (SNF/PED) (Repealed) (Cont'd)

Section for a determination of the level of care required.

(Source: Repealed at 14 Ill. Reg. _____, effective _____)

Section 146.150 Statewide Rates (Repealed)

a) The nursing rate component for ICF/MR, SLC, and SNF/PED facilities is the sum of each facility's base rate and variable rate.

b) The base rate is determined from per diem base costs among all facilities within the same licensure group.

1) Base costs are non hands-on care costs, such as those for medical directors, nursing directors, and consultants for developmental and advisory functions. They are updated for inflation since the cost report year according to 89 Ill. Adm. Code 140.552.

2) Each facility's base rate is the median value of per diem base costs for all the facilities in the licensure group.

c) The variable rate is the product of allowable daily direct care time per assessment item, the facility's current mean item assessment score, and the weighted mean wage rate for direct care staff.

1) Each facility's allowable daily direct care time per assessment item is determined from the ratio of actual daily direct care staff time during the cost reporting period to the mean item assessment score for the cost reporting period. The ratio of actual daily direct care staff time during the cost reporting period to the mean item assessment score during the cost reporting period is then compared to the 75th percentile for the licensure group and allowable daily direct care time is computed as specified in Section 146.150(c)(1) and (11).

2) Actual daily direct care staff time is the sum of all hours for hands-on care staff, such as

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED REPEALER

Section 146.175 Reimbursement for ICF/MR-15 and Under
Facilities (Repealed) (Cont'd)

be developed in the manner described in 89 Ill. Adm. Code 140.561 Support Cost Components.

b) Capital rates for ICF/MR-15 and Under Facilities will be developed in the manner described in 89 Ill. Adm. Code 140.570 Capital Costs Component Determination.

c) Program rates will be developed in the manner described below:

1) Using a 12-bed model, wages will be calculated pursuant to Section 146.175(c)(3) for personnel including 40 hours per week for a resident services coordinator and 285 hours per week for Program Assistants, and fringe benefits will be calculated pursuant to 89 Ill. Adm. Code 147.150(b)(1)(A)(ii).

2) Costs will be calculated for the services of the following consultants for the assumed time segments indicated:

- A) Speech and Hearing Consultant - 15 minutes per resident per month;
- B) Nursing Consultant - 15 minutes per resident per week unless offset by a Licensed Practical Nurse (LPN) on staff;
- C) Psychologist - 10 minutes per resident per month;
- D) Dietitian - 10 minutes per resident per month;
- E) Social Worker - 30 minutes per resident per month;
- F) Occupational Therapist - 10 minutes per resident per month; and
- G) Pharmacist - 10 minutes per resident per month.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED REPEALER

Section 146.175 Reimbursement for ICF/MR-15 and Under
Facilities (Repealed) (Cont'd)

3) Personnel costs and consultant costs are developed using the above model which is based upon average costs for position levels in other types of licensed nursing facilities which were available at inception of rate development for ICF/MR-15 and Under Facilities. Such costs will be updated annually.

4) The program rate will be the sum of personnel costs and consultants costs using a 12-bed model and will be regionally adjusted using the same regional adjustors that are used for other nursing homes as described in 89 Ill. Adm. Code 140.552, Nursing and Program Costs.

5) The program rate will be established at the beginning of each fiscal year and will be in effect for the entire fiscal year.

6) Appeals of rate determinations for this type facility shall be handled in the same manner described in 89 Ill. Adm. Code 140.830, Appeals of Rate Determinations.

d) As part of the program rate, the cost for the presence of a LPN will be included when it is required to assist one or more residents in the self-administration of medication, provided that:

1) This service is not provided by the Consultant Nurse or other personnel; and

2) A) The care plan for the recipient specifies the need for and identifies a program for achieving independence in self-administering medications as approved in writing by the resident's personal physician; or

B) The resident's personal physician states in writing that independence in the self-administration cannot be attained and the services of an LPN are required to assist the resident in administering of medication. The physician's statement must

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DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED REPEALER

Section 146.200 Night Shift Reimbursement (Repealed) (Cont'd)

developmentally disabled with 15 or fewer residents (ICF/DD = 15) will include additional reimbursement for habilitation staff during the night shift. The night shift in any facility is the eight hour period, or one-third of a 24 hour day, during which residents are usually asleep.

b) Facilities affected by this change in reimbursement are:

- 1) Intermediate Care Facilities for the Developmentally Disabled (ICF/DD);
- 2) Skilled Care Facilities for Pediatric residents (SNF/PED); and
- 3) Specialized Living Centers (SLC).

c) The reimbursement for habilitation staff during the night shift will be computed as the product of required staff minutes per resident day and weighted habilitation staff wage rates.

- 1) Required staff minutes per day are determined from staffing requirements of Health Care Financing Administration (HCFA) relative to the distribution of the resident populations by level of mental retardation:

<u>Level of Retardation</u>	<u>Staff:Resident Ratio</u>	<u>Staff Minutes Per Resident Day</u>
Mild	1:32	15
Moderate	1:16	30
Severe, Profound	1:16	30

- 2) Weighted habilitation staff wage rates are computed on the basis of 80 percent unlicensed staff and 20 percent licensed staff for area wage rates computed as described in 89 Ill. Adm. Code 147.150.
- 3) The Department will record the level of retardation as determined by the facility or its

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED REPEALER

Section 146.200 Night Shift Reimbursement (Repealed) (Cont'd)

consultants during resident assessments performed over the period January 1, 1987, through June 30, 1987.

(Source: Repealed at 14 Ill. Reg. _____, effective _____)

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENTS

Telephone number: (217) 785-3896
T.D.D.: (217) 782-5734

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.
The full text of the Proposed Rule(s) begins on the next page:

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENTS

Heading of the Part: Other Services

2) Code Citation: 89 Ill. Adm. Code 607

3) Section Numbers: Proposed Action:

607.20 amendment

4) Statutory Authority: Sections 3(a), (b), and (k) of "AN ACT in relation to rehabilitation of persons with one or more disabilities" (Ill. Rev. Stat. 1988 Supp., ch. 23, pars. 3434(a), (b), and (k)) and Section 13-703 of the Public Utilities Act (Ill. Rev. Stat. 1988 Supp., ch. 111 2/3, par. 13-703).

5) A Complete Description of the Subjects and Issues Involved: This amendment is being proposed to reflect an agreement made with the Joint Committee on Administrative Rules to add the language "with the exception of those services listed in Section 562.30(a)(1) through (4)" to Section 607.20.

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

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

8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No

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

Section Numbers Proposed Action Illinois Register Citation

10) Statement of Statewide Policy Objectives (if applicable): Not Applicable

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

Ms. Janice Lobb
Regulations and Procedures Division
Department of Rehabilitation Services
P.O. Box 19429
Springfield, Illinois 62794-9429

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 607
OTHER SERVICES

Section

- 607.10 General Applicability
- 607.20 Temporary Lodging or Transportation
- 607.50 Other Goods and Services
- 607.60 Equipment Sets

AUTHORITY: Implementing and authorized by Sections 3(a), (b), and (k) of "AN ACT in relation to rehabilitation of persons with one or more disabilities" (Ill. Rev. Stat. 1988 Supp., ch. 23, pars. 3434(a), (b), and (k)) and Section 13-703 of the Public Utilities Act (Ill. Rev. Stat. 1988 Supp., ch. 111 2/3, par. 13-703).

SOURCE: Adopted at 9 Ill. Reg. 8823, effective June 10, 1985; amended at 11 Ill. Reg. 4042, effective February 18, 1987; amended at 12 Ill. Reg. 15156, effective September 12, 1988; emergency amended at 13 Ill. Reg. 225, effective January 6, 1989, for a maximum of 150 days; emergency expired May 20, 1989; amended at 13 Ill. Reg. 9586, effective June 12, 1989; amended at 14 Ill. Reg. _____, effective _____.

Section 607.20 Temporary Lodging or Transportation

When temporary lodging or transportation becomes necessary to benefit from the provision of vocational rehabilitation services (89 Ill. Adm. Code: Chapter IV, Subchapter b), clients (and attendants when required for the client to travel) shall be reimbursed in accordance with 80 Ill. Adm. Code 2800 "Travel Regulations", issued by the Illinois Department of Central Management Services.

- a) With the exception of those services listed in Section 562.30(a)(1) through (4), transportation shall not be provided once the client has become employed and has received their his/her first paycheck.
- b) Ambulance transportation will be provided upon the order of a client's attending physician as part of VR services and shall be at the lowest ambulance charge available in the client's community.

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Numbers: 100.9900 Proposed Action: Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 120, pars. 14-1401(a) and 15-1501(a)(27)
- 5) A Complete Description of the Subjects and Issues Involved: Subsection 100.9900(h)(1) is amended to more closely reflect the language of the Illinois Income Tax Act, Section 1501(a)(27), stating that corporations will ordinarily be in a unitary relationship with one another if they are in the same general line of business or vertically integrated, and all other unitary criteria are met, including common ownership, strong centralized management and comparability of apportionment method.

The amendments to subsection 100.9900(h)(1) are applicable to all taxable years for which the statute of limitations is open. However, the Department will not apply the amended regulations to prior years if doing so would result in an increased tax liability for the taxpayer.

Section 100.9900 is amended throughout to change the citation to the definition of a unitary business group as a result of legislative renumbering of Illinois Income Tax Act, Section 1501.

Section 100.9900(d) is amended to reflect the statutory changes made to IITA 1501(a)(27) by P.A. 84-1400 which authorizes unitary business groups composed exclusively of members that derive business income solely from Illinois.

- 6) Will this proposed rule 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 incorporations by reference? No
- 9) Are there any other amendments pending on this Part: Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
100.2900	Amendment	07/07/89-13 Ill. Reg. 10772
100.2901	New Section	07/07/89-13 Ill. Reg. 10772
100.2902	New Section	07/07/89-13 Ill. Reg. 10772
100.2903	New Section	07/07/89-13 Ill. Reg. 10772
100.2904	New Section	07/07/89-13 Ill. Reg. 10772
100.3250	Amendment	11/27/90-13 Ill. Reg. 18188

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 100

INCOME TAX

SUBPART A: TAX IMPOSED

Section 100.2000

Personal Property Tax Replacement Income Tax (hereinafter PPRIT) for Taxable Years Beginning Prior to July 1, 1979, and Ending After June 30, 1979 - Specific Accounting - In General (IITA Section 201) (Repealed)

100.2050

Personal Property Tax Replacement Income Tax (PPRIT) for Taxable Years Beginning Prior to July 1, 1979, and Ending After June 30, 1979 - Specific Accounting - Carryover Items (IITA Section 201) (Repealed)

100.2100

Personal Property Tax Replacement Income Tax (PPRIT) for Taxable Years Beginning Prior to July 1, 1979, and Ending After June 30, 1979 - Specific Accounting - Carryback Items (IITA Section 201) (Repealed)

100.2150

Personal Property Tax Replacement Income Tax (PPRIT) for Taxable Years Beginning Prior to July 1, 1979, and Ending After June 30, 1979 - Specific Accounting - Partnership Income (IITA Section 201) (Repealed)

100.2200

Personal Property Tax Replacement Income Tax (PPRIT) for Taxable Years Beginning Prior to July 1, 1979, and Ending After June 30, 1979 - Specific Accounting - Long Term Contracts Reported on the Completed Contract Method (IITA Section 201) (Repealed)

100.2250

Personal Property Tax Replacement Income Tax (PPRIT) for Taxable Years Beginning Prior to January 1, 1981, and Ending After December 31, 1980 - Specific Accounting - In General (IITA Section 201) (Repealed)

100.2300

Personal Property Tax Replacement Income Tax (PPRIT) for Taxable Years Beginning Prior to January 1, 1981, and Ending After December 31, 1980 - Specific Accounting - Carryover Items (IITA Section 201) (Repealed)

100.2350

Personal Property Tax Replacement Income Tax (PPRIT) for Taxable Years Beginning Prior to January 1, 1981, and Ending After December 31, 1980 - Specific Accounting - Carryback Items (IITA Section 201) (Repealed)

100.2400

Personal Property Tax Replacement Income Tax (PPRIT) for Taxable Years Beginning Prior to January 1, 1981, and Ending After December 31, 1980 - Specific Accounting - Partnership Income (IITA Section 201) (Repealed)

100.2450

Personal Property Tax Replacement Income Tax (PPRIT) for Taxable Years Beginning Prior to January 1, 1981, and Ending After December 31, 1980 - Specific Accounting - Long Term Contracts Reported on the Completed Contract Method (IITA Section 201) (Repealed)

NOTICE OF PROPOSED AMENDMENTS

100.9060	Amendment	12/15/89-13 I.I. Reg. 19347
100.9070	Amendment	12/15/89-13 I.I. Reg. 19347
100.9110	Amendment	12/15/89-13 I.I. Reg. 19347
100.9130	Amendment	12/15/89-13 I.I. Reg. 19347
100.9140	Amendment	12/15/89-13 I.I. Reg. 19347

10) Statement of Statewide Policy Objectives: N/A

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Joseph F. McManamin, Manager
Legal Services Bureau - Income Tax Division
101 W. Jefferson
Springfield, Illinois 62794-9014
Phone: (217) 782-7055

12) Initial Regulatory Flexibility Analysis:

A Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: May 1, 1990

B) Types of small businesses affected: This rule change would typically not affect small businesses.

C) Reporting, bookkeeping or other procedures required for compliance: This rule amendment would not increase procedures for compliance.

D) Types of professional skills necessary for compliance: This rule amendment would not require additional professional skills.

The full text of the proposed Amendment(s) begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

100.2500	Scope of 86 Ill. Adm. Code 100.2000 through 100.2450 (Repealed)
100.2550	Net Income (IITA Section 202)
100.2560	Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
100.2561	Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
100.2562	Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
100.2563	Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
100.2564	Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
100.2565	Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership
100.2600	Special Transitional Rules (IITA Section 202) (Repealed)
100.2650	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Scope
100.2675	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Definitions
100.2700	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Current Net Operating Losses: Offsets Between Members
100.2750	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Carrybacks and Carryforwards
100.2800	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) - Effect of Combined Net Operating Loss in Computing Illinois Base Income
100.2850	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) - Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year.
100.2900	Investment Tax Credits
100.2950	Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside For Charity

SUBPART B: ALLOCATION AND APPORTIONMENT OF BASE INCOME

Section	
100.3000	Terms Used in Article 3 (IITA Section 301)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

100.3050	Business and Nonbusiness Income (IITA Section 301)
100.3100	Compensation (IITA Section 302)
100.3150	State (IITA Section 302)
100.3200	Taxability in Other State (IITA Section 303)
100.3250	Resident (IITA Section 301)
100.3300	Commercial Domicile (IITA Section 303)
100.3350	Allocation and Apportionment of Base Income (IITA Section 304)
100.3400	Allocation of Compensation Paid to Nonresidents (IITA Section 302)
100.3450	Allocation of Certain Items of Nonbusiness Income by Persons Other than Residents (IITA Section 303)
100.3500	Business Income of Persons Other than Residents (IITA Section 304) - In General
100.3510	Business Income of Persons Other than Residents (IITA Section 304) - Apportionment
100.3520	Business Income of Persons Other than Residents (IITA Section 304) - Allocation
100.3530	Business Income of Persons Other than Residents (IITA Section 304)
100.3550	Property Factor (IITA Section 304)
100.3600	Payroll Factor (IITA Section 304)
100.3650	Sales Factor (IITA Section 304)
100.3700	Special Rules (IITA Section 304)

SUBPART C: RECORDS, RETURNS AND NOTICES

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100.5200	Time for Filing Returns: (IITA Section 505)
100.5250	Time for Filing Returns: Corporations (IITA Section 505) (Repealed)
100.5300	Time for Filing Returns: Cooperatives (IITA Section 505) (Repealed)
100.5350	Time for Filing Returns: Partnerships (IITA Section 505) (Repealed)
100.5400	Time for Filing Returns: Estates and Trusts (IITA Section 505) (Repealed)
100.5450	Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5500	Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5550	Short Year Returns of Newly Acquired Subsidiaries (IITA Section 505) (Repealed)
100.5600	Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
100.5700	Composite Returns: Eligibility
100.5702	Composite Returns: Responsibilities of Authorized Agent
100.5704	Composite Returns: Individual Liability
100.5706	Composite Returns: Required Forms and computation of Income
100.5708	Composite Returns: Estimated Payments

NOTICE OF PROPOSED AMENDMENTS

100.7620	Net Amount (IITA Section 708) (Repealed)
100.7630	Coordination with IITA Section 701 (IITA Section 708) (Repealed)
100.7640	Requirement of withholding-prizes and Awards (IITA Section 709) (Repealed)
100.7650	Promoter (IITA Section 709) (Repealed)
100.7700	Non-cash Prizes (IITA Section 709) (Repealed)
100.7750	Certification of Residence (IITA Section 709) (Repealed)
100.7800	Relative Performance (IITA Section 709) (Repealed)
SUBPART E: DECLARATION AND PAYMENT OF ESTIMATED TAX	
Section	Penalty for Underpayments of Estimated Tax-Exception for Payments Based on Prior Year's Liability-Rule for a Taxable Year Following the Taxable Year in which the Personal Property Tax Replacement Income Tax (PPTRIT) Became Effective-Corporate Tax-payers (IITA Section 802)
100.8400	Penalty for Underpayment of Estimated Tax-Exception for Payments Based on the Prior Year's Facts-Change in the Personal Property Tax Replacement Income Tax (PPTRIT) Rate for Corporations on January 1, 1981 (IITA Section 802)
SUBPART F: STATEMENT OF PROCEDURAL RULES	
Section	Introduction
100.9005	Letter Ruling Procedures
100.9010	General Income Tax Procedures (IITA Section 901)
100.9020	Taxpayer Representation and Practice Requirements
100.9030	Collection Authority (IITA Section 901)
100.9040	Notice and Demand (IITA Section 902)
100.9050	Assessment (IITA Section 903)
100.9060	Deficiencies and Overpayments (IITA Section 904)
100.9061	Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
100.9070	Limitations on Notices of Deficiency (IITA Section 905)
100.9080	Further Notices of Deficiency Restricted (IITA Section 906)
100.9090	Waiver of Restrictions on Assessments (IITA Section 907)
100.9100	Procedure on Protest (IITA Section 908)
100.9110	Credits and Refunds (IITA Section 909)
100.9120	Procedure on Denial of Claim for Refund (IITA Section 910)
100.9130	Limitations on Claims for Refund (IITA Section 911)
100.9140	Recovery of Erroneous Refund (IITA Section 912)
100.9150	Access to Books and Records (IITA Section 913)
100.9200	Conduct of Investigations and Hearings (IITA Section 914)
SUBPART G: JUDICIAL REVIEW	
Section	Administrative Review Law (IITA Section 1201)

NOTICE OF PROPOSED AMENDMENTS

100.5710	Composite Return: Tax, Penalties and Interest
100.5712	Composite Returns: Credit for Resident Individuals
100.5714	Composite Returns: Definition of a "Lloyd's Plan of Operation"
100.6000	Election to File a Combined Return
100.6010	Procedure for Making the Election
100.6020	Designated Agent for the Members
100.6030	Combined Estimated Tax Payments
100.6040	Claims for Credit of Overpayments
100.6050	Liability for Combined Tax, Penalty and Interest
100.6060	Combined Amended Returns
100.6070	Computation of Combined Income and Tax
100.6080	Definitions and Miscellaneous Provisions Relating to Combined Returns
SUBPART D: INCOME TAX WITHHOLDING	
Section	Requirement of withholding (IITA Section 701)
100.7000	Requirement of withholding (IITA Section 701)
100.7010	Compensation Paid in this State (IITA Section 701)
100.7020	Transacting Business Within this State (IITA Section 701)
100.7030	Payments to Residents (IITA Section 701)
100.7040	Employer Registration (IITA Section 701)
100.7050	Computation of Amount Withheld (IITA Section 701)
100.7060	Additional withholding (IITA Section 701)
100.7070	Voluntary withholding (IITA Section 701)
100.7080	Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090	Reciprocal Agreement (IITA Section 701)
100.7100	Cross References
100.7150	Withholding Exemption (IITA Section 702)
100.7200	Withholding Exemption Certificate (IITA Section 702)
100.7250	Exempt withholding Under Reciprocal Agreements (IITA Section 702)
100.7300	Reports for Employee (IITA Section 703)
100.7350	Returns of Income Withheld from Wages (IITA Section 704)
100.7400	Quarterly Returns Filed on Annual Basis (IITA Section 704)
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100.7500	Payment of Tax Deducted and Withheld (IITA Section 704)
100.7510	Correction of Underwithholding or Overwithholding (IITA Section 704)
100.7550	Requirement of Withholding-Personal Service Contracts (IITA Section 708) (Repealed)
100.7560	Contracts Indeterminate as to Amount (IITA Section 708) (Repealed)
100.7570	Series of Identical Contracts (IITA Section 708) (Repealed)
100.7580	Personal Service Contract (IITA Section 708) (Repealed)
100.7590	Presence Necessitated (IITA Section 708) (Repealed)
100.7600	Certification of Residence (IITA Section 708) (Repealed)
100.7610	Identities Specified in the Contract (IITA Section 708) (Repealed)

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SUBPART H: DEFINITIONS AND RULES OF INTERPRETATION

Section 100.9900 Unitary Business Group Defined (IITA Section 1501)

APPENDIX A: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

TABLE A Example of Unitary Business Apportionment
TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act (Ill. Rev. Stat. 1989, ch. 120, pars. 1-101 et seq.) and authorized by Section 1401 of the Illinois Income Tax Act (Ill. Rev. Stat. 1989, ch. 120, par. 14-1401).

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49 p. 84, effective November 29, 1978; amended 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981, amended at 5 Ill. Reg. 4642, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1989; amended at _____ Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

SUBPART H: DEFINITIONS AND RULES OF INTERPRETATION

Section 100.9900 Unitary Business Group Defined. (IITA Section 1501)

a) Scope

This regulation is designed to clarify the meaning of IITA Section

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1501(a)~~(28)~~(27), defining "unitary business group", which definition became effective for tax years ending on or after December 31, 1982.

b) Persons related through common ownership

A unitary business group will be composed exclusively of business corporations. However, see the special rule at 86 Ill. Adm. Code 100.3700(d) regarding inclusion of shares of partnership unitary business income and factors.

c) The 80-20 U.S. business activity test for prospective members

The factors to be used in determining whether 80% or more of a person's business activity is conducted outside the United States shall be gross figures without eliminations premised on the person's membership in any unitary business group. However, the factors should relate to the common accounting period, as defined in 86 Ill. Adm. Code 100.3500, of the unitary business group of which the person being tested could become a member were the person's business activity found to be less than 80% outside the United States. The factors to be used are as follows:

- 1) persons required to apportion business income under IITA Section 304(a) will use property and payroll,
- 2) persons required to apportion business income under IITA Sections 304(b), 304(c) or 304(d) will use the respective factors prescribed in those provisions.

A) In accordance with IITA Section 102 and 26 U.S.C. 7701(b)(9), the phrase "United States" as used in IITA Section 1501(a)~~(28)~~(27) shall include only the fifty states and the District of Columbia.

B) Mechanically, the computation of the 80-20 U.S. business activity test requires the formation of one or two fractions, as the case may be, and the subsequent averaging of those fractions to arrive at an overall U.S. business activity in relation to world-wide business activity. The numerators of the fraction represents U.S. property, U.S. payroll, U.S. revenue miles, insurance premiums on property or risk in the U.S. or financial organization business income from sources within the U.S.; the respective denominators are world-wide figures.

C) Cross-reference

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~~B) ANALYSIS AND CONCLUSION:--On these facts, Corporations A and B constitute a unitary business group under IITA Section 1501(a)(28) and, as members of that group, they qualify for combined apportionment under IITA Section 304(e), as enacted by Public Act 82-1029, since a part of the unitary business is conducted outside of Illinois. Corporations B, C, and D would compute Illinois liabilities as indicated in Examples 1 and 2.~~

e) Common ownership.

Corporations: ~~Direct or indirect control or ownership of more than 50% of outstanding voting stock. Insofar as corporations are concerned, one has direct ownership of the outstanding voting stock of another to the extent that it owns such stock and indirect control to the extent that it owns the voting stock of a third corporation which itself owns such stock. Any combination of direct and indirect control or ownership aggregating more than 50% will suffice to qualify the corporation whose stock is owned for membership in the unitary business group if other tests unrelated to ownership are met.~~

- 1) Corporation A owns 60% of the outstanding voting stock of Corporation B which in turn owns 60% of the outstanding voting stock of Corporation C. There is common ownership of Corporations A, B and C by reason of Corporation A's direct ownership of more than 50% of the outstanding voting stock of Corporation B and indirect control of more than 50% of the outstanding voting stock of Corporation C.
- 2) Corporation A owns 60% of the outstanding voting stock of Corporation B and 60% of the outstanding voting stock of Corporation C. Corporations B and C in turn each own 30% of the outstanding voting stock of Corporation D. Corporations A, B, C and D are all under common ownership by reason of Corporation A's direct ownership of more than 50% of the outstanding voting stock of Corporations B and C and by reason of Corporation A's indirect control of more than 50% of the outstanding voting stock of Corporation D.
- 3) Corporation A owns 60% of the outstanding voting stock of Corporation B and 40% of the outstanding voting stock of Corporation C. Corporations B and C each in turn own 30% of the outstanding voting stock of Corporation D. Corporations A and B are under common ownership by reason of Corporation A's direct ownership of more than 50% of the outstanding voting stock of Corporation B, but neither Corporations C or D are under common ownership with Corporations A and B because neither Corporation A nor Corporation B has direct or indirect control or ownership

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of more than 50% of the outstanding voting stock of Corporations C or D.

- 4) Corporation A owns 60% of the outstanding voting stock of Corporation B and 40% of the outstanding voting stock of Corporation C. Corporation B owns 30% of the outstanding voting stock of Corporation D and Corporation C owns 60% of the outstanding voting stock of Corporation D. Corporations A and B are under common ownership by reason of the fact that Corporation A owns more than 50% of the outstanding voting stock of Corporation B, and Corporations C and D are under separate common ownership by reason of the fact that Corporation C owns more than 50% of the outstanding voting stock of Corporation D.

f) Attribution of stock ownership among certain individuals.

For the purpose of IITA Section 1501(a)(28)(27), an individual shall be considered to have indirect control over any stock that he is considered as owning under 26 U.S.C. 318(a)(1).

EXAMPLE: Strictly as an investment, Mr. X and his wife, Mrs. X, each individually own 30% of the outstanding voting stock of Corporation A and 30% of the outstanding voting stock of Corporation B. Corporations A and B are under common ownership within the meaning of Section 1501(a)(28)(27), and assuming that they meet the other requirements of IITA Section 1501(a)(28)(27), they will be members of the same unitary business group. The common ownership stems from the fact that, under Section 318(a)(1) of the Internal Revenue Code, the stock holdings of Mr. X are imputed to his wife and vice versa. Note that it is not necessary in order for Corporations A and B to be members of a unitary business group that the "person" in whom the common ownership is embodied also be a member of the unitary business group.

g) Strong centralized management.

Under IITA Section 1501(a)(28)(27), no group of persons can be a unitary business group unless they are functionally integrated through the exercise of strong centralized management. It is this exercise of strong centralized management that is the primary indicator of mutual dependency, mutual contribution and mutual integration between persons that is necessary to constitute them members of the same unitary business group. The exercise of strong centralized management will be deemed to exist where authority over such matters as purchasing, financing, tax compliance, product line, personnel, marketing and capital investment is not left to each member. Thus, some groups of persons may properly be considered as constituting a

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E) transportation, or
 F) finance

3) IITA Section 1501(a)(28)(27) does not contemplate that the above list be exclusive. For example, two persons that are both involved in rendering services to the public would ordinarily be considered to be in the same general line of business. In this regard, a retailer that renders services that are incidental to its retail business will not be in the same general line of business as a person that is primarily a service dispenser.

4) It is not a requirement of IITA Section 1501(a)(28)(27) that the activities of the two persons in whichever category is applicable relate to the same product or product line in order for the two persons to be in the same general line of business.

5) Two persons are steps in a vertically structured enterprise or process under IITA Section 1501(a)(28)(27) even though other persons who are also steps in that enterprise or process are not members of the same unitary business group because of the intervention of: the 80-20 U.S. business activity test or the rules stated in subsection (d) of this section, relating to the comparability of apportionment formulas of members of a unitary business group.

EXAMPLE 1:

A) FACTS: Corporation A manufactures furniture. Corporation C retails the furniture manufactured by Corporation A. Corporation B is a furniture finisher and wholesaler operating exclusively in Mexico which purchases Corporation A's unfinished furniture, applies the appropriate finish-ing materials in its Mexican plants, and sells the finished furniture to Corporation C.

B) ANALYSIS AND CONCLUSION. Corporations A and C are steps in a vertically structured enterprise and as such can be members of the same unitary business group. They do not lose their status as steps in a vertically structured enterprise by reason of the fact that they never directly deal with one another, since they both deal with Corporation B which is also a step in the vertically structured enterprise and which would be a member of the unitary business group were it not for the intervention of the 80/20 U.S. business activity test.

unitary business group under IITA Section 1501(a)(28)(27) when the executive officers of one of the persons are normally involved in the operations of the other persons in the group and there are centralized units which perform for some or all of the persons functions which truly independent persons would perform for themselves. Note in this connection that neither the existence of central management authority, nor the exercise of that authority over any particular function (through centralized operations), is determinative in itself; the entire operations of the group must be examined in order to determine whether or not strong centralized management exists. A finding of "strong centralized management" cannot be supported merely by showing that the requisite ownership percentage exists or that there is some incidental economic benefit accruing to a group because such ownership improves its financial position. Both elements of strong centralized management, i.e., strong central management authority and the exercise of that authority through centralized operations, must be present in order for persons to be a unitary business group under IITA Section 1501(a)(28)(27). Finally, a finding of strong centralized management can be supported even though the authority resides in a person that is not a member of the group, provided that the authority is actually exercised by such person.

h) General line of business and vertically structured enterprises*
 1) Section 1501(a)(28)(27) of the Act establishes that persons meeting all of the other tests for inclusion in a unitary business group, including common ownership, strong centralized management and comparability of apportionment method, ~~where-as~~ will ordinarily be in one of the following relationships to one another:
 A) in the same general line of business, or
 B) steps in a vertically structured enterprise or process.

2) IITA Section 1501(a)(28)(27) recites that two persons will ordinarily be considered to be in the same general line of business if they are both involved in one of the following activities:
 A) manufacturing
 B) wholesaling
 C) retailing
 D) insurance

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6) A person will not be a step in a vertically structured enterprise or process unless it is connected to one or more other persons that are steps in the vertically structured enterprise or process by a flow of goods or services, including management services, to itself or from itself. However, if such a flow of goods or service is present with respect to a particular person, that person's status as a step in the vertically structured enterprise or process shall not depend on the relationship between the price at which such flow exists and the fair market price at which such flow would exist in an arm's length transaction.

EXAMPLE 2:

A) FACTS: Same facts as in the previous example, except that Corporation A can establish that it sells its unfinished furniture to Corporation B at a fair market arm's length price and Corporation C can establish that it purchases the finished furniture from Corporation B at a fair market arm's length price.

B) ANALYSIS AND CONCLUSION: Even with their respective showings that the flow of furniture connecting them to Corporation B existed at an arm's length price, Corporations A and C are still steps in a vertically structured enterprise and can still be members of the same unitary business group.

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

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1) Heading of the Part: Retailers' Occupation Tax

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

3) <u>Section Numbers:</u>	<u>Proposed Action:</u>
130.1940	Amendment
130.1965	Amendment
130.2075	Amendment

4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 120, par. 441

5) A Complete Description of the Subjects and Issues Involved: This rule-making reflects that landscape contractors incur a Use Tax liability (based on cost price) rather than a Retailers' Occupation Tax liability (based on selling price) when they incorporate tangible personal property (trees and shrubs) into real estate. These amendments put landscape contractors in the same position as construction contractors who incorporate tangible personal property (building materials) into real estate.

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

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

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

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

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
130.1935	Amendment	9/22/89, 13 Ill. Reg. 14800 Issue No. 38

10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

R. Dale Yung
Administrator
Legal Services Bureau
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6336

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TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section

130.101	Character and Rate of Tax
130.115	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section

130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations
130.220	Sales to Lessors of Tangible Personal Property

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section

130.305	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.335	Pollution Control Facilities
130.340	Rolling Stock
130.345	Oil Field Exploration, Drilling and Production Equipment
130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

SUBPART D: GROSS RECEIPTS

Section

130.401	Meaning of Gross Receipts
130.405	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges--Penalties--Discounts
130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax

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12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: May 1, 1990

B) Types of small businesses affected: Landscape contractors and suppliers of landscape contractors

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

D) Types of professional skills necessary for compliance: None

The full text of the proposed Amendment(s) begins on the next page:

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- 130.440 Penalties
- 130.445 Federal Taxes
- 130.450 Installation, Alteration and Special Service Charges

SUBPART E: RETURNS

- Section
- 130.501 Monthly Tax Returns--When Due--Contents
- 130.505 Returns and How to Prepare
- 130.510 Annual Tax Returns
- 130.515 First Return
- 130.520 Final Returns When Business is Discontinued
- 130.525 Who May Sign Returns
- 130.530 Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations
- 130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
- 130.540 Returns on a Transaction by Transaction Basis
- 130.545 Registrants Must File a Return for Every Return Period
- 130.550 Filing of Returns for Retailers by Suppliers Under Certain Circumstances
- 130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel
- 130.555 Vending Machine Information Returns
- 130.560 Verification of Returns

SUBPART F: INTERSTATE COMMERCE

- Section
- 130.601 Preliminary Comments
- 130.605 Sales of Property Originating in Illinois
- 130.610 Sales of Property Originating in Other States

SUBPART G: CERTIFICATE OF REGISTRATION

- Section
- 130.701 General Information on Obtaining a Certificate of Registration
- 130.705 Procedure in Disputed Cases Involving Financial Responsibility Requirements
- 130.710 Procedure When Security Must be Forfeited
- 130.715 Sub-Certificates of Registration
- 130.720 Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
- 130.725 Display
- 130.730 Replacement of Certificate
- 130.735 Certificate Not Transferable
- 130.740 Certificate Required For Mobile Vending Units
- 130.745 Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

- Section
- 130.801 General Requirements

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- 130.805 What Records Constitute Minimum Requirement
- 130.810 Records Required to Support Deductions
- 130.815 Preservation and Retention of Records
- 130.820 Preservation of Books During Pendency of Assessment Proceedings
- 130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

- Section
- 130.901 Civil Penalties
- 130.905 Interest
- 130.910 Criminal Penalties

SUBPART J. BINDING OPINIONS

- Section
- 130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

- Section
- 130.1101 Definition of Federal Area
- 130.1105 When Deliveries on Federal Areas Are Taxable
- 130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

- Section
- 130.1201 General Information
- 130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

- Section
- 130.1301 When Lessee of Premises Must File Return for Leased Department
- 130.1305 When Lessor of Premises Should File Return for Leased Department
- 130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

- Section
- 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
- 130.1405 Seller's Responsibility to Obtain Certificates of Resale
- 130.1410 Requirements for Certificates of Resale
- 130.1415 Resale Number--When Required and How Obtained
- 130.1420 Blanket Certificate of Resale

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

- Section
- 130.1501 Claims for Credit--Limitations--Procedure
- 130.1505 Disposition of Credit Memoranda by Holders Thereof

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130.2006 Sales by Teacher-Sponsored Student Organizations
 130.2007 Exemption Identification Numbers
 130.2010 Persons who Rent or Lease the Use of Tangible Personal Property to Others
 130.2015 Persons who Repair or Otherwise Service Tangible Personal Property
 130.2020 Physicians and Surgeons
 130.2025 Picture-Framers
 130.2030 Public Amusement Places
 130.2035 Registered Pharmacists and Druggists
 130.2040 Retailers of Clothing
 130.2045 Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
 130.2050 Sales and Gifts By Employers to Employees
 130.2055 Sales by Governmental Bodies
 130.2060 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
 130.2065 Sales of Automobiles for Use in Demonstration
 130.2070 Sales of Containers, Wrapping and Packing Materials and Related Products
 130.2075 Sales To Construction Contractors, Real Estate Developers and Speculative Builders
 130.2080 Sales to Governmental Bodies
 130.2085 Sales to or by Banks and Savings and Loan Associations
 130.2090 Sales to Railroad Companies
 130.2095 Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
 130.2100 Sellers of Feeds and Breeding Livestock
 130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and their Suppliers
 130.2110 Sellers of Seeds and Fertilizer
 130.2115 Sellers of Machinery, Tools and the Like
 130.2120 Suppliers of Persons Engaged in Service Occupations and Professions
 130.2125 Trading Stamps and Discount Coupons
 130.2130 Undertakers and Funeral Directors
 130.2135 Vending Machines
 130.2140 Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items made to Order
 130.2145 Vendors of Meals
 130.2150 Vendors of Memorial Stones and Monuments
 130.2155 Vendors of Signs
 130.2156 Vendors of Steam
 130.2160 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
 130.2165 Veterinarians
 130.2170 Warehousemen
 AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 120, pars. 440 et seq.) and authorized by Section 39b3 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 39b3).

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130.1510 Refunds
 130.1515 Interest
 SUBPART P: PROCEDURE TO BE FOLLOWED UPON
 SELLING OUT OR DISCONTINUING BUSINESS
 Section
 130.1601 When Returns are Required After a Business is Discontinued
 130.1605 When Returns are Not Required After Discontinuation of a Business
 130.1610 Cross Reference to Bulk Sales Regulation
 SUBPART Q: NOTICE OF SALES OF GOODS IN BULK
 Section
 130.1701 General Information
 SUBPART R: POWER OF ATTORNEY
 Section
 130.1801 When Powers of Attorney May be Given
 130.1805 Filing of Power of Attorney with Department
 130.1810 Filing of Papers by Agent Under Power of Attorney
 SUBPART S: SPECIFIC APPLICATIONS
 Section
 130.1901 Addition Agents to Plating Baths
 130.1905 Agricultural Producers
 130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
 130.1915 Auctioneers and Agents
 130.1920 Barbers and Beauty Shop Operators
 130.1925 Blacksmiths
 130.1930 Chiropractors, Osteopaths and Chiropractors
 130.1935 Computer Software
 130.1940 Construction Contractors and Real Estate Developers
 130.1945 Co-operative Associations
 130.1950 Dentists
 130.1951 Enterprise Zones
 130.1955 Farm Chemicals
 130.1960 Finance Companies and Other Lending Agencies - Installation Contracts - Repossessions
 130.1965 Florists and Nurserymen
 130.1970 Hatcheries
 130.1975 Operators of Games of Chance and Their Suppliers
 130.1980 Optometrists, Oculists and Opticians
 130.1985 Pawnbrokers
 130.1990 Peddlers, Hawkers and Itinerant Vendors
 130.1995 Personalizing Tangible Personal Property
 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
 130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons

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SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 813, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendments at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989, amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at _____ Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

Section 130.1940 Construction Contractors and Real Estate Developers

a) Definitions

- 1) "Construction Contractor." The word "construction contractor" when used herein includes general contractor, subcontractor and specialized contractor such as a landscape contractor. "Contractor" means any person who is engaged in the occupation of entering into and performing construction contracts for owners.
- 2) "Owner" means any person who enters into a contract with a contractor relative to the construction of a structure.

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- 3) "Construct" means build, erect, construct, reconstruct, install, plant, repair, renovate or remodel.
 - 4) "Structure" includes any building, house, edifice, tunnel, sewer, highway, road, bridge or any other type of structure, or any part thereof (including any system of plumbing, heating, ventilating, refrigerating, air conditioning, or any part thereof), or any other improvement to real estate.
 - 5) "Materials" means all of the tangible personal property, including fixtures, which enter into a structure or otherwise become incorporated into real estate.
 - 6) "Construction Contract" means a contract, written or oral, to "construct" (as that term is defined in §subsection (a)(3) above), a "structure" (as that term is defined in §subsection (a)(4), above) or to otherwise incorporate tangible personal property into real estate.
 - 7) "Real Estate Developer" means any person engaged in the business of transferring title (legal or equitable) to real estate to others. The term does not include an isolated or occasional sale of real estate by a person not engaged in the business of selling real estate, and the term does not include a person who acts merely as agent for a commission to bring sellers and buyers of real estate together without ever actually taking either the legal or the equitable title to the real estate.
- b) Construction Contractors--When Liable For Tax
- 1) Construction contractors incur Retailers' Occupation Tax liability when they engage in selling any kind of tangible personal property without installation to purchasers for use or consumption.
 - 2) A construction contractor incurs Retailers' Occupation Tax liability when he sells furniture and furnishings, curtains, drapes, floor covering (except when he cements or otherwise permanently affixes the floor covering to a portion of the building), trade fixtures and machinery (unless in the case of machinery Section 130.2115(b) of this Part applies) to purchasers for use or consumption, with or without installation by the seller, whether or not the seller furnishes and installs such items as a part of a construction contract. The same is true where he purchases and sells in finished form gas or electric stoves, refrigerators, washing machines, portable ventilating units and other portable equipment of this kind, which may be connected to and operated from a building's

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bouquets, potted plants and other such items of tangible personal property to purchasers for use or consumption. This is true even though such items are made by the florists on special order.

b) Transactions Involving Telegraphic Instructions

Where florists conduct transactions through a florists' telegraphic delivery association, the following rules will apply in the computation of tax liability:

- 1) On all retail orders taken by an Illinois florist and telegraphed to a second florist in Illinois for delivery in this State, the sending florist will be held liable for Retailers' Occupation Tax with respect to the total amount which he collects from his customers, except for the cost of the telegram or the telephone message conveying delivery instructions where this item is charged for separately from the selling price of the flowers.
- 2) Where an Illinois florist receives an order pursuant to which he gives telegraphic instructions to a second florist located outside Illinois for delivery of flowers to a point outside Illinois, tax will likewise be owing with respect to the receipts of the sending florist from the customer who placed the order. (Effective July 1, 1971.)
- 3) Where Illinois florists receive telegraphic instructions from other florists located either within or outside of Illinois for the delivery of flowers, the receiving florist will not be held liable for tax with respect to any receipts which he may realize from the transaction. In this instance, if the order originated in Illinois, the tax will be due from and payable by the Illinois florist who first received the order and gave telegraphic instructions to the second florist.

c) Nurserymen

~~Where a nurseryman or florist sells shrubbery, young trees and similar items to purchasers for use or consumption, and as a part of the transaction, transplants such property in the land of the purchaser, the entire receipts from the transaction are subject to the Retailers' Occupation Tax Act, except as noted in Section 130.450 of this Part.~~

- 1) Where a nurseryman, landscape contractor or florist sells shrubbery, young trees and similar items to purchasers for use or consumption, and does not, as part of the transaction, plant

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the items in the ground, the entire receipts from the transaction are subject to Retailers' Occupation Tax.

- 2) However, where the items are transplanted by the seller in the land of the purchaser, the transaction is not subject to Retailers' Occupation Tax liability. In this situation, the seller functions as a construction contractor and incurs a Use Tax liability on his cost price of the items affixed to the purchaser's real estate.

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

Section 130.2075 Sales to Construction Contractors, Real Estate Developers and Speculative Builders

a) Sales to Construction Contractors, Real Estate Developers and Speculative Builders - When Taxable and When Not Taxable

- 1) Persons who engage in selling tools, equipment, fuel, supplies and other tangible personal property to construction contractors, real estate developers or speculative builders for use or consumption incur Retailers' Occupation Tax liability when making such sales. Also, persons who (apart from acting as construction contractors themselves) engage in selling building materials, fixtures, plants and other tangible personal property to construction contractors, speculative builders or real estate developers, who convert such items into real estate so as to take such items off the market as tangible personal property, incur Retailers' Occupation Tax liability when making such sales.
- 2) When the purchasing construction contractor (whether he is the prime contractor or the subcontractor) buys the item that he will convert into real estate in finished form, the tax base is what such construction contractor pays for the item. When the construction contractor-installer (whether he is the prime contractor or a subcontractor) is also the manufacturer of the finished item that he will incorporate into real estate for his customer, the tax base is what such construction contractor pays for the materials that he incorporates into such finished item, plus whatever such construction contractor may pay for nails, screws or other items of tangible personal property that he buys and incorporates into real estate for his customer in the course of making the installation of the finished item.
- 3) For information as to who qualifies as a construction contractor, see Section 130.1940(a) and (c) of this Part.

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4) Such purchaser, who assumes the responsibility for accounting for the tax, must pay State Retailers' Occupation Tax (plus local Retailers' Occupation Tax, if applicable) on the full selling price of the tangible personal property if he resells the property "over-the-counter" to a user (including a construction contractor) apart from acting as a construction contractor himself.

5) A purchaser of this type would have to be registered with this Department under the Retailers' Occupation Tax Act since he would be incurring some Retailers' Occupation Tax liability, so he would be required to furnish his vendor with his Retailers' Occupation Tax registration number in the certificate of resale referred to hereinabove.

6) The tax involved in this Registration Section is State Retailers' Occupation Tax and Use Tax and Local Retailers' Occupation Tax, but not State or Local Service Occupation Tax or Service Use Tax.

c) Use Tax on Out-Of-State Purchases

Tangible personal property bought outside this State either by Illinois or out-of-state construction contractors or builders in such a way that the seller does not incur Retailers' Occupation Tax liability and used in this State for building purposes is subject to the Use Tax. If the purchaser buys such tangible personal property from an out-of-state seller who is registered with the Department as a Use Tax collector, the purchaser should pay the Use Tax to such seller unless the purchaser is also a retailer and elects to assume responsibility for accounting for all the tax on such materials. If the purchaser buys such materials outside Illinois from an unregistered seller, the purchaser should pay the Use Tax directly to this Department. No local Retailers' Occupation Tax is applicable in this situation.

d) Sales of Materials to Construction Contractors Acting Exclusively Charitable, Religious or Educational Organizations or Institutions, or for Governmental Bodies

1) Sales of materials to construction contractors for incorporation into real estate owned by exclusively charitable, religious or educational institutions or organizations, or for incorporation into real estate owned by governmental bodies, are exempt from Retailers' Occupation Tax and Use Tax. The intent of the Legislature was to relieve the above designated kinds of purchasers from the burden of tax on their purchases whether the purchases are made directly or indirectly by these organizations. Therefore, the exemption applies to their indirect purchase of building materials.

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4) Sales of tangible personal property to construction contractors, real estate developers or speculative builders who resell such property in the form of tangible personal property would not be taxable sales, but the construction contractor, real estate developer or speculative builder would be making taxable resales in this situation (see Section 130.1940(b) and (c) of this part.)

b) When and How Purchasing Contractor May Certify that He Will Assume Accountability for the Tax-Effect of Such Certification.

1) When the purchaser of tangible personal property may use such property by converting it into real estate, but may resell such property "over-the-counter" apart from acting as a construction contractor, and where it is impracticable, at the time of purchasing such tangible personal property, for such purchaser to determine in which way he will dispose of the property, such purchaser may certify to his vendor that he is buying all of such tangible personal property for resale and thereafter account to the Department for the tax on disposing of such property.

2) Provided that the purchaser may not give such certification to his supplier unless the purchaser, if he will convert the tangible personal property into real estate in this State, agrees to, and does, assume the liability for reporting and paying the tax to the Department in the same form (Illinois Retailers' Occupation Tax, and local Retailers' Occupation Tax if applicable) in which the supplier would have reported and paid such tax if the supplier had accounted for the tax to the Department. This means that if the purchaser uses the tangible personal property by converting it into real estate in this State in any manner, he must include the cost price of such tangible personal property in his reported taxable receipts in his return to the Department and must pay the State Retailers' Occupation Tax (not the Use Tax, but the Retailers' Occupation Tax) thereon to the Department, and must pay the Municipal or County Retailers' Occupation Tax thereon, if applicable.

3) The Municipal or County Retailers' Occupation Tax to be paid by the contractor or builder in this situation shall be paid for the benefit of the municipality in which the place of business at or from which the contractor or builder handles the transaction is located (or the unincorporated area of the county in which such place of business of the contractor or builder is located), if such municipality or county (as the case may be) has adopted the Local Retailers' Occupation Tax at the time when the contractor or builder converts the tangible personal property in question into real estate.

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- 2) However, effective March 17, 1965, this exemption does not extend to sales of materials to construction contractors for incorporation into real estate owned by a national bank, a State chartered bank or a Federally or State chartered savings and loan association (see Section 130.2085 of this Part). Sales of materials to, and purchases of materials by, such construction contractors are taxable sales and purchases.
 - 3) Also, sales of tools, fuel, lumber for forms and other end use or consumption items to construction contractors who do not incorporate these items into real estate are taxable sales regardless of who the contractor's customer may be, and this has been true since the beginning of the Act.
 - 4) A supplier claiming exemption hereunder shall have among his records a certification from the purchasing contractor stating that his purchases are for conversion into real estate under a contract with a church, charity, school or governmental body, identifying the church, charity, school or governmental body that is involved by name and address and stating on what date his contract was entered into.
 - 5) The person claiming the exemption has the burden of proving that the contractor's customer qualifies as an exclusively charitable, religious or educational organization or institution, or as a governmental body. In case of doubt on this point, require the contractor's customer to obtain a ruling from the Department of Revenue.
- e) Sales of Materials to Construction Contractors for Incorporation into Public Improvements Which Are Required to be Transferred to a Unit of Local Government Upon Completion

For the same reason stated in §subsection (d) of this Part, sales to construction contractors of materials which will be physically incorporated into public improvements, the ownership of which is required to be conveyed to a unit of local government pursuant to a pre-development transfer requirement are exempt from Retailers' Occupation Tax and Use Tax. The pre-development transfer requirement may take the following forms:

- 1) Where language in the local governmental unit's subdivision ordinance explicitly requires that title to public improvements be transferred to the local governmental unit upon completion, the pre-development transfer requirement is satisfied as to all public improvements (such as roads and streets, sidewalks, sanitary sewer systems and storm water drainage systems) actually required to be transferred under the terms of that ordinance;

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- 2) Where language in a pre-development agreement between the local governmental unit and a developer explicitly requires that title to public improvements be transferred to the local governmental unit upon completion, the pre-development transfer requirement is satisfied as to all public improvements actually required to be transferred under the terms of that pre-development agreement;
- 3) Where a plat of subdivision, formally approved by a municipality, has been recorded with the County Recorder of Deeds and where that recorded plat contains a public dedication of improvements, the pre-development transfer requirement is satisfied as to roads and streets located within the corporate limits of the approving municipality and any other improvements located within the corporate limits which are dedicated on the plat to the public use and for no other purpose;
- 4) Where a plat of subdivision, formally approved by a county with fewer than 500,000 inhabitants which has established regulations regarding location, width and course of roads and streets, has been recorded with the County Recorder of Deeds and where that recorded plat contains a public dedication of roads and streets located in the unincorporated area of the approving county, the pre-development transfer requirement is satisfied as to those public roads and streets. In this context, only grading and surface materials which actually become part of the roadbed and materials incorporated into curbs and gutters qualify for the exemption. Other items such as catchbasins, drainage pipe or materials incorporated into sidewalks do not qualify for the exemption.

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 140
SERVICE OCCUPATION TAX

SUBPART A: NATURE OF TAX

- Section
140.101 Basis and Rate of the Service Occupation Tax
140.105 Registration of Servicemen
140.110 Presumption that Tax Applies **(Repealed)**
140.115 Occasional Sales to Servicemen by Suppliers **(Repealed)**
140.120 Meaning of Serviceman
140.125 Examples of Nontaxability
140.126 Exemption of Food, Drugs and Medical Appliances
140.130 Suppliers of Printers **(Repealed)**
140.135 Sales of Drugs and Related Items, to or by Pharmacists
140.140 Other Examples of Taxable Transactions
140.145 Multi-Service Situations

SUBPART B: DEFINITIONS

- Section
140.201 General Definitions

SUBPART C: BASE OF THE TAX

- Section
140.301 Cost Price
140.305 Refunds by Supplier or Serviceman

SUBPART D: TAX RETURNS

- Section
140.401 Monthly Returns When Due--Contents of Returns
140.405 Annual Tax Returns
140.410 Final Return
140.415 Taxpayers' Duty to Obtain Form
140.420 Annual Information Returns by Servicemen
140.425 Filing of Returns for Serviceman "Suppliers" by their Suppliers Under Certain Circumstances
140.430 Incorporation by Reference

SUBPART E: INTERSTATE COMMERCE

- Section
140.501 Sales of Service Involving Property Originating in Illinois
140.505 Sales of Service Involving Property Originating Outside of Illinois **(Repealed)**

SUBPART F: REGISTRATION UNDER THE SERVICE OCCUPATION TAX ACT

- Section
140.601 General Information

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SUBPART G: BOOKS AND RECORDS

- Section
140.701 Requirements

SUBPART H: PENALTIES, INTEREST AND PROCEDURES

- Section
140.801 General Information

SUBPART I: WHEN OPINIONS FROM THE DEPARTMENT ARE BINDING

- Section
140.901 Written Opinions

SUBPART J: COLLECTION OF THE TAX

- Section
140.1001 Payment of Tax to the Supplier
140.1005 Receipt to be Obtained for Tax Payments
140.1010 Payment of Tax Directly to the Department
140.1015 Itemization of the Tax by Suppliers
140.1020 Use of Bracket Chart
140.1025 Advertising in Regard to the Tax

SUBPART K: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING--MEANING OF DUE DATE WHICH FALLS ON SATURDAY, SUNDAY OR A HOLIDAY

- Section
140.1101 Filing of Documents with the Department

SUBPART L: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

- Section
140.1201 When Lessee of Premises May File Return for Leased Department
140.1205 When Lessor of Premises Should File Return for Leased Department
140.1210 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART M: USE OF EXEMPTION CERTIFICATES

- Section
140.1301 When Purpose of Serviceman's Purchase is Known **(Repealed)**
140.1305 When Purpose of Serviceman's Purchase is Unknown
140.1310 Blanket Percentage Exemption Certificates **(Repealed)**

SUBPART N: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

- Section
140.1401 Claims for Credit--Limitations--Procedure
140.1405 Disposition of Credit Memoranda by Holders Thereof
140.1410 Refunds
140.1415 Interest

SUBPART O: DISCONTINUATION OF A BUSINESS

- Section
140.1501 Procedures

e) sales of collar supports, coat hangers, suit bags, paper, string, shirtboards, and other tangible personal property by laundries and dry cleaners as an incident to the furnishing of laundering and cleaning services in Illinois;

f) sales of paper bags, wrapping paper, string and other tangible personal property as an incident to the furnishing of wrapping services in Illinois;

g) sales of hair tonic and oil, pomades, powders, dyes, lotions, creams and other similar tangible personal property by barbers and beauticians as an incident to the furnishing of services in Illinois in such a way that the property remains on the person of the customer of the barber or beautician;

h) sales of eyeglasses* and frames* by optometrists and oculists to customers as an incident to the furnishing of licensed services in Illinois; however, when the optometrist or oculist purchases the eyeglasses or frames in finished form from an optician, so that the optometrist or oculist has subcontracted a portion of his service work to the optician thus giving rise to a multi-service situation, see Section 140.145 of this Subpart;

i) sales of book bindings by bookbinders and other tangible personal property by graphic arts servicemen in Illinois as an incident to the furnishing of services;

j) sales of paint, wax, undercoating, oil, grease, filters, parts and other similar tangible personal property by automobile servicemen or other servicemen as an incident to the furnishing of services in Illinois;

k) sales of wax and shoe polish by shoe shiners as an incident to the furnishing of shoe shining services;

l) sales of repair parts, repair materials and other tangible personal property by persons who repair, remodel or recondition tangible personal property for others, as an incident to their furnishing of service to their customers; however, such purchases of repair parts and repair materials are not taxable when made by a railroad which will dispose of such parts or materials on a nonprofit basis by installing them, as a repairman, in cars belonging to another railroad at interchange points in connection with the interchange of traffic;

m) sales of food, medicine* and other tangible personal property by business-operated hospitals and sanitariums or by licensed business-operated nursing homes as an incident to rendering hospital

Section 140.1601 Requirements and Procedures
SUBPART 2: NOTICE OF SALES OF GOODS IN BULK

SUBPART 2: POWER OF ATTORNEY

Section 140.1701 General Information

AUTHORITY: Implementing the Service Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 120, pars. 439.101-439.121 et seq.) and authorized by Section 39b30 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 39b30).

SOURCE: Adopted May 21, 1962; amended at 3 Ill. Reg. 23, p. 161, effective June 3, 1979; amended at 3 Ill. Reg. 44, p. 198, effective October 19, 1979; amended at 4 Ill. Reg. 24, pp. 526, 536 and 550, effective June 1, 1980; amended at 5 Ill. Reg. 822, effective January 2, 1981; amended at 6 Ill. Reg. 2879, 2883, 2886, 2892, 2895 and 2897, effective March 3, 1982; codified at 6 Ill. Reg. 9325; amended at 9 Ill. Reg. 7941, effective May 14, 1985; amended at 11 Ill. Reg. 14090, effective August 11, 1987; emergency amendment at 12 Ill. Reg. 14419, effective September 1, 1988, for a maximum of 150 days; emergency expired January 29, 1989; amended at 13 Ill. Reg. 9388, effective June 6, 1989; amended at 14 Ill. Reg. 262, effective January 1, 1990; amended at _____ Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

Section 140.140 Other Examples of Taxable Transactions

a) Sales of metal, wood, rubber and other ingredients by special tool, die, pattern and machinery producers who incorporate them into such products in such a manner as to be exempt from the Retailers' Occupation Tax Act, if the products are produced for users and delivered in Illinois (see 140.101(g), Service Occupation Tax);

b) sales of bandages*, medicines*, drugs* and other tangible personal property by doctors to patients as an incident to the furnishing of professional services in Illinois;

c) sales of medicines*, drugs*, dentures*, materials for fillings and other tangible personal property by dentists to patients as an incident to the furnishing of professional services in Illinois;

d) sales of arch supports*, trusses*, braces*, etc., by chiropractors, osteopaths and chiropractors as an incident to the furnishing of licensed services in Illinois;

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or nursing service in Illinois to patients;

- n) transfers of prizes by theaters as an incident to service;
- o) transfers of embalming fluid by funeral directors as an incident to their providing of an embalming service to others;
- p) transfers of dye as an incident to rendering service by persons engaged in the service occupation of dyeing clothing for users;
- q) sales of tangible personal property by sign makers as an incident to rendering service in the production of signs which are special enough to be exempt from the Retailers' Occupation Tax under Section 130.2155 of the Retailers' Occupation Tax (86 Ill. Adm. Code 130);
- r) sales made by servicemen as an incident to sales of service to national banks or State-chartered banks or to Federal or State savings and loan associations, and sales made by State-chartered banks or Federal and State savings and loan associations as an incident to sales of service. Sales by national banks as an incident to sales of service are also subject to Service Occupation Tax¹;
- s) transfers of fertilizers, pesticides and lawn care chemicals incident to service provided under contracts to maintain lawns, trees, shrubs and other plants.
- t) The foregoing examples are illustrative, but not exhaustive.

AGENCY NOTE: Items with asterisks (*) are subject to 1% rate only.

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

SECRETARY OF STATE

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- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Numbers: Proposed Action
1030.16 New Section
- 4) Statutory Authority: Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95 1/2, par. 2-104(b)) and Section 6-100 et seq. of the Illinois Driver Licensing Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95 1/2, par. 6-100 et seq.)
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking sets the standards by which the Secretary of State determines whether a driver's license applicant or driver has a physical condition or disability or mental disorder or disability that would affect his ability to safely drive a motor vehicle. The rulemaking provides for review by the Illinois Medical Advisory Board and appeal via the Department of Administrative Hearings.
- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does this proposed rulemaking contain incorporations by reference? No, this amendment does not contain incorporations by reference.
- 9) Are there any other amendments pending on this part?

<u>Section Number</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1030.30	Amendment	14 Ill. Reg. 179 (January 5, 1990)
1030.50	Amendment	14 Ill. Reg. 2530 (February 16, 1990)
1030.55	Amendment	14 Ill. Reg. 2289 (February 9, 1990)
1030.60	Amendment	14 Ill. Reg. 2530 (February 16, 1990)
1030.80	Amendment	14 Ill. Reg. 579 (January 12, 1990)
1030.81	New Section	14 Ill. Reg. 5060 (April 6, 1990)
1030.84	Amendment	14 Ill. Reg. 2852 (February 23, 1990)

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SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17087, effective October 16, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. _____, effective _____.

Section 1030.16 Physical or Mental Evaluation

- a) For the purpose of this Section, the following definitions shall apply:

"Adjudication of Disability" - an order by a court of competent jurisdiction declaring that an individual, because of mental deterioration or physical incapacity, is not fully able to manage his person pursuant to Section 11a-2 of the Probate Act of 1975. (Ill. Rev. Stat. 1987, ch. 110 1/2, par. 11a-2.)

"Cancellation" - the annulment or termination by formal action of the Secretary of a person's driver's license because the licensee is no longer entitled to such license in accordance with Section 1-110 of the Illinois Vehicle Code and 6-201 of the Illinois Driver Licensing Law of the Illinois Vehicle Code. (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 1-110 and 6-201.)

"Competent Medical Specialist" - any person licensed to practice medicine in this or any other State, including but not limited to a physician, chiropractor, optometrist, clinical psychologist, an alcohol and/or drug counselor or physical or occupational therapist and excluding but not limited to a dentist, nurse, pharmacist, psychiatric social worker, speech therapist or clinical dietitian.

"Department" - the Department of Driver Services of the Office of the Secretary of State.

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

"Favorable Medical Report" - a medical report completed, signed and dated by a competent medical specialist within six (6) months of the date it is received by the Department indicating the physical condition or disability or mental disorder or disability of a driver's license applicant or driver and containing his/her professional opinion that the operation of a motor vehicle by his/her patient would not be inimical to the public safety.

"Illinois Medical Advisory Board" - a nine (9) member board appointed by the Director of the Department of Public Health pursuant to Section 506-3 of the Driver License Medical Review Act. (Ill. Rev. Stat. 1987, ch. 95 1/2, par. 506-3.)

"Incomplete Medical Report" - a medical report which does not include the name, address and signature of the competent medical specialist or contains illegible information, or the medical agreement has not been signed by the applicant/driver.

"Medical Agreement" - an agreement designed by the Department in conjunction with the medical report, in which the driver or driver's license applicant agrees by signature to remain under the care of a competent medical specialist, authorizes the driver's competent medical specialist to immediately report to the Department any changes in the individual's ability to safely operate a motor vehicle. This medical agreement states that any default of the agreement shall be cause for the Department to cancel or deny the driver's license or driving privileges of the individual.

"Medical Restriction Card" - a card designed and issued by the Department which describes the restrictions placed on the driver's license as recommended by the competent medical specialist, Illinois Medical Advisory Board or the Secretary of State. The medical card must accompany the driver's license during any operation of a motor vehicle and the individual must abide by the restrictions contained on the card.

"Medical Denial" - an entry on an individual's driving record by the Department stating that a driver may not renew his/her driver's license until the conditions set forth by the Department are met pursuant to Section 6-103 of the Illinois Driver Licensing Law of the Illinois Vehicle Code.

"Medical Report" - a medical questionnaire designed by the Department and agreed to by the Department and Illinois Medical Advisory Board, Department of Public Health or a statement on

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official letterhead made by a competent medical specialist having the same information as the form designed by the Department. The medical report shall contain in part or at least the competent medical specialist's professional opinion as to whether or not their patient is medically fit to safely operate a motor vehicle, the date of the competent medical specialist completed the medical report, and the name, address and signature of the competent medical specialist.

"Mental Disorder or Disability" - a condition reported by a competent medical specialist that an individual's mental health is impaired to the extent that he/she is incompetent to operate a motor vehicle, or that an individual's mental health is not impaired to the extent that the operation of a motor vehicle by such person would be inimical to public safety.

"Order Terminating an Adjudication of Disability" - an order by a court of competent jurisdiction terminating an adjudication of disability pursuant to Section 11a-2 of the Probate Act of 1975.

"Physical Condition or Disability" - a condition reported by a competent medical specialist that an individual's physical health is such that it impairs his/her ability to safely operate a motor vehicle or that an individual's health is not impaired to the extent that the operation of a motor vehicle by such person would be inimical to public safety.

"Rescind Order" - a removal by formal action of an order cancelling the driving privileges of an individual.

"Unacceptable Medical Report" - a medical report which has been completed or signed by a person other than a competent medical specialist.

"Unfavorable Medical Report" - a medical report completed and signed by a competent medical specialist indicating the physical condition or disability or mental disorder or disability of a driver's license applicant or driver and containing his/her professional opinion that the operation of a motor vehicle by his/her patient is inimical to the public safety. An unfavorable medical report supersedes any and all other medical reports on file.

"Untimely Medical Report" - a medical report not dated within six (6) months of the date it is received by the Department.

b) The Department shall accept comments and/or recommendations from the following sources that may bring into question an individual's physical or mental ability to safely operate a motor vehicle:

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1) competent medical specialist, or

2) law enforcement official, or

3) member of the judiciary, or

4) an affirmative answer to any question on the driver's license application regarding physical or mental health pursuant to Section 6-109 of the Illinois Driver Licensing Law of the Illinois Vehicle Code, or

5) Illinois Medical Advisory Board, or

6) National Driver Register.

c) If a competent medical specialist submits a favorable medical report to the Department, the Department shall issue or renew the referenced individual's license, if the individual is not otherwise ineligible for the same. If a competent medical specialist submits an unfavorable medical report to the Department, the Department shall cancel or deny the issuance or renewal of the referenced individual's driver's license pursuant to Sections 6-103(8) and 6-201(a)(5) of the Illinois Driver Licensing Law of the Illinois Vehicle Code.

d) If a cancellation order is entered based on an unfavorable medical report and the Department subsequently receives a favorable medical report from the same competent medical specialist, the cancellation order shall be terminated. If the cancellation order is terminated the individual will be allowed to make application for a new driver's license pursuant to Sections 1-10 of the Illinois Vehicle Code and Sections 6-106 and 6-109 of the Illinois Driver Licensing Law of the Illinois Vehicle Code.

e) If law enforcement or a member of the judiciary submits written notification to the Department indicating that in his/her opinion the operation of a motor vehicle by a certain individual would be, for medical reasons, inimical to the public safety, the Department shall require said individual to submit a medical report from a competent medical specialist. If a favorable medical report is not received by the Department within 30 working days of the time the medical report form was issued to the individual, the Department shall either deny the issuance of a driver's license or cancel the individual's driving privileges.

f) If an expired, renewal or new applicant answers in the affirmative to any question on the driver's license application regarding physical or mental health pursuant to Section 6-109 of the Illinois Driver Licensing Law of the Illinois Vehicle Code, the Department shall deny the issuance or renewal of a driver's license to the applicant and

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shall provide the applicant with a medical report form for completion. If a favorable medical report is on file with the Department or is subsequently received by the Department, a driver's license shall be issued or renewed, if the applicant is not otherwise ineligible for the same. However, if an unfavorable medical report is received, the Department shall deny the individual's privilege to apply for a driver's license and shall require a favorable medical report before the privilege will be restored.

- g) If an applicant who wishes to renew his/her driver's license prior to the expiration of the same and he/she answers in the affirmative to any question on the driver's license application regarding physical or mental health and does not at that time submit or have on file with the Department a favorable medical report, the Department shall deny the renewal of the driver's license and shall provide the applicant with a medical report form for completion. If a favorable medical report is not received by the Department within 30 working days of the time the form was issued to the individual, the Department shall cancel the individual's driving privileges. If a favorable medical report is subsequently received by the Department, the cancellation shall be rescinded and the driving privileges restored, provided the driver's license has not expired and/or the individual is not otherwise ineligible.
- h) A favorable medical report shall be submitted at each driver's license renewal by individuals who have a medical report on file with the Department, unless a competent medical specialist has submitted a medical report indicating the physical condition or disability or mental disorder or disability no longer exists. The Department shall notify the individual approximately ninety (90) days prior to the expiration date that he/she is required to submit a favorable medical report when renewing his/her driver's license. The notification will be mailed to the individual's last known address on the Department's driving record file. The individual shall submit a favorable medical report when renewing his/her driver's license. If a favorable medical report is not received by the Department before or at the time of license issuance, the Department shall cancel the individual's driver's license and driving privileges. If a favorable medical report is subsequently received by the Department, the cancellation shall be rescinded and driving privileges restored, provided the driver's license has not expired and/or the individual is not otherwise ineligible.
- i) If a medical report is submitted which indicates an individual has a physical condition or disability or mental disorder or disability, the individual must sign a medical agreement and the Department shall record the following confidential information on the individual's driving record:

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- 1) the nature of the condition or disability, or
- 2) if the medical report was favorable, unfavorable, incomplete, untimely or unacceptable, or
- 3) referral of the case to the Illinois Medical Advisory Board, and
- 4) the Board's recommendation.

- j) All medical information and court orders of adjudication obtained by the Department are strictly confidential and shall not be disclosed to anyone, including the individual to whom the information pertains, unless so ordered by a court of law. A certified copy of the court order of release shall be delivered to the Department under a written request for release by any individual pursuant to Section 506-10 of the Driver License Medical Review Act.
- k) If the Department receives an unacceptable medical report, an order shall be entered cancelling the valid driver's license or medically denying the renewal of the driver's license pursuant to Sections 6-201 and 6-103 of the Illinois Driver Licensing Law of the Illinois Vehicle Code.
- l) If a cancellation order is entered based on an unacceptable medical report and the department subsequently receives a favorable medical report, the cancellation order shall be terminated. If the cancellation order is terminated the individual will be allowed to make application for a new driver's license pursuant to Sections 1-110, 6-106 and 6-109 of the Illinois Driver Licensing Law of the Illinois Vehicle Code.
- m) If the Department receives an incomplete or untimely medical report, a request shall be made in writing to the driver or driver's license applicant and the competent medical specialist to provide the Department with the necessary information required to process the medical report. If the Department does not receive the required information from the driver's license applicant or competent medical specialist within 30 working days, an order shall be entered cancelling the valid driver's license or medically denying the renewal of the driver's license pursuant to Sections 6-201 and 6-103 of the Illinois Driver Licensing Law of the Illinois Vehicle Code.
- n) If a cancellation order is entered based upon an incomplete or untimely medical report, a rescind order shall be entered, provided the individual's driver's license has not expired, if the Department receives a favorable medical report and the Department's driving record files reflect the medical report received from the individual prior to the incomplete medical report was favorable or no prior medical reports are on file.

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NOTICE OF ADOPTED AMENDMENTS

- 1) The Heading of the Part: MEDICAL PAYMENT
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: Adopted Action:
 140.525 Amendment
 140.526 Amendment
 140.528 Amendment
 140.565 Repealed
 140.566 Repealed
 140.567 Repealed
 140.568 Repealed
- 4) Statutory Authority: Sections 5-5 et seq. and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, Ch. 23, Pars. 5-5 et seq. and 12-13)
- 5) Effective Date of Amendments: April 27, 1990
- 6) Do these Adopted Amendments contain automatic repeal date?
 ___ Yes X No
- 7) Do these Adopted Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: April 27, 1990
- 9) Notice of Proposal Published in Illinois Register:
 November 17, 1989 (13 Ill. Reg. 17667)
- 10) Has JCAR issued a Statement of Objections to these Adopted amendments? No
- 11) Difference between proposal and final version: Pursuant to comments received from the Administrative Code Division of the Secretary of State's Office in Section 140.526(a)(3) "Section 140.526" was changed to "this Section" and in Section 140.528(b) "section" was capitalized thusly, "Section".
- 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 Adopted Amendments replace Emergency Amendments currently in effect? No

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- 14) Are there any Amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.7	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.24	Amendment	April 13, 1990 (14 Ill. Reg. 5417)
140.400	Amendment	February 2, 1990 (14 Ill. Reg. 1737)
140.413	Amendment	March 23, 1990 (14 Ill. Reg. 4860)
140.420	Amendment	January 26, 1990 (14 Ill. Reg. 1570)
140.421	Amendment	January 26, 1990 (14 Ill. Reg. 1570)
140.435	Amendment	February 2, 1990 (14 Ill. Reg. 1737)
140.436	Amendment	February 2, 1990 (14 Ill. Reg. 1737)
140.461	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.462	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.463	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.475	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.476	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.477	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.478	Amendment	September 29, 1989 (13 Ill. Reg. 15281)

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Section Numbers Proposed Action Illinois Register Citation

140.647	Amendment	March 16, 1990	(14 111. Reg. 4415)
140.648	Amendment	March 16, 1990	(14 111. Reg. 4415)
140.649	Amendment	March 16, 1990	(14 111. Reg. 4415)
140.650	Amendment	March 16, 1990	(14 111. Reg. 4415)
140.652	Amendment	March 16, 1990	(14 111. Reg. 4415)
140.642	Amendment	January 26, 1990	(14 111. Reg. 1570)
140.643	Amendment	March 2, 1990	(14 111. Reg. 3019)

- 15) Summary and Purpose of Adopted Amendments: This rulemaking revises the Department's Quality Incentive Program policies.
- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Daniel Leikvold, Staff Attorney
Office of the General Counsel

Address: Illinois Department of Public Aid
Jesse B. Harris Building 11
100 S. Grand Avenue East, 3rd Floor
Springfield, Illinois 62762

Telephone: (217) 782-1233

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

Section Numbers Proposed Action Illinois Register Citation

140.479	Amendment	September 29, 1989	(13 111. Reg. 15281)
140.480	Amendment	September 29, 1989	(13 111. Reg. 15281)
140.481	Amendment	September 29, 1989	(13 111. Reg. 15281)
140.525	Amendment	November 17, 1989	(13 111. Reg. 17667)
140.526	Amendment	November 17, 1989	(13 111. Reg. 17667)
140.542	Amendment	March 16, 1990	(14 111. Reg. 4415)
140.543	Amendment	March 16, 1990	(14 111. Reg. 4415)
140.544	Repealed	March 16, 1990	(14 111. Reg. 4415)
140.545	Amendment	March 16, 1990	(14 111. Reg. 4415)
140.565	Repealed	November 17, 1989	(13 111. Reg. 17667)
140.566	Repealed	November 17, 1989	(13 111. Reg. 17667)
140.567	Repealed	November 17, 1989	(13 111. Reg. 17667)
140.568	Repealed	November 17, 1989	(13 111. Reg. 17667)
140.642	Amendment	March 2, 1990	(14 111. Reg. 3019)
140.646	Amendment	March 16, 1990	(14 111. Reg. 4415)

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TITLE 89: SOCIAL SERVICES
 CHAPTER I: DEPARTMENT OF PUBLIC AID
 SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
 MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
 140.2 Medical Assistance Programs
 140.3 Covered Services Under The Medical Assistance Programs for AFDC, AFDC-MANG, AABD, AABD-MANG, RRP, Individuals Under Age 18 Not Eligible for AFDC, Pregnant Women Who Would Be Eligible if the Child Were Born and Pregnant Women and Infants Under Age One Year Who Do Not Qualify As Mandatory Categorically Needy
 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
 140.5 Covered Medical Services Under GA and AMI
 140.6 Medical Services Not Covered
 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Six
 140.8 Medical Assistance For Qualified Severely Impaired Individuals
 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
 140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION/DRUG MANUAL

Section

- 140.11 Enrollment Conditions for Medical Providers
 140.12 Participation Requirements for Medical Providers
 140.13 Definitions
 140.14 Denial of Application to Participate in the Medical Assistance Program
 140.15 Recovery of Money
 140.16 Termination of a Vendor's Eligibility to Participate in the Medical Assistance Program
 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program

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- 140.18 Effect of Termination on Individuals Associated with Vendor
 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
 140.20 Submittal of Claims
 140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
 140.22 Magnetic Tape Billings
 140.23 Payment of Claims
 140.24 Payment Procedures
 140.25 Overpayment or Underpayment of Claims
 140.26 Payment to Factors Prohibited
 140.27 Assignment of Vendor Payments
 140.28 Record Requirements for Medical Providers
 140.30 Audits
 140.35 False Reporting and Other Fraudulent Activities
 140.40 Prior Approval for Medical Services or Items
 140.41 Prior Approval in Cases of Emergency
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 140.71 Drug Manual (Recodified)
 140.72 Drug Manual (Recodified)
 140.73 Drug Manual Updates (Recodified)

SUBPART C: HOSPITAL SERVICES

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- 140.94 Hospital Services (Recodified)
 140.95 Participation (Recodified)
 140.96 General Requirements (Recodified)
 140.97 Special Requirements (Recodified)
 140.98 Covered Hospital Services (Recodified)
 140.99 Hospital Services Not Covered (Recodified)
 140.100 Limitation On Hospital Services (Recodified)
 140.101 Transplants (Recodified)
 140.102 Heart Transplants (Recodified)
 140.103 Liver Transplants (Recodified)
 140.104 Bone Marrow Transplants (Recodified)
 140.110 Disproportionate Share Hospital Adjustments (Recodified)
 140.116 Payment for Inpatient Services for CA (Recodified)
 140.117 Hospital Outpatient and Clinic Services (Recodified)
 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)

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140.477	Limitations on Equipment, Supplies and Prosthetic Devices
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SUBPART E: GROUP CARE

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140.507	Continuation of Provider Agreement
140.510	Determination of Need for Group Care
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140.514	Certifications and Recertifications of Care
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140.521	Room and Board Accounts
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140.566	Level I Incentive Payments <u>(Repealed)</u>
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AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 6503-1 et seq.) and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13).

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; recodified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984;

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amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912,

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NOTICE OF ADOPTED AMENDMENTS

Section 140.525 Eligibility For Quality Incentive Program
(QUIP) (Cont'd)

quality incentive assessments in all skilled nursing facilities (SNF and SNF-PED) and intermediate care facilities (ICF), but excluding intermediate care facilities for the mentally retarded and developmentally disabled (ICF-MR/DD), specialized living centers (SLC), and intermediate care facilities for the mentally retarded and developmentally disabled with fifteen or fewer residents (ICF-MR/DD-15), enrolled in the Medical Assistance Program unless the facility has requested in writing that the Department not conduct the assessment or assess a specific QUIP component. The facilities identified above (ICF-MR/DD, SLC, and ICF-MR/DD-15) for exclusion from the QUIP assessment process will continue to receive QUIP payments determined during the Spring 1987 QUIP assessment survey for the reimbursement periods beginning January 1, 1988, and will continue until the implementation of the DD QUIP tool. Through June 30, 1988, and July 1, 1988, through December 31, 1988. ~~The QUIP payment amount for each facility will be determined according to the QUIP assessment for the reimbursement period July 1, 1987, through December 31, 1987.~~ Facilities for the developmentally disabled which did not receive a QUIP assessment for this reimbursement period, or did receive such an assessment and did not meet the required achievement level for all Parts of QUIP, may request a QUIP assessment for reimbursement periods falling between January 1, 1988, and December 31, 1988. Assessments which occur after January 1, 1988 will result in QUIP payments retroactive to January 1, 1988, or the date when all eligibility qualifications are met in the case of facilities which were not operational at the time of QUIP assessments for the reimbursement period July 1, 1987, through December 31, 1987. Compliance with all QUIP eligibility qualifications since January 1, 1988, is required of facilities for the developmentally disabled, which were operational prior to this date, requesting QUIP assessments under these provisions. Requests for such assessments must be submitted (delivered or postmark dated) in writing to the Department by September 30, 1988. Intermediate care facilities for the mentally retarded and developmentally disabled (ICF-MR/DD, SLC, and ICF-MR/DD-15) which may request a QUIP assessment are:

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(QUIP) (Cont'd)

- 1) Facilities which did receive a QUIP assessment for the reimbursement period July 1, 1987, through December 31, 1987, but did not meet the achievement level for all Parts of QUIP.
 - 2) Facilities which were not in operation at the time of QUIP assessments for the reimbursement period July 1, 1987, through December 31, 1987.
 - 3) Facilities which were ineligible for QUIP at some time in 1987, and have not received QUIP payments in 1988.
- b) In order to be eligible for the Quality Incentive Program, a facility must meet the five following basic qualifications. In the event that a facility is involved in a hearing or appeal regarding Section 140.525 subsection (b)(1), (2), or (4), a QUIP assessment will be conducted as regularly scheduled and the results will be handled as specified in Section 140.525 subsection (b)(1), (2), or (4).
- 1) Participation in the Medical Assistance Program
 - A) A facility shall be currently certified for participation in the Medicaid Program and have a current provider agreement as required in Section 140.11 of this Part. If the Department initiates a termination action against any level of care in the facility, the Department will withhold QUIP payments effective with the date the facility is notified of the administrative action and continuing during the pendency of the hearing. If the facility prevails at the hearing, and the facility is otherwise eligible for QUIP, the action will not affect the facility's QUIP eligibility, and withheld QUIP payments will be released to the facility. If the facility does not prevail at the hearing, and the facility's provider agreement is terminated or the facility is terminated from the Medical Assistance Program, QUIP payments will not

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Section 140.525 Eligibility For Quality Incentive Program (QIP) (Cont'd)

on the date of notification of licensure action. Such ineligibility shall continue as described in Section 140.525(b)(2)(B) and (C). If the facility administratively appeals IDPH's licensure action, payments will be withheld from the date of the-IPPH notification of licensure action and continuing for the duration of the licensure action plus the remainder of the QIP eligibility period during which the licensure action ends. If the facility prevails in such appeal, and the facility is otherwise eligible for QIP, the facility will be eligible for QIP as if no licensure action had occurred. If the facility does not administratively appeal IDPH's licensure action, and the action is overturned, the facility will be eligible for QIP as if no licensure action had occurred.

If IDPH issues a conditional license for any violation, other than a Type A (Refer to subsection (b)(4)), to a facility, the facility shall become ineligible for QIP as of on the first day of the month subsequent to the date of issuance of the conditional license. Such ineligibility shall continue for the duration of the-eligibility-period-during-which-the-conditional-licensure-ends-six months. If the facility administratively appeals the issuance of a conditional license with IDPH, payments will continue to be withheld from-date-of-issuance-of-the-conditional-licensure-and-appeal-until-the-duration-of-the-licensure-eligibility-period-during-which-the-conditional-licensure-ends-as-specified-above. If the facility prevails in such appeal, and the facility is otherwise eligible for QIP, the facility will be eligible for QIP as if no conditional license had been issued. If

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Section 140.525 Eligibility For Quality Incentive Program (QIP) (Cont'd)

be released, and the facility will be considered ineligible for QIP as of the date the facility was notified of the administrative action. If the federal government initiates a termination action, against any level of care in the facility, all QIP payments will be withheld beginning with the date the action was initiated and continuing during the pendency of any hearing, and will be released only if the facility prevails in the hearing. Ineligibility for QIP will occur as of the date of initiation of the federal action. Any termination action will disqualify the facility for QIP for the remainder of the QIP period (as defined in Section 140.528(d)) as specified above, and will disqualify the facility for QIP for the subsequent QIP period(s) until the facility is again eligible under this qualification. When a facility reenters the Medical Assistance Program, and remains in the Medical Assistance Program for the duration of one full QIP eligibility period it will again be eligible for participation in QIP.

B) If a facility voluntarily withdraws from the Medical Assistance Program, the facility will no longer be eligible for participation in QIP, and QIP payments will be discontinued as of the date of receipt of the notification to the Department of the Public Health (IDPH) at 77 Ill. Adm. Code 300.120 through 300.160; 350.120 through 350.160; or 390.120 through 390.160.

2) A facility shall be currently licensed as required in rules of the Illinois Department of Public Health (IDPH) at 77 Ill. Adm. Code 300.120 through 300.160; 350.120 through 350.160; or 390.120 through 390.160. A) If IDPH takes any action to revoke, suspend, or not renew a facility's license, the facility shall become ineligible for QIP as of the effective-date-of-IPPH-action.

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Section 140.525 Eligibility For Quality Incentive Program (QUIP) (Cont'd)

the facility does not administratively appeal the issuance of a conditional license with IDPH, and the conditional license is overturned, the facility will be eligible for QUIP as if no conditional license had been issued.

- C) In the event of a change in licensee, QUIP payments will be reinstated effective with the date of licensure, if the new licensee has complied with the corrective action plan (as determined by IDPH) related to the identified Type A violation(s) charged to the previous licensee as specified by IDPH.
- D) Any licensure action, except a conditional license by IDPH, will disqualify the facility for QUIP ~~for the remainder of the QUIP period (as defined in Section 140.528(d)) as specified above,~~ on the date of notification of the licensure action, and will disqualify the facility for QUIP for the subsequent QUIP period(s) until the facility is again eligible under this qualification.

3) Meeting Residents' Needs

- A) A facility must be meeting in the aggregate at least 92% of residents' health and habilitation needs. Illinois Department of Public Aid (IDPA) will determine compliance with this screening standard through a review of the results of the Inspection of Care (IOC) assessment which is recorded on the Evaluation of Need for Care forms (DPA 2700 and DPA 2701), as required by Subparts F and G of this Part. The number of unmet needs will be compared to the number of needs identified to verify no more than 8 percent of needs are unmet. These forms document the evaluation of the need for a variety of services that may be rendered to a resident including assistance with

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Section 140.525 Eligibility For Quality Incentive Program (QUIP) (Cont'd)

activities of daily living and nursing care. If the facility fails to continue to satisfy this qualification, as evidenced by an IOC, the facility will lose its eligibility for QUIP effective with the IOC Exit date. The facility will be disqualified for QUIP Payment ~~for the remainder of the QUIP period, until a subsequent IOC indicates that at least 92% of residents' needs are being met.~~ If the facility begins to provide at least 92% of residents' needs as evidenced by an IOC and the facility is otherwise eligible for QUIP, the facility will be eligible for QUIP for the QUIP period immediately following the IOC effective the first day of the month subsequent to the IOC exit date.

- B) Should the facility fail to satisfy this qualification for needs met, the facility has 30 days to correct needs not met, do not score (see Section 140.909(d)). If the facility corrects needs not met, do not score so that the facility is providing at least 92% of residents' needs, and the facility is otherwise eligible for QUIP, the facility will be eligible for QUIP under this qualification as of the date of correction of needs not met, do not score so that no more than eight percent of needs are unmet.

- 4) A facility must have no Type A violations, as defined in 77 Ill. Adm. Code 300.330 and Section 1-129 of the Nursing Home Care Reform Act of 1979 (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-129). A facility will be ineligible for QUIP ~~from based on the survey date of a Type-A violation until the end of the QUIP period,--When a Type-A violation results in a conditional license from IDPH, the facility will be ineligible for QUIP from the survey date of the violation until eligibility for QUIP can be resumed as determined by the provisions of Section 140.525(b)(2)(B)--~~ date the Illinois

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Section 140.525 Eligibility For Quality Incentive Program (QUIP) (Cont'd)

a resident's health, sense of well-being, and quality of life. Achievement of one or more standards will be based on an assessment using the QUIP assessment instrument.

- 2) A facility shall meet the level of achievement as expressed by a percentage score specified in this Section or as expressed as a number in Sections 140.526(d)(1) and 140.526(f)(2) of this Part to receive the incentive payment associated with a particular quality incentive standard. By attaining the level(s) specified, a facility succeeds in meeting a particular quality incentive standard or section of that standard. The following levels of achievement apply to all reimbursement periods commencing on or after January 1, 1988: 80% for QUIP Parts I (Section 140.526(b)), II (Section 140.526(c)), and IV (Section 140.526(e)), and 70% for QUIP Parts III (Section 140.526(d)), and V(A) (Section 140.526(f)(1)), and four (4) programs for QUIP Part V(B) (Section 140.526(f)(2)).

(Source: Amended at 14 Ill. Reg. 7141, effective April 27, 1990)

Section 140.526 Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP)

- a) The five quality incentive standards and the criteria for each are listed in the following subsections. These criteria shall be evaluated by the Department using a standardized assessment instrument.
 - 1) The assessor will evaluate the level of achievement relying on the documentation provided, direct observation and resident and staff interviews.
 - 2) The burden of proof rests with the facility to demonstrate the inapplicability of the QUIP standard for any resident through precise documentation in existence at the time of the assessment.

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Section 140.526 Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Cont'd)

- 3) For purposes of ~~Section 140.526~~ this Section, documentation will mean as written and specified in the required comprehensive care plan, nursing charts, activity records or community contact logs. Documentation will require specificity such that the assessor will not need additional interpretation from facility staff as to the reasonableness of the facility assertion regarding resident choice, needs, capabilities, progress, goals, activities and contacts. Documentation must relate specific information about resident diagnoses or impairment as necessary to support said assertions.

- b) Functional & Sensory-stimulating Environment: This standard requires that the resident's environment promotes maximum independence and physical and mental functioning and lends meaning to life. Achievement of the standard will be demonstrated through on-site observation and evaluation of the facility environment, including the interior and exterior areas of the facility, and the furniture and fixtures in those areas.

- 1) The QUIP instrument will assign the following maximum points for this standard to each of the following areas:

A) Exterior	18 points
B) Interior - General	18 points
C) Interior - Congregate Areas	36 points
D) Communication Aids	42 points
E) Resident Rooms	30 points
F) Resident Toilet Rooms	24 points
G) Recreation Areas	18 points
H) Dining Area and Meals	18 points

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Section 140.526 Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Cont'd)

- F) Communication enhancers, e.g., furniture arrangement and communication boards.
- G) Residential atmosphere in congregate living space which promotes mobility and conversation; stimulating and vibrant.
- H) Presence of living things, e.g., pets and plants.
- I) Special purpose rooms for small and large group gatherings and special activities, e.g., library, including current magazines or newspapers, and music appreciation room. Magazines will be considered current when no more than three months old; newspapers when no more than two days old.
- J) Dining area atmosphere, i.e., meals and room promote socialization and self-help and are attractive and appetizing.

c) Resident Participation and Choice: This standard requires that the resident enjoys a full scope of varied activities which offer continuity and opportunities for choice. A facility must meet the level of achievement on both of the following two criteria in order to demonstrate that the standard has been met.

1) Quality of the participation: This criterion requires that a quality plan of social/recreational activities will be established for all residents. Achievement will be measured by reviewing a targeted sample of care plans, which will be selected as follows:

- A) The sample will consist of 10%, but no less than 10 residents and a maximum of 29 residents, unless fewer than 10 residents are eligible for review in the facility, in which case, all of them must be included in the sample. Residents to be targeted for this sample whenever possible are residents

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Section 140.526 Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Cont'd)

- 2) If a criterion (item) in areas identified in subsections (b)(1)(A), (b)(1)(B), (b)(1)(C), (b)(1)(D), (b)(1)(G) and (b)(1)(H) is not applicable to a facility, the assessor will enter N/A (not applicable) opposite the item on the assessment instrument and award the maximum score possible per item.
- 3) Resident rooms and toilet areas will be evaluated using a two point measurement scale for each attribute for each room observed. Four resident rooms and adjoining toilet rooms in each unit will be evaluated. In addition, four bath rooms will be evaluated unless fewer than four are available, in which case all will be evaluated. For other areas of evaluation, scores will be assigned for each criterion on a range of points, where 0 represents that minimum standards are not exceeded, 3 represents that minimum standards exceeded, 4 represents that limited degree are exceeded, and 6 represents that standards are greatly or consistently exceeded.

4) Ten criteria will be used to evaluate the eight facility areas identified above, as appropriate. The criteria are:

- A) Facility cleanliness; fresh-smelling; free of dirt, crumbs and clutter; free of stains or spots; in good repair.
- B) Bright and cheerful resident rooms which are personalized and colorful.
- C) Personal possessions in resident's room, such as pictures, furniture, wall-hangings and decorations.
- D) Provision for privacy, i.e., the staff is considerate of resident needs.
- E) Sensory compensating equipment, e.g., large print menus, talking books, visual cues to differentiate areas of home and adaptive equipment aids.

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Section 140.526 Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Cont'd)

who the assessor judges are least likely to have quality plans, as gauged by the assessor's observation of their inactivity, tenure in the facility, unique activity needs or social/behavioral problems.

B) A score is derived by determining that the facility has established a quality plan of social/recreational activities. Each of the following five attributes of the plan when scored will be weighted equally and achievement determined by identifying the average percent of these attributes present in the social/recreational plans which are reviewed. The plan must be:

- i) related to resident interests and social ties, as expressed by the resident or family or friends of the resident;
- ii) individualized, i.e., the plan differentiates activities for residents based on differences in needs, abilities and interests;
- iii) related to and included in the comprehensive care plan;
- iv) current, i.e., updated at least quarterly or more often as needs change (there must be evidence that goals are adjusted, as needed);
- v) designed to provide opportunities for resident selection of own activities, (or family/guardian participation in the selection, as appropriate).

2) Level of Resident Participation: This criterion requires that residents are meaningfully engaged in accordance with approved care plans. Achievement will be measured by observing all residents at two distinct periods of peak

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activity during a day. Those times must be identified by the facility and may vary by day of the week.

A) Level of achievement will be determined by identifying the percentage of residents meaningfully engaged at peak times. Those residents who are prohibited from being meaningfully involved, as documented by physician orders, are exempt from this assessment.

B) The list of activities which constitute being meaningfully engaged include group activities, verbal interchange or personal interactions with other people, and individual or independent activities. It would not include aimless wandering, being unoccupied but awake in bed and staring into space.

d) Community and Family Participation: Facilities must demonstrate high levels of community and family involvement in the facility and of resident involvement in the community. A facility must achieve both of the two criteria in order to receive the incentive payment for this standard.

1) Level of Participation: The facility must demonstrate that residents are interacting with community representatives or engaged in community work an average of two hours per week per resident. This participation may involve volunteers or family in the facility or residents involved or volunteering in the community. Achievement will be measured by reviewing facility records which document the number of hours and types of hours in which residents are involved in the community or interacting with community visitors during individual months. Two months of the last six will be assessed.

A) Types of hours which must be documented in a log are:

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Section 140.526 Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Cont'd)

populations, i.e., facility adapts programs to involve residents with special care needs.

- F) Maintenance of normal relationship of resident to his/her community.
- G) Appropriate mix of activities inside and outside of the facility, i.e., excursions are regularly scheduled.
- H) Appropriate level of physically active involvement, i.e., community/resident activities encourage active involvement as well as listening and observing.

e) Resident Satisfaction: A sample of consumers of the facility's services, or family members or guardians, express a high level of satisfaction regarding aspects of the resident's life that the facility affects.

1) The sample will consist of 10%, but no less than 10 residents and a maximum of 29 residents unless fewer than 10 residents eligible for review live in the facility, in which case, all of them must be included in the sample. Eligible residents are those residents with the ability to evaluate the criteria as reflected in the resident's comprehensive care plan or those residents who have representatives to respond in their behalf. Achievement will be measured by interviewing residents in regard to ten criteria. Family members or guardians may be interviewed when residents, as reflected in the comprehensive care plan, cannot comprehend or respond to an interview. The level of achievement will be determined by adding the total points earned in the aggregate and calculating the points earned as a percentage of points possible.

2) For these residents, or their guardians as appropriate, each of the following ten (10) criteria will have the same maximum points. In addition, for each criterion, there will be five equally weighted choices of responses. Points will be assigned based on the degree to which the

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Section 140.526 Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Cont'd)

facility demonstrates the attribute, in the resident's opinion. The criteria for this quality incentive standard include the residents' (or their representatives'):

- A) Sense of physical safety;
- B) Perception of facility's cleanliness;
- C) Satisfaction with quality of food experience;
- D) Satisfaction with effectiveness and responsiveness of health care team;
- E) Sense of resident being treated with dignity;
- F) Resident retention of freedom of choice;
- G) Belief that resident is being assisted to perform activities as independently as possible;
- H) Sense of resident continuity with past experience, roles, and persons;
- I) Satisfaction with interpersonal relations within the facility (e.g., resident has a confidant who is a staff member); and,
- J) Feeling that resident privacy is respected.

f) Effective Patient Care Management: There is a demonstrated emphasis on achievement of care plan goals and provision of intensive intervention programs in the facility. A facility may qualify for either component to receive half of the full incentive payment for the standard. To qualify for the full payment, the facility must meet the requirements for both components.

1) Achievement of care plan goals: A facility will meet this criterion by assisting residents to gain greater functional independence. The criterion requires that care plan goals are

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Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Cont'd)

Section 140.526

- ii) established treatment protocols and procedures or, for Advanced Nurse Aide training, specific training outlines;
- iii) mechanisms for ongoing monitoring and evidence of progress notes and of modifications in procedures or outlines based on monitoring results;
- iv) established evaluation criteria and methodology; and
- v) a list of program participants and evidence of participation.

B)

Ten categories of intensive intervention programs have been identified. The intent of these programs must be to reduce disability and medical complications that result in great suffering and economic costs in the facility. The conditions targeted must be those which are prevalent in the facility; accompanied by a high incidence of disability, suffering and costly care; and which are responsive to directed, intensive programs of intervention. The programs are:

- i) Intensive Skin Care Program;
- ii) Bowel and Bladder Program;
- iii) Accident Monitoring and Evaluation Program;
- iv) Contracture Prevention and Treatment Program;
- v) Behavior Problem Management Program;
- vi) Restorative Nursing Program;
- vii) Community Integration Program;
- viii) Discharge and Transfer Plan Program;

Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Cont'd)

NOTICE OF ADOPTED AMENDMENTS

established for all residents and that progress achieved toward those goals is to be documented monthly. Achievement will be measured using a sample of residents as outlined in Section 140-526 subsection (c)(1)(A) of this part. Achievement will be measured in terms of progress toward goals identified in the last six months. Level of achievement will be determined by calculating the points earned as a percentage of points possible. The IDPA assessor shall review care plans, approve care plan goals and compare resident functioning to care plan goals.

A) Goals will be selected that are appropriate to the resident. At a minimum, two physiological, one psychological and one sociological goal must be selected.

B) A facility receives two (2) points for each of five goals achieved for each resident; one (1) point when movement toward the goal is made but the goal is not achieved; and zero (0) points when no movement is achieved.

2)

Intensive intervention programs: A facility must implement intensive nursing and related programs appropriate to the resident population from the list of ten categories in Section 140-526 subsection (f)(2)(B) of this part. For the June 1985, assessment, three programs are required. For assessments after July 1, 1985, four programs are required. The facility must identify the number of programs required. IDPA will assess whether the programs identified by the facility meet the qualifications in Section 140.526(f)(2)(A) and address the needs of the residents of the facility.

A) The programs must be currently operating

with:

- 1) defined program goals and patient-specific objectives;

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Section 140.526 Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Cont'd)

- ix) Advanced Nurse Aide Training Program; and,
- x) Innovative Programs, Appropriate to the Needs of the Facility's Resident Population. Programming for residents with Alzheimer's Disease is a suitable choice under this category, in facilities having Alzheimer's populations.

C) Only one program for each category of programs listed above will qualify during the assessment, except that:

- i) Intermediate Care Facilities for the Developmentally Disabled and Skilled Pediatric Nursing Facilities may designate and qualify for two innovative programs.
- ii) Facilities may designate a second innovative program if that program is directed at a special resident population comprising at least 20% of the full census, or
- iii) Facilities may designate a second innovative program directed at residents with Acquired Immunodeficiency Syndrome (AIDS) or AIDS-Related Complex (ARC). Such a program could be developed in anticipation of admitting residents with AIDS to a facility. In the absence of AIDS residents, an AIDS intensive intervention program will qualify as one of the four required programs for one assessment. In subsequent eligibility periods, the facility must house at least one resident with AIDS in order for the AIDS intervention program to continue in a qualifying status.

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Section 140.526 Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Cont'd)

- iv) Facilities may designate two Advanced Nurse Aide Programs. Those programs must be based on progressive levels of skill or difficulty.

(Source: Amended at 14 Ill. Reg. 7141, effective April 27, 1990)

Section 140.528 Payment of Quality Incentive

- a) The QUIP payment maximum is \$2.00 per day per resident.
- b) The allocation of payment among Quality Incentive Standards shall be as follows: Fifty percent (50%) of the incentive dollars will be allocated to the first four standards, under Sections 140.526(b) through (e). That allocation will be divided equally among the four standards. The remaining 50% will be allocated for standard (f) under that section ~~Section~~ Section: "Effective Patient Care Management."
- c) Facilities that qualify for QUIP payment(s) pursuant to Sections 140.525 through 140.529 for services rendered from January 1, 1985, through June 30, 1985, can elect to receive payment(s) under either Sections 140.525 through 140.529 or Sections 140.565 through 140.568 of this Part.
 - 1) Facilities which elect to receive QUIP payment(s) pursuant to Sections 140.525 through 140.529 for this period, waive the right to receive payment(s) for such time period pursuant to Sections 140.565 through 140.568.
 - 2) If no election is made, a facility is deemed to have elected to receive QUIP payment(s) pursuant to Sections 140.525 through 140.529 when such QUIP payment(s) would be higher than what the facility would receive pursuant to Sections 140.565 through 140.568.
 - 3) Sections 140.525 through 140.529 shall apply to reimbursement for all services rendered on or after ~~July 1, 1985~~ January 1, 1985.

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Section 140.566 Level I Incentive Payments (Cont'd)
(Repealed)

~~the 50th percentile, then the QUIP rate will be 1.3% (i.e., 65% of 2%) of the 50th percentile.~~

(Source: Repealed at 14 Ill. Reg. 7141, effective April 27, 1990)

Section 140.567 Level II Incentive Payments (Repealed)

a) Eligibility standards

- 1) ~~The facility qualifies for the level I incentive payment.~~
- 2) ~~The facility has fewer than 15 C-violations, unrelated to patient care and~~
- 3) ~~The facility scores in the top third on the BPH quality care incentive survey (consisting of an onsite inspection, staff questionnaire and interviews with residents) of all facilities receiving the special survey (or a score estimated to approximate the top third until a sufficient number of facilities are actually surveyed).~~

b) Incentive payment

~~The Quality Incentive Payment (QUIP) rate will be based upon the 50th and 60th percentiles of the support components, as explained in Section 140.561. Section 140.561(a) explains the percentiles for the support costs components of all Skilled Nursing Facilities (including Skilled Nursing Facilities For Pediatrics) and Intermediate Care Facilities. Section 140.561(b) explains the percentiles for the support costs components of Specialized Living Centers. The QUIP rate for Level II will be determined for all facilities as follows:~~

- 1) ~~If the projected per diem support costs are equal to or greater than the 60th percentile, then the QUIP rate will be 4% of the 60th percentile.~~
- 2) ~~If the projected per diem support costs are equal~~

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Section 140.567 Level II Incentive Payments (Cont'd)
(Repealed)

~~to or greater than the 50th percentile but less than the 60th percentile, then the QUIP rate will be 2% (i.e., 50% of 4%) of the 60th percentile.~~

- 3) ~~If the projected per diem support costs are below the 50th percentile, then the QUIP rate will be 2.6% (i.e., 65% of 4%) of the 50th percentile.~~

(Source: Repealed at 14 Ill. Reg. 7141, effective April 27, 1990)

Section 140.568 Duration of Incentive Payments (Repealed)

~~The facility shall continue to receive the incentive payment for the term of its time-limited agreement with the Department, unless prior to that date the facility is surveyed by BPH and receives a fine or penalty.~~

(Source: Repealed at 14 Ill. Reg. 7141, effective April 27, 1990)

NOTICE OF ADOPTED RULES

1) Heading of the Part:

Health Facilities Planning Procedural Rules

2) Code Citation:

77 Ill. Adm. Code 1130

3) Section Numbers:

Adopted Action:

- 1130.110 New Section
- 1130.120 New Section
- 1130.130 New Section
- 1130.140 New Section
- 1130.150 New Section
- 1130.210 New Section
- 1130.220 New Section
- 1130.310 New Section
- 1130.410 New Section
- 1130.510 New Section
- 1130.520 New Section
- 1130.530 New Section
- 1130.540 New Section
- 1130.550 New Section
- 1130.560 New Section
- 1130.570 New Section
- 1130.610 New Section
- 1130.620 New Section
- 1130.630 New Section
- 1130.640 New Section
- 1130.650 New Section
- 1130.660 New Section
- 1130.670 New Section
- 1130.680 New Section
- 1130.710 New Section
- 1130.720 New Section
- 1130.730 New Section
- 1130.740 New Section
- 1130.750 New Section
- 1130.760 New Section
- 1130.770 New Section
- 1130.780 New Section
- 1130.810 New Section

4) Statutory Authority:

Illinois Health Facilities Planning Act

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111. Rev. Stat. 1987, ch. 111 1/2, par. 1151 et seq.

5) Effective Date of Rules:

May 1, 1990

6) Does this Rulemaking Contain an Automatic Repeal Date? Yes No

If "yes," please specify date:

7) Does this Rulemaking Contain Any Incorporations by Reference?

Yes No

If "yes," please specify type: 6.02(a) or 6.02(b)

If "6.02(b)," was a copy of the approval form issued by the joint committee attached to this rulemaking? Yes No

8) Date filed in Agency's Principal Office:

April 25, 1990

9) Date Notice(s) of Proposal was published in Illinois Register:

November 13, 1989 - 13 Ill. Reg. 17245

10) Has the joint committee on Administrative Rules issued a Statement of Objections to this/these Rules? Yes No

If "yes," please complete the following:

A) Statement of Objection: _____, Ill. Reg. _____

B) Agency Response: _____, Ill. Reg. _____

C) Date Agency Response Submitted for Approval to the Joint Committee: _____

11) Difference Between Proposal and Final Version:

The following changes were made in response to comments received during the first notice or public comment period:

Section 1130.140

a) Acquisition or Change of Ownership means a change in the person

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who has operational control of an existing health care facility. Acquisition or change of ownership is indicated by:

- 1) a transfer of stock or assets resulting in a person(s) obtaining majority interest (i.e. over 50%) in the existing facility within a one year period; or
- 2) the issuance of a license by the Agency to a person different from the current licensee; or
- 3) the issuance of a provider number to a different person by certification agencies which administer Titles XVIII and XIX of the Social Security Act.

AGENCY NOTE: A permit or exemption is required prior to the acquisition or change of ownership of a health care facility.

Section 1130.140

- b) Alteration means a revision or change to the components of a project as detailed in the application that occurs after Board approval of the permit approved-for-permit. Components which can be altered include size, number of beds, scope of services to be provided, cost or method of financing. The site of the proposed project or the permit holder cannot be altered.

Section 1130.140

- f) Completion or Project Completion means:
- 1) for projects limited to total discontinuation of a facility or of a category of service, the date the last patient is discharged or the date when the of permit for discontinuation is issued ~~issuance~~ whichever comes later; or
 - 2) for projects with no cost that are limited to a substantial change in beds in licensed long-term care facilities, the date the Agency issues a revised license; or
 - 3) for projects with no cost that are limited to a substantial change in beds in licensed hospitals or in state-operated facilities, the date the Agency receives a revised physical plant survey or the date of permit issuance which ever is later; or
 - 4) for projects limited to the establishment of a category of service, the date the first patient is treated or the date

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the Agency receives a report of final realized cost, whichever is later; or

- 5) for projects limited to the acquisition of major medical equipment, the date the Agency receives a report of final realized costs or the date the equipment is utilized to treat the first patient, whichever is later; or
- 6) for all other projects including the establishment of new facilities or modernization of existing facilities, the date the Agency receives a report of final realized costs.

Section 1130.140

- g) Consolidation means the combination of two or more existing health care facilities into a new health care facility terminating the existence of the existing or original facilities (A+B = C). Consolidation results in the establishment of a health care facility within the meaning of the Act and in the discontinuation of the existing facilities, resulting in termination of license for facilities subject to licensure or the loss of certification for facilities not subject to licensure. In example, consolidation becomes reviewable only when a new facility with a new license will be established due to the consolidation. In this case the A and B facilities which consolidate are reviewed for discontinuation and the new licensed facility C is reviewed for establishment. It is this discontinuation and establishment which creates the need for review.

Section 1130.140

- h) Discontinuation means to cease operation of an entire health care facility; to cease operation of a category of service for twelve months or more; or to reduce the facility bed total by more than ten beds or ten percent, whichever is less, within a two year period. Daily or seasonal fluctuations in bed complement are not considered discontinuation.

Section 1130.140

- p)
- 1) Modification of an Application or Modification means any change to a proposed project during the review period (i.e., prior to final State Board action) which results in changing the proposed project's physical size or gross square feet, the site within a planning area, the operating entity, the number of proposed beds, the categories of service to be

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a) Submission of Application for Exemption

Prior to any person acquiring major medical equipment which will not be owned by or located in a health care facility, the person must submit an application for exemption to the State Board, submit the required application processing fee pursuant to Part 1190, and receive approval from the State Board.

b) Application for Exemption Information

The application for exemption shall include the following information:

- 1) The name and address of the person proposing to acquire the equipment and the proposed operating entity;
- 2) Identification of the equipment to be acquired including model number, manufacturer and equipment specifications;
- 3) The address of the premises where the equipment will be installed or used; and
- 4) Copies of any existing or proposed lease or purchase agreements or a proof of ownership regarding the premises where the equipment will be installed;
- 5) A signed certification that the equipment will not be used to provide services to inpatients of any health care facility;
- 6) A signed certification that use of the proposed equipment will not result in the inpatient admission of patients to a health care facility following outpatient treatment except in emergency conditions.

- c) AGENCY NOTE: A permit is required for the acquisition of major medical equipment which will be owned by, located in, or utilized to serve inpatients of a health care facility. Equipment acquired by exemption can be used on an emergency basis to provide care that results in the admission of patients into an inpatient unit of a health care facility. A physician licensed to practice medicine in all of its branches must verify that such inpatient admissions were caused by an emergency.

Section 1130.740

Section 1130.740 Renewal of a Permit

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A project must be completed no later than two years from the date of obligation.

- a) The State Board may renew a permit if the project has not been completed within the two year completion period. A permit renewal shall ~~commence not exceed 12 months, commencing~~ on the expiration date of the original completion period (two years from the date of obligation).
- b) The request for permit renewal shall be in writing and include the following information:
 - 1) the duration of the renewal requested,
 - 2) a status report on the project detailing what percent has been completed and a summary of project components yet to be finished, and
 - 3) a statement as to the reasons why the project has not been completed.
- c) The State Board will evaluate the information submitted in making its determination whether to approve the request for renewal. Seven affirmative votes are required to approve a renewal. Denial of a permit renewal shall be subject to appeal under the provisions of 77 Ill. Adm. Code 1180; Administrative Hearings.

The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:

1. To add the following language "issued by the Illinois Department of Insurance" after the word "authority" in Section 1130.140(k)(4).
2. To add the following language "(DRI/McGraw - Hill Health Care Costs, Data Resources, 1750 K Street, N.W., Suite 300, Washington, D.C. 20006)" after the words "Special Machinery and Equipment" in Section 1130.310(a)(1).
3. To add the following language "(R.S. Means Company, Inc., 100 Construction Plaza, P.O. Box 800, Kingston, MA 02364-0800)" after the words "Means Cost Data" in Section 1130.310(a)(1).
4. To do a rulemaking within 6 months to add an Appendix which contains data found in the publication (DRI/McGraw - Hill Health Care Costs, Data Resources, 1750 K Street, N.W., Suite 300, Washington, D.C. 20006) and the publication (R.S. Means Company, Inc., 100 Construction Plaza, P.O. Box 800, Kingston, MA

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02364-0800).

5. To add the words "[Section 1130.140(d)]" after the word "minimums" in Section 1130.310(a)(1).

6. To add the language "(pursuant to Section 1100.220)" after the phrase "a substantial change in beds" in Section 1130.140(f)(2).

7. To submit for approval the "Application For Exemption Acquisition of Major Medical Equipment" form to the Department of Central Management Services pursuant to the requirements of the "Forms Management Program Act."

8. To change the language "six months" to read "twelve months" in Section 1130.310(a)(5).

9. To add the language "is subject to approval under Section 1130.560 and" after the word "exemption" in Section 1130.510(b).

10. To rewrite the second sentence in the Agency Note in Section 1130.510(c) to read as follows: "Equipment acquired by exemption cannot be used to treat patients who are directly admitted into an inpatient unit of a health care facility except in the case of a medical emergency which threatens the life of the patient."

11. To add the following language "was caused by a medical" after the words "inpatient admission" in the last sentence in the Agency Note in Section 1130.510(c).

12. To submit the "Application for Exemption Change in Ownership of a Health Care Facility form for approval to the Department of Central Management Services pursuant to the requirements of the "Forms Management Program Act."

13. To delete the language "The application for exemption shall include the following" and replace it with "The application for exemption shall be approved pursuant to Section 1130.560 when the following information is submitted" in Section 1130.520(b).

14. To delete the word "including" in Section 1130.520(b)(5).

15. To add the language "in accordance with the provisions of Section 1130.750 to detail" after the word "documentation" in the second to last sentence in Section 1120.520(d).

16. To change "The Agency shall advise the applicant for exemption if a permit is required to continue with the project" to read "The

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Agency shall advise the applicant for exemption if a permit is required under Section 1130.310" in Section 1130.520(d).

17. To add the following language "A permit is required if the remainder of the project meets the review conditions specified in Section 1130.310" as the last sentence in Section 1130.520(d).

18. To add the following language "The State Board shall approve all applications for exemption if the conditions of Section 1130.510 or Section 1130.520 as applicable are met" as the second sentence in Section 1130.560(b).

19. To rewrite the following "Exemptions will not be issued for projects which have failed to meet the requirements of this part" to read "Exemptions will not be issued for projects which have failed to meet the requirements of Section 1130.510 or Section 1130.520 as applicable" in the third sentence in Section 1130.560(b).

20. To add the words "in writing" after the word "notify" in the second sentence in Section 1130.570(a).

21. To add the words "Section 14 of the" after the word "under" in Section 1130.570(a).

22. To add the language "Section 14 of the" before the word "Act" in Section 1130.570(c).

23. To add the language "that the situation is emergent in nature in accordance with the provisions of 77 Ill. Adm. Code 1110.40" after the word "the Vice-Chairman" in the third sentence in Section 1130.610(a).

24. To add the language "All non-substantive applications and any" before the word "applications" in the last sentence in Section 1130.610(b).

25. To delete the reference to Subparts D and E of Part 1240 in Sections 1130.620(c)(1)(A), 1130.630(d), and 1130.750(c)(2).

26. To add "the applications are reviewed to determine compliance with review criteria enumerated in 77 Ill. Adm. Code 1110, 1230, or 1240" as the third sentence in Section 1130.660.

27. To change the language "50 percent" to read "33 percent" in Section 1130.720(e)(1).

28. To change the language "50 percent" to read "33 percent" in

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Section 1130.720(e)(2).

29. To add the following language "Projects which continue to comply with the provisions of 77 Ill. Adm. Code 1110 and 77 Ill. Adm. Code 1230 or 1240 and which have proceeded with due diligence [as defined in Section 1130.140(i)] shall be approved for extension" as the second sentence in Section 1130.730(g).
30. To delete the language "in making its determination whether to approve the request for renewal" and replace it with the language "to determine if the project has proceeded with due diligence" [as defined in Section 1130.140(i)] after the word "submitted" in the first sentence in Section 1130.740(c).
31. To add the following language "approval of an alteration is based on the continued compliance of the project with 77 Ill. Adm. Code 1110 and 77 Ill. Adm. Code 1230 or 1240" as the third sentence in Section 1130.750(f).
32. To delete the word "determines" and replace it with the word "finds" in Section 1130.780(c).
33. To add the language "pursuant to Section 1130.780(a)" after the words "revocation exists" in Section 1130.780(c).
34. To delete one set of "due diligence" in the second sentence in Section 1130.140(i).
35. To change the colon to a semi-colon in Section 1130.140(n)(2).
36. To place a closed parenthesis around the letter (f) in Section 1130.140(r)(3).
37. To delete the label (4) in front of the Agency Note in Section 1130.140(r)(4).
38. To change "(77 Ill. Adm. Code 1900)" to read "(77 Ill. Adm. Code 1190)" in Section 1130.150(c)(1).
39. To rewrite the Section 1130.410 to read "Transactions Which Are Exempt from Review" in both the Table of Contents and the Text.
40. To rewrite the Section 1130.520 to read "Requirements for Exemptions Involving the Change in Ownership of a Health Care Facility Other Than a Health Maintenance Organization" in both the Table of Contents and the Text.
41. To change "(Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1152)" to read

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"(Section 2 of the Act)" in Section 1130.130(a), line 8.

42. To change "(Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1153)" to read "(Section 3 of the Act)" in Section 1130.140(n)(3), line 3.
 43. To change "(Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1162)" to read "(Section 12 of the Act)" in Section 1130.610(a), line 8.
 44. To label the unlabeled paragraph after subsection (4) as subsection (5) in Section 1130.140(k).
 45. To label the unlabeled paragraph after subsection (2) as subsection (2) as subsection(3) in Section 1130.140(l).
 46. To add the heading "Modification of an Application or Modification" in Section 1130.140(p).
 47. To rewrite Section 1130.140(b)(4) to read Nursing Home Care Act, (Ill. Rev. Stat. 1987 and 1988 Supp., Ch. 111 1/2, par. 4151-101 et seq.).
 48. To delete the word "Chapter" and replace it with the word "Part" in the last sentence in Section 1130.310(a)(1).
 49. To rewrite (as set forth in 77 Ill. Adm. Code 1110; 1230 Subparts D and E)" to read "(as set forth in 77 Ill. Adm. Code 1110; 1230 or 1240)" in Section 1130.630(d).
 50. To rewrite 77 Ill. Adm. Code 1110; 1210.30, 1230, Subparts D and E" to read 77 Ill. Adm. Code 1110; 1210.30, 1230 or 1240" in Section 1130.750(c)(2).
 51. To add the language "Alteration Procedures" as the heading in Section 1130.750(c).
 52. To delete the labels (1) and (2) and to make subsection (b)(1) as subsection (b) in Section 1130.780(b).
 53. To make the 2 unlabeled paragraphs into one paragraph in Section 1130.810.
- In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.
- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee?

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Section

- 1130.610 Duration of the Review Period and Time Frames
- 1130.620 Consultation, Classification and Completeness Review
- 1130.630 Agency Actions During the Review Period
- 1130.640 Extension of the Review Period Prior to Initial State Board Action
- 1130.650 Modification of an Application
- 1130.660 Approval of an Application
- 1130.670 Notice of Intent-to-Deny an Application
- 1130.680 Denial of an Application

SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section

- 1130.710 Validity of Permits
- 1130.720 Authorization to Obligate and Obligation
- 1130.730 Extension of the Obligation Period
- 1130.740 Renewal of a Permit
- 1130.750 Alteration of a Project for Which a Permit Has Been Issued
- 1130.760 Annual Progress Reports
- 1130.770 Project Completion, Final Realized Costs and Cost Overruns
- 1130.780 Revocation of a Permit

SUBPART H: DECLARATORY RULINGS

- 1130.810 Declaratory Rulings

NOTE: Capitalization denotes statutory language.

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act (Ill. Rev. Stat. 1987, ch. 111 1/2, pars. 1151 et seq.).

SOURCE: Adopted at 14 Ill. Reg. 7183, effective May 1, 1990.

SUBPART A: AUTHORITY, PURPOSE AND DEFINITIONS

Section 1130.110 Statutory Authority/Applicability

- a) This Part is promulgated by authority granted to the Illinois Department of Public Health (Agency) and to the Illinois Health Facilities Planning Board (State Board) under Public Act 78-1156, the Illinois Health Facilities Planning Act as amended (the Act) (Ill. Rev. Stat. 1987, ch. 111, pars. 1151 et seq.).
- b) Upon the effective date of this Part, all applications in the review process and all projects for which permits have been issued but which have not been completed shall be subject to the provisions of this Part.

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Section 1130.120 Public Hearings

Public hearings on this Part were held in accordance with the provisions of Section 12 of the Act. Copies of the public hearing records are available for inspection at the headquarters of the State Board at 535 West Jefferson Street, Springfield, Illinois 62761.

Section 1130.130 Purpose

- a) THE PURPOSE OF THE HEALTH FACILITIES PLANNING ACT IS TO ESTABLISH A PROCEDURE DESIGNED TO REVERSE THE TRENDS OF INCREASING COSTS OF HEALTH CARE RESULTING FROM UNNECESSARY CONSTRUCTION OF HEALTH CARE FACILITIES. THIS PROGRAM IS ESTABLISHED TO IMPROVE THE FINANCIAL ABILITY OF THE PUBLIC TO OBTAIN NECESSARY HEALTH SERVICES, AND TO ESTABLISH AN ORDERLY AND COMPREHENSIVE HEALTH CARE DELIVERY SYSTEM WHICH WILL GUARANTEE THE AVAILABILITY OF QUALITY HEALTH CARE (Section 2 of the Act). Decisions regarding proposed new health services and facilities shall be made for reasons having to do with the community health needs in the various parts of the state. The burden of proof on all issues pertaining to an application shall be on the applicant.
- b) The health facilities planning program shall be administered with the goal of containing capital investment and the objectives of:
 - 1) Promoting development of more effective methods of delivering health care;
 - 2) Improving distribution of health care facilities and services and insuring access to needed health care services for the general public;
 - 3) Controlling the increase of health care costs;
 - 4) Promoting planning for health care services at the facility, regional and state levels;
 - 5) Maximizing the use of existing health care facilities and services which represent the least costly and most appropriate levels of care; and
 - 6) Minimizing the unnecessary duplication of health care facilities and services.

Section 1130.140 Definitions

Definitions pertaining to program components can be found in the "Act" and in 77 Ill. Adm. Code 1100 and 1110. Definitions which will assist in the

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Understanding of this Part are presented below.

a) Acquisition or Change of Ownership means a change in the person who has operational control of an existing health care facility. Acquisition or change of ownership is indicated by:

- 1) a transfer of stock or assets resulting in a person obtaining majority interest (i.e. over 50%) in the existing facility within a one year period; or
- 2) the issuance of a license by the Agency to a person different from the current licensee; or
- 3) the issuance of a provider number to a different person by certification agencies which administer Titles XVIII and XIX of the Social Security Act.

AGENCY NOTE: A permit or exemption is required prior to the acquisition or change of ownership of a health care facility.

b) Alteration means a revision or change to the components of a project as detailed in the application that occurs after Board approval of the permit. Components which can be altered include size, number of beds, scope of services to be provided, cost or method of financing. The site of the proposed project or the permit holder cannot be altered.

c) Applicant means a person(s) who applies for a permit.

d) Capital Expenditure Minimum means \$1,000,000 for major medical equipment and \$2,000,000 for all other capital projects. Capital expenditure minimums are annually adjusted to reflect the increase in construction costs due to inflation per Section 1130.310.

e) Certified or Certification means approval for a facility to receive reimbursement under Title XVIII and/or XIX of the Social Security Act (42 U.S.C.A. 1395x).

f) Completion or Project Completion means:

- 1) for projects limited to total discontinuation of a facility or of a category of service, the date the last patient is discharged or the date when the permit for discontinuation is issued whichever comes later; or
- 2) for projects with no cost that are limited to a substantial change in beds (pursuant to Section 1100.220) in licensed long-term care facilities, (pursuant to 77 Ill. Adm.

Code 1100.220) the date the Agency issues a revised license; or

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3) for projects with no cost that are limited to a substantial change in beds (pursuant to 77 Ill. Adm. Code 1100.220) in licensed hospitals or in state-operated facilities, the date the Agency receives a revised physical plant survey or the date of permit issuance which ever is later; or

4) for projects limited to the establishment of a category of service, the date the first patient is treated or the date the Agency receives a report of final realized cost, whichever is later; or

5) for projects limited to the acquisition of major medical equipment, the date the Agency receives a report of final realized costs or the date the equipment is utilized to treat the first patient, whichever is later; or

6) for all other projects including the establishment of new facilities or modernization of existing facilities, the date the Agency receives a report of final realized costs.

g) Consolidation means the combination of two or more existing health care facilities into a new health care facility terminating the existence of the existing or original facilities (A+B = C). Consolidation results in the establishment of a health care facility within the meaning of the Act and in the discontinuation of the existing facilities, resulting in termination of license for facilities subject to licensure or the loss of certification for facilities not subject to licensure. In example, consolidation becomes reviewable only when a new facility with a new license will be established due to the consolidation. In this case the A and B facilities which consolidate are reviewed for discontinuation and the new licensed facility C is reviewed for establishment. It is this discontinuation and establishment which creates the need for review.

h) Discontinuation means to cease operation of an entire health care facility; to cease operation of a category of service for twelve months or more; or to reduce the facility bed total by more than ten beds or ten percent, whichever is less, within a two year period. Daily or seasonal fluctuations in bed complement are not considered discontinuation.

i) Due Diligence means to take such actions toward the completion of a project for which a permit has been granted with that diligence and foresight which persons of ordinary prudence and care commonly

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exercise under like circumstances. An accidental or unavoidable cause which cannot be avoided by the exercise of due diligence in the meaning of this rule is a cause which reasonably prudent and careful persons, under like circumstances, do not and would not ordinarily anticipate, and whose effects under similar circumstances they do not and would not ordinarily avoid.

- j) Establish or Establishment means the construction of a health care facility or the replacement of an existing facility on another site, or the consolidation of two or more existing facilities into a new facility, or the development of a category of service.
- k) Existing Health Care Facility means any facility subject to the Act which:
- 1) has a valid license issued by the Agency; or
 - 2) is certified under Titles XVIII or XIX of the Social Security Act; or
 - 3) is a facility operated by the State of Illinois; or
 - 4) is a health maintenance organization which has a certificate of authority issued by the Illinois Department of Insurance.
 - 5) Projects for which permits have been granted but which are not complete pursuant to subsection (f) shall not be considered existing facilities, but the approved number of beds or services shall be recorded in the Inventory of Health Care Facilities maintained by the Agency and shall be counted against any applicable need estimate.
- 1) Final Decision or Final Administrative Decision or Final Determination means:
- 1) the decision by the State Board to approve or deny an application for permit. Action taken by the State Board to deny an application for permit is subsequent to an administrative hearing or to the waiver of such hearing; or
 - 2) the decision by the State Board on all matters other than the issuance of a permit.
 - 3) The decision is final at the close of business of the State Board meeting at which the action is taken.
- m) Final Realized Costs are those costs of construction, modernization or equipment that have been incurred to complete a

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project for which a permit was granted. These costs include all expenditures and the dollar or fair market value of any component of the project whether acquired through lease, donation or gift.

- n) Major Construction Projects means
- 1) PROJECTS FOR THE CONSTRUCTION OF NEW BUILDINGS;
 - 2) ADDITIONS TO EXISTING BUILDINGS; AND
 - 3) MODERNIZATION PROJECTS WHOSE COST IS IN EXCESS OF \$1,000,000 OR TEN PERCENT OF THE FACILITY'S OPERATING REVENUE, WHICHEVER IS LESS (Section 3 of the Act).
- o) Merger means the absorption of one or more existing health care facility into another existing health care facility. The result of the absorption is that only one facility survives (A+B = B). Merger results in the modification (e.g. expansion of beds or services) of the survivor facility and the discontinuation of the facility being absorbed.
- p) Modification of an Application or Modification
- 1) Modification of an Application or Modification means any change to a proposed project during the review period (i.e., prior to final State Board action) which results in changing the proposed project's physical size or gross square feet, the site within a planning area, the operating entity, the number of proposed beds, the categories of service to be provided, the cost, the method of financing, or the configuration of space within the building.
 - 2) AGENCY NOTE: A change in the applicant or a change in site to outside the planning area originally identified in the application are not considered modifications and, if either occurs, the application is void.
- q) Notification of State Board Action means the transmittal of State Board decisions to the applicant or permit holder. Notification shall be given to the applicant's or permit holder's designated contact person, legal representative or chief executive officer.
- r) Obligation means receipt by the Executive Secretary of documents verifying one of the following:
- 1) that the project is to be accomplished through the execution of binding enforceable contract(s), including lease agreements, to expend 33 percent or more of the permit

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- c) Long-term care facilities licensed pursuant to the Nursing Home Care Act, (Ill. Rev. Stat. 1987 and 1989 Supp., ch. 111 1/2, pars. 4151-101 et seq.);
- d) Kidney disease treatment centers, including free standing hemodialysis units;
- e) Health maintenance organizations required to be operated pursuant to the Health Maintenance Organization Act, (Ill. Rev. Stat. 1987, ch. 111 1/2, pars. 1401 et seq.);
- f) Any of the above types of facilities operated by the State or any department or agency thereof; and
- g) Any person proposing to establish, construct or modify any of the above types of facilities or proposing to acquire major medical equipment.

Section 1130.220 Necessary Parties to the Application for Permit or Exemption

a) Applicants for Permit

- 1) If a project to construct or modify an existing health care facility is proposed solely by the person who holds that facility's license or certification, that person must be the applicant.
- 2) If a project to construct or modify an existing health care facility is proposed in whole or in part by a person(s) other than the person who holds the facility's license or certification, that person(s) and the person who holds the facility's license or certification must be co-applicants.
- 3) If a project to establish a health care facility is proposed solely by the person who will be licensed by the Agency or certified (if the facility is not subject to licensure), that person must be the applicant.
- 4) If a project to establish a health care facility is proposed in whole or in part by a person(s) other than the person who will hold the license or be certified, that person(s) and the person who will hold the license or be certified must be co-applicants.
- 5) In the case of major medical equipment not located in or not acquired on behalf of a health care facility, the person responsible for providing patient care with the equipment must be the applicant.

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b) Applicants for Exemption

- 1) In all cases involving the acquisition of major medical equipment, the person who will own or provide patient care with the equipment must be the applicant for exemption.
- 2) In the case of a change of ownership exemption for an existing facility, the person who will be licensed by the Agency or certified (if the facility is not subject to licensure) must be the applicant for exemption.

SUBPART C: TRANSACTIONS SUBJECT TO REVIEW

Section 1130.310 Transactions Subject to Review

- a) A permit shall be obtained prior to the establishment, construction or modification of a health care facility which:
 - 1) requires a total capital expenditure in excess of the capital expenditure minimum. All capital expenditure minimums [Section 1130.140(d)] shall be annually adjusted to reflect the increase in construction costs due to inflation. On October first of each year, the minimums will be adjusted for inflation. The basis for such adjustment for major medical equipment shall be the latest annual inflation rate as reflected in the Producer's Price Index as calculated in the DRI Health Care Costs section on Special Machinery and Equipment (DRI/McGraw-Hill Health Care Costs, Data Resources, 1750 K Street, N.W., Suite 300, Washington, D.C. 20006). The basis for the adjustment to capital expenditures other than major medical equipment shall be the latest annual inflation rate as reflected in the medical construction component of the Means Cost Data (R.S. Means Company, Inc., 100 Construction Plaza, P.O. Box 800, Kingston, MA 02364-0800). The revised minimums shall be published as an appendix to this Part; or
 - 2) substantially changes the scope or changes the functional operation of the facility by construction or modification or by acquisition of new equipment or alteration of existing equipment. Substantial changes in scope or functional operation of the facility are the establishment or discontinuation of a category of service (as defined in 77 Ill. Adm. Code 1110). Categories of service which have not been utilized for their intended purpose for a period of twelve months or more are considered to be discontinued; or
 - 3) results in the establishment of a health care facility other

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than a health maintenance organization; or

- 4) changes the bed capacity of a health care facility by increasing or decreasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility or site to another by more than ten beds or more than ten percent of total bed capacity as defined by the State Board, whichever is less, over a two year period (pursuant to 77 Ill. Adm. Code 1100.220); or
- 5) discontinues an entire facility or category of service unless an exemption has been granted in accordance with the provisions of Section 1130.540. Categories of service which have not been utilized for their intended purpose for a period of twelve months or more are considered to be discontinued; or
- 6) involves a change of ownership as defined in Section 1130.140 unless an exemption has been granted in accordance with the provisions of Section 1130.520.

- b) A permit must be obtained prior to the acquisition of major medical equipment unless an exemption has been granted in accordance with the provisions of Section 1130.510.
- c) Components of construction or modification which are interdependent must be grouped into one permit application. Interdependence occurs when components of construction or modification are architecturally and/or programmatically interrelated to the extent that undertaking one or more of the components compels the other components to be undertaken. In addition when components of construction or modification are to be undertaken by means of a single construction contract, those components must be grouped into an application for permit. Projects involving acquisition of equipment which are linked with construction for the provision of a service cannot be segmented. A health service linkage exists when all components must be present for a service to be operational, or when financing is obtained at one time for a series of related components. Computer software, for example, cannot be separated from the equipment needed to run the program.

- d) Examples of projects which constitute construction or modification of a health care facility and require a permit include:
 - 1) Projects located within a licensed or certified health care facility;

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2) Projects which result in a health care facility:

- A) Billing for services provided by the proposed project, Capitalizing any portion of the proposed project,
- B) Receiving reimbursement for services provided by the proposed project, or,
- C) Receiving recognition as the provider of the proposed service by third party payors;
- D) Projects which are staffed or operated by the health care facility;
- 3) Projects which are otherwise of, by, through or on behalf of a health care facility.

SUBPART D: TRANSACTIONS WHICH ARE EXEMPT FROM REVIEW

Section 1130.410 Transactions Which Are Exempt From Review

The following proposed transactions are not subject to review if an exemption is granted by the State Board:

- a) the acquisition of major medical equipment which will not be owned by, or located in a health care facility or be used to provide services to an inpatient of a health care facility.
- b) the change of ownership of an existing health care facility.
- c) the establishment or discontinuation of a health maintenance organization.
- d) the discontinuation of an existing health care facility (other than a health maintenance organization) or of a category of service when that discontinuation is the result of revocation of or denial of license renewal by a State or local regulatory agency;
- 2) for facilities not subject to licensure, the loss of certification; or
- 3) discontinuation action taken by the State Board.

SUBPART E: PROCEDURAL REQUIREMENTS FOR EXEMPTIONS

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Section 1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment

a) Submission of Application for Exemption

Prior to any person acquiring major medical equipment which will not be owned by or located in a health care facility, the person must submit an application for exemption to the State Board, submit the required application processing fee pursuant to 77 Ill. Adm. Code 1190, and receive approval from the State Board.

b) Application for Exemption Information

The application for exemption is subject to approval under Section 1130.560 and shall include the following information:

- 1) The name and address of the person proposing to acquire the equipment and the proposed operating entity;
- 2) Identification of the equipment to be acquired including model number, manufacturer and equipment specifications;
- 3) The address of the premises where the equipment will be installed or used; and
- 4) Copies of any existing or proposed lease or purchase agreements or a proof of ownership regarding the premises where the equipment will be installed;
- 5) A signed certification that the equipment will not be used to provide services to inpatients of any health care facility;
- 6) A signed certification that use of the proposed equipment will not result in the inpatient admission of patients to a health care facility following outpatient treatment except in emergency conditions.

- c) AGENCY NOTE: A permit is required for the acquisition of major medical equipment which will be owned by, located in, or utilized to serve inpatients of a health care facility. Equipment acquired by exemption cannot be used to treat patients who are directly admitted into an inpatient unit of a health care facility except in the case of a medical emergency which threatens the life of the patient. A physician licensed to practice medicine in all of its branches must verify that such inpatient admission was caused by a medical emergency.

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Section 1130.520 Requirements for Exemptions Involving the Change in Ownership of a Health Care Facility Other Than a Health Maintenance Organization

a) Submission of Application for Exemption

Prior to any person acquiring or entering into a contract to acquire an existing health care facility other than a health maintenance organization, the person must submit an application for exemption to the State Board, submit the required application processing fee and receive approval from the State Board.

b) Application for Exemption Information

The application for exemption shall be approved pursuant to Section 1130.560 when the following information is submitted:

- 1) the name and address of the person proposing to acquire the facility;
- 2) the name and location of the existing health care facility to be acquired;
- 3) a signed certification that the categories of service and number of beds as reflected in the Inventory of Health Care Facilities maintained by the Agency will not substantially change (per definition in Section 1130.140);
- 4) documents which detail conditions and terms of any lease or purchase arrangement;
- 5) financial information, the latest audited financial statements of the applicant and a statement by the applicant specifying the source of funds which will be used to acquire the facility;
- 6) the anticipated acquisition price; and
- 7) proof of publication of the required legal notice of the change of ownership (as required by Section 1130.520 [c]).
- 8) a statement acknowledging that the change of ownership will void any permits for projects which have not been completed.

c) Legal Notice Requirements

Any person requesting an exemption for a change of ownership must publish a legal notice in a newspaper of general circulation in

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shall notify in writing the Agency within 60 days of the date a change of ownership is effected through certification or issuance of a license or within 60 days of the date of obligation pursuant to Section 1130.140 (r) for the acquisition of major medical equipment. Failure to provide the required notification shall subject the exemption holder to the sanctions provided under Section 14 of the Act.

- b) If an exemption is not obtained in accordance with the provisions of this Part, then a permit must be obtained.
- c) Any person failing to obtain an exemption or permit when required shall be subject to the sanctions provided under Section 14 of the Act.

SUBPART F: PROCEDURAL REQUIREMENTS FOR THE REVIEW AND PROCESSING OF APPLICATIONS FOR PERMIT

Section 1130.610 Duration of the Review Period and Time Frames

It is the intent of the State Board that all applications for permit are reviewed and acted upon within the shortest practicable time.

a) Emergency Applications

Emergency applications will be reviewed and acted upon within three days. Initial application may be made orally or in writing or by electronic means to the Agency. The Agency, upon receiving the concurrence of the Chairman (or in the absence of the Chairman the Vice-Chairman) that the situation is emergent in nature in accordance with the provisions of 77 Ill. Adm. Code 1110.40, is authorized to give oral approval. Any such communications shall be followed by a written application and written approval. THIS PROCEDURE IS EXEMPT FROM THE PUBLIC HEARING REQUIREMENTS OF THE ACT (Section 12 of the Act). The written application must identify the applicant and must summarize the nature of the problem the emergency project will correct and the anticipated cost of the project.

b) Substantive and Non-substantive Applications

All applications other than emergency applications shall be acted upon by the State Board between 60 days and 120 days from the date the application is declared complete by the Agency, unless the review period is extended by the applicant. All non-substantive applications and any applications involving the addition of beds shall be acted upon by the State Board at the State Board meeting following 60 days from the date the application is declared

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complete, unless the review period is extended by the applicant.

Section 1130.620 Consultation, Classification and Completeness Review

a) Consultation

The application must be completed in accordance with the requirements of this Part which are applicable to the individual project. An applicant may request consultation with the Agency regarding completion of the application and the applicability of the requirements of this Part.

b) Classification of an Application

1) An application for permit shall be classified as:

- A) Substantive; or
- B) Non-Substantive; or
- C) Emergency.

2) Definitions of each classification are set forth in 77 Ill Adm. Code 1100.220.

c) Completeness Review

- 1) Upon receipt of an application for permit, the Agency shall determine whether the application is complete or incomplete. An application for any project other than one involving the addition of beds shall be deemed complete within ten days of receipt if:
 - A) all review criteria applicable to the individual project (77 Ill. Adm. Code 1110; 1230 and/or 1240) have been addressed;
 - B) the required fee (as outlined in 77 Ill. Adm. Code 1190, Permit Application Fees) has been submitted;
 - C) six copies of the application including one copy of the application containing original signatures have been submitted; and
 - D) all annual progress reports on previously approved projects have been submitted, and
 - E) all reports on final realized costs on previously

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approved and completed projects have been submitted.

- 2) An application shall be incomplete if any of the elements described in subsection (c)(1) above are not present or if additional information or documentation is required to clarify a response.

- 3) An application for a project which involves the addition of beds shall be deemed complete on the day of receipt if items (B), (C), (D), and (E) of subsection 1130.620 (c) (1) are submitted.

- 4) The Agency shall notify the applicant in writing, within ten working days, of its decision and in the case of an incomplete application, the reasons therefor.

- 5) If the application is deemed complete, the date of completion shall initiate the review period. If the application is deemed incomplete, the applicant shall be allowed ninety days from the date of receipt of the notification to provide all necessary information to complete the application. Upon receipt of all additional information requested, the Agency shall again review the application for completeness and shall notify the applicant of its decision within ten working days. If the Agency finds that the application remains incomplete at the end of the allotted response period, the application shall be declared null and void, and all fees paid forfeited.

- 6) AGENCY NOTE: It is the responsibility of the applicant to assure that the Agency is in receipt of the additional information within the prescribed time frame.

Section 1130.630 Agency Actions During the Review Period

During the course of the review period the Agency shall:

- a) Transmit a complete copy of the application (or such part thereof as may be necessary) to offices of the Department of Public Health or to any other state agencies that have requested an opportunity to comment on the application;
- b) Notify the applicant of completeness and the start of the review period and forward to the applicant the scheduled date for State Board action;
- c) Offer an opportunity for a public hearing, and when requested, conduct such hearing in accordance with the provisions of 77 Ill.

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Adm. Code 1200;

- d) Evaluate the application for compliance with the review criteria applicable to the specific project (as set forth in 77 Ill. Adm. Code 1110; 1230 or 1240);

- e) Transmit the Agency's report and findings, the public hearing report and a summary of all written public comment received 20 days prior to the scheduled State Board meeting. A summary of all written public comments submitted subsequent to this date shall be presented at the State Board meeting.

Section 1130.640 Extension of the Review Period Prior to Initial State Board Action

- a) Supplemental Information
 - 1) Information furnished at the request of the Agency shall not constitute supplemental information.
 - 2) Prior to initial State Board action, the applicant may provide supplemental information or data in support of the project. An applicant may submit supplemental information only once and only prior to initial State Board action. The Agency shall review the supplemental material within 60 days of receipt and extend the review period if necessary and present its findings to the State Board for action at its next scheduled meeting.
 - 3) Subsequent submissions of additional or other supplemental information will not be considered in the review of the project.

Modification

The review period may be extended up to 60 days by the Agency if the applicant modifies the application prior to initial review by the State Board.

Section 1130.650 Modification of an Application

- a) Modifications shall be classified as Type A or Type B. Type A modifications shall be subject to the public hearing requirements of 77 Ill. Adm. Code 1200. If requested, a hearing would occur within the time allocated for Agency review. Type A modifications consist of any of the following:
 - 1) An increase in the number of beds or end stage renal disease

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stations proposed in the project.

- 2) A change in the site of the project to a new location within the planning area.
 - 3) An increase in the cost of the project exceeding ten percent of the original estimated project cost.
 - 4) A change in the square footage of the project if such change results in an increase in the exterior dimensions of the project.
 - 5) An increase in the categories of service to be provided.
- b) All other modifications are Type B modifications and are not subject to public hearing.
 - c) An applicant can modify a project only twice during the review period.
 - d) If an applicant modifies an application, the Agency shall have up to 60 days to review the modification pursuant to the applicable review criteria, hold a public hearing if requested, and submit its findings to the State Board at the next scheduled meeting.

Section 1130.660 Approval of an Application

The approval of an application and issuance of a permit by the State Board requires seven affirmative votes. The State Board shall consider the application and any supplemental information or modification submitted by the applicant, the Agency report(s), the public hearing testimony, if any, and other information coming before it in making its determination whether to approve the project. The applications are reviewed to determine compliance with review criteria enumerated in 77 Ill. Adm. Code 1110, 1230 or 1240. The failure of a project to meet one or more review criteria, as set forth in 77 Ill. Adm. Code 1110, 1230 or 1240 shall not prohibit the issuance of a permit. A permit is effective on the date of State Board authorization.

Section 1130.670 Notice of Intent-to-Deny an Application

a) Issuance of Notice of Intent-to-Deny

If an application for permit fails to receive seven affirmative votes upon the initial State Board consideration, the applicant shall be issued a Notice of Intent-to-Deny the application for permit. The Notice of Intent-to-Deny shall be sent to the applicant by certified mail and shall afford the applicant an opportunity to appear before the State Board and an opportunity to

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submit additional information in support of the project.

b) Applicant's Response

The applicant shall notify the State Board in writing and within ten working days of receipt of the Notice of Intent-to-Deny, whether it intends to:

- 1) appear before the State Board; and/or
- 2) submit additional information.
- 3) AGENCY NOTE: It is the responsibility of the applicant to assure that the State Board is in receipt of the response within the ten day prescribed time frame.

c) Action Following Notice of Intent-to-Deny

- 1) If the applicant waives the right to appear before the State Board or if a written response is not received within ten working days of receipt of the notice of opportunity to appear, then the application shall be considered withdrawn.
- 2) If the applicant indicates that no additional information will be submitted, the State Board shall take action on the application at its next meeting.
- 3) If the applicant indicates that additional documentation shall be submitted, the applicant shall be afforded a period of 60 days from the date of the State Board's decision of Notice of Intent-to-Deny to submit such material. No material will be accepted by the Agency after the 60 day period expires. The Agency shall be allowed up to 60 days following the receipt of all material to review the material and issue a supplemental report. The project shall be considered at the next regularly scheduled State Board meeting following completion of the Agency review.

d) Deferrals

A project which has received a Notice of Intent-to-Deny and has been scheduled for State Board consideration can be deferred only by the applicant and only until the next scheduled State Board meeting.

Section 1130.680 Denial of an Application

- a) If an application for permit fails to receive seven affirmative

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or

- 2) if the project is to be done internally, the date the governing body releases funds to expend 33 percent or more of the permit amount, or
- 3) if the project has no cost, the date of project completion.
- 4) AGENCY NOTE: It is the responsibility of the permit holder to assure that the Executive Secretary is in receipt of documents verifying obligation within the required time frames.
- f) Permits for projects which have not been obligated prior to the expiration date of the permit shall be considered expired and the project abandoned.
- g) Failure to comply with the authorization to obligate requirements shall be cause for the State Board to initiate proceedings to revoke the permit and/or seek sanctions provided by the Act.

Section 1130.730 Extension of the Obligation Period

- a) The State Board may grant the permit holder no more than two extensions of time to obligate the project. An extension shall not exceed six months and shall commence on the expiration date of the permit (i.e., 12 or 18 months from the date of State Board authorization pursuant to Section 1130.710). Permits not obligated within approved time frames will expire.
- b) The request for extension shall be in writing and include the following information:
 - 1) the duration of the extension requested,
 - 2) documentation from architects, contractors, suppliers, financial institutions, or other necessary parties to obligation of the project, indicating unforeseeable events or other reasons why a extension is required.
- c) In requesting a first extension, the permit holder shall describe the events which have delayed the project's timely obligation and provide the following documentation:
 - 1) For major construction proposals, evidence that design development drawings have been prepared;
 - 2) For provision of major equipment, evidence that suppliers

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have been solicited and cost estimates received;

- 3) For provision of new services, evidence that actions leading to the provision of such services have been accomplished; and
- 4) A revised schedule indicating how obligation will be accomplished within the extension period requested.
- d) In requesting a second extension, the permit holder must describe the events which prevented obligation and provide the following documentation:
 - 1) For major construction proposals, evidence that final construction drawings are partially prepared;
 - 2) For provision of major equipment, evidence that a supplier(s) has been selected and a basis for final prices established;
 - 3) For provision of new services, evidence that key staff have been selected;
 - 4) Evidence that approval of loans, issuance of bonds or other necessary means of financing have been approved or can be secured where necessary for project funding per the application;
 - 5) A revised schedule indicating how obligation will be accomplished within the extension period requested.
- e) A request for extension shall be made in writing and shall be received by the State Board no later than ten days before the original or extended permit expiration date, whichever is applicable. A request for extension which is not submitted in accordance with this time frame above shall not be presented to the State Board for action.
- f) AGENCY NOTE: It is the responsibility of the permit holder to assure that the State Board is in receipt of the request for extension within the prescribed time frames.
- g) The State Board shall evaluate the information submitted in making its determination whether to grant the extension. Projects which continue to comply with the provisions of 77 Ill. Code 1110 and 77 Ill. Adm. Code 1230 or 1240 and which have proceeded with due diligence [as defined in Section 1130.140(1)] shall be approved for extension. Seven affirmative votes are required for approval

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- 2) a change in the categories of service approved; or
 - 3) a change in the square footage of the project if such change increases the exterior dimensions of the project; or
 - 4) an increase in the cost of the project which exceeds ten percent of the original approved permit amount; or
 - 5) an increase in the amount of funds to be borrowed; or
 - 6) an increase in the revised permit amount previously approved.
- c) Alteration Procedures
- 1) The State Agency shall review the request for compliance with the review criteria and submit its findings to the State Board. If additional information is needed by the Agency to perform a review of the request, the permit holder shall be notified in writing.
 - 2) A request for alteration reviewed by the State Board is subject to the provisions of 77 Ill. Adm. Code 1110, 1210.30, 1230 or 1240 which are applicable to the individual project. Any proposed alterations to a project which would, when taken as a separate component, require a permit under the Act, shall not be subject to review under this Section but shall require a new application.
- d) Upon approval of a request for alteration, the Agency shall revise the permit to reflect the alteration and shall adjust all inventories accordingly.
- e) Decisions on requests for alteration shall be transmitted, in writing, to the permit holder by the Executive Secretary.
- f) Seven affirmative votes are required for approval of an alteration. The approval or denial of a request for alteration constitutes the State Board's final administrative decision. Approval of an alteration is based on the continued compliance of the project with 77 Ill. Adm. Code 1110 and 77 Ill. Adm. Code 1230 or 1240.

Section 1130.760 Annual Progress Reports

- a) Each permit holder shall submit to the Agency on or no more than 30 days before the anniversary date of permit issuance, annual progress reports until such time as the project is completed.

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- of an extension. Denial by the State Board of an extension request shall constitute the final State Board decision and is not subject to administrative appeal.
- Section 1130.740 Renewal of a Permit
- A project must be completed no later than two years from the date of obligation.
- a) The State Board may renew a permit if the project has not been completed within the two year completion period. A permit renewal shall commence on the expiration date of the original completion period (two years from the date of obligation).
- b) The request for permit renewal shall be in writing and include the following information:
- 1) the duration of the renewal requested,
 - 2) a status report on the project detailing what percent has been completed and a summary of project components yet to be finished, and
 - 3) a statement as to the reasons why the project has not been completed.
- c) The State Board will evaluate the information submitted to determine if the project has proceeded with due diligence [as defined in Section 1130.140(1)]. Seven affirmative votes are required to approve a renewal. Denial of a permit renewal shall be subject to appeal under the provisions of 77 Ill. Adm. Code 1180 (Practice and Procedure in Administrative Hearings).

Section 1130.750 Alteration of a Project for Which a Permit Has Been Issued

A permit is valid only for the defined construction or modification, equipment, site, amount and person(s) named in the application.

- a) If a permit holder proposes to alter a project for which a permit has been issued, a request for alteration must be submitted to the State Board. Such a request must contain a description of the proposed alteration and must address all applicable review criteria related to the alteration.
- b) The following proposed alterations require approval by the State Board:
- 1) a change in the approved number of beds or stations; or

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Such reports shall include:

- 1) current status of the project; and
 - 2) cost and progress to date; and
 - 3) the schedule of construction stages to completion; and
 - 4) the anticipated date of completion.
- b) Failure to provide the required annual progress reports will result in future applications being considered incomplete until the required reports are received by the Agency.

Section 1130.770 Project Completion, Final Realized Costs and Cost Overruns

Each permit holder is to notify the State Agency regarding completion of the project.

- a) Each permit holder must provide a report of final realized cost on forms provided by the Agency unless there was no project cost. The report shall be certified by an independent auditor and by the chief executive officer of the facility. The report shall be filed no later than 60 days after the end of the fiscal year audit after construction or modification has been concluded. Failure to file this report will result in subsequent applications for permit filed by the permit holder to be incomplete until such report is filed.
- b) If the final realized cost exceeds the originally approved permit amended by more than ten percent, the amount over ten percent shall be considered a cost overrun without permit unless subsequently approved by the State Board. For projects which have been altered and been approved for a revised permit amount, any amount of the final realized cost which exceeds the revised permit amount shall be considered a cost overrun and without permit unless subsequently approved by the State Board.

Section 1130.780 Revocation of a Permit

- a) Revocation proceedings shall be initiated by the State Board for any of the following reasons:
 - 1) The project for which the permit was granted has been altered without approval of the State Board;
 - 2) The permit holder has failed to comply with the authorization to obligate requirements;

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- 3) There has been a change in the amount for which the permit was granted which was not approved by the State Board; or
 - 4) There has been information submitted by the permit holder that is false and material to the issuance of the permit or completion of the project.
- b) If at any time the Agency has information that a reason for revocation of a permit exists pursuant to Section 1130.780 a), the Agency shall provide the permit holder written notification of the allegations and of the date, time and place when such allegations will be reviewed by the State Board. The permit holder will be afforded 30 days following receipt of the Agency notification to prepare and submit a written response to the allegations, which will be submitted along with the Agency report to the State Board for review. AGENCY NOTE: It is the responsibility of the permit holder to assure that the Agency is in receipt of the written response within the prescribed time frame.
 - c) If after reviewing the allegations and the permit holder's response, if any, the State Board finds that a basis for revocation exists pursuant to Section 1130.780(a), it shall issue and transmit to the permit holder a "Notice of an Intent to Revoke" a permit.
 - d) The permit holder may request an administrative hearing by filing a written request with the Chairman within 30 days of receipt of the "Notice of Intent to Revoke" a permit pursuant to 77 Ill. Adm. Code 1180. The administrative hearing shall be conducted in accordance with 77 Ill. Adm. Code 1180.
 - e) If at the end of the 30-day period the permit holder has not responded or requested an administrative hearing the State Board shall at its next regularly scheduled meeting act on the matter of the revocation of the permit. If an administrative hearing has been held, the State Board shall act on the matter of the revocation of the permit following the submission of the hearing officer's report.
 - f) If the State Board orders the revocation of a permit, the Executive Secretary shall transmit the decision to the permit holder by certified mail or shall serve it personally on the permit holder. All inventories shall be amended to indicate the elimination of the proposed project.
 - g) The decision by the State Board on the revocation of a permit constitutes its final administrative decision and shall be subject to the provisions of the Administrative Review Law.

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- Klein and Mason Warehouse, Power Plant at 315 North Klein, Court of Claims, Waterways Building at 201 West Monroe, Legislative Commission at 300 West Monroe, the new Warehouse at 3701 Winchester Road, the Index Division at 111 East Monroe, the Emergency Services at 110 East Adams, the Securities Department at 900 South Spring, the Inspector General/Internal Affairs at 835 South Spring, the Secretary of State Police at 324 West Monroe, the Herndon Building at 421 East Capitol, the Property Control Warehouse Museum Collection Center at 11th and Ash Street, and the Plate Room Facility/Literacy Division at 4th and Jackson, pursuant to Ill. Rev. Stat. 1987, ch. 124, par. 5(7).
2. Added the following text to Section 2005.30(a) after the word "holidays" wherein it first appears: "declared by the Governor pursuant to Section 18 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 18)"
 3. Replaced "may" with "shall" in the third line of Section 2005.30(b).
 4. Added the following text after "person" in Section 2005.30(c): "such as a press pass, government identity card, a driver's license or other document which shows the identity of the person,".
 5. Added the following text to Section 2005.30(c): Factors to be considered in which identification may be requested include, but are not limited to: the security guard does not recognize the individual; the behavior of the individual, and, accessibility to office areas, work area and restricted access area."
 6. Added the text "pursuant to Section 2005.50(d)" to the first sentence of Section 2005.40(e).
 7. Added the text "pursuant to Section 2005.50(d)" to Section 2005.40(e).
 8. Added "pursuant to Section 2005.50(d)" to the second sentence of Section 2005.40(f).
 9. Added the following text to Section 2005.40(f) after "substantially damage the Capitol grounds": "I.e., damage to grass or grounds which would require replacement".
 10. Modified Section 2005.50(f) to read as follows: "A written request in letter form addressed to the Director shall be considered an application. A written response from the Director approving part or all of the application shall be considered the permit."
 11. Modified the first sentence of Section 2005.60(a)(4) to read, in relevant part: "... tax exempt number form received from the United States Internal Revenue Service pursuant to 26 CFR 1.5(a)(2), as in effect on July 1, 1989 (no subsequent amendments or editions)."

SECRETARY OF STATE

NOTICE OF ADOPTED RULES

12. Added "s" to Conflict" in Section 2005.50(d)(5).
13. Changed "person" to "persons" in the fifth line of the definition of "Demonstration" in Section 2005.20.
14. Changed "and/or" in line of Section 2005.40(b) to "or".
15. Changed "are" in line two of Section 2005.60(b) to "is".
16. Changed "person" to "persons" in the last sentence of Section 2005.40(i).
17. Rewrote the authority note.
18. Deleted the words "and codified" in the main source note.
19. In Section 2005.10, line 1, changed "These rules are" to "This Part".
20. In Section 2005.20 indented the definitions to the right 1/2 inch.
21. In Section 2005.30(b)(6), line 2, changed "subsection 1 to 4 of this Section." to "subsections (b)(1) to (4) of this Section."
22. In Section 2005.40(d), line 4, changed "workmen" to "workers".
23. In Section 2005.80(b) specified the Sections and title of the Act which corresponds to the statutory citation.
24. In Section 2005.20, the definition of "Commercial Activity", add at the end of the sentence the phrase "and shall not include the solicitation of donations by anyone during a demonstration, or for charitable purposes, as defined by the Charitable Trusts Act (Ill. Rev. Stat. 1987, ch. 14, par. 51 et seq.) and An Act to regulate solicitations and collection of funds for charitable purposes. (Ill. Rev. Stat. 1987, ch. 23, par. 5101 et seq.)."
25. In Section 2005.20, reworded the definition of "Demonstration".
26. Added a new definition "Structure" in Section 2005.20.
27. In Section 2005.40(e) added the word "demonstration" before the word "only" in the second sentence and deleted the words "public rallies" in the second sentence. Also deleted the last sentence in 2005.40(d).
28. In Section 2005.40(f) add at the end of the subsection "The only locations which are authorized for structures and displays shall be the paved areas between the Centennial Building and the Capitol

39. Reworded Section 2005.50(d)(3) to read as follows: Endanger the health and safety of the permit applicants or other persons;"

40. Added a new subsection (g) in Section 2005.50.

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 an emergency rule amendment currently in effect? No

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

15) Summary and Purpose of Amendments:

The purpose of this rulemaking is to establish reasonable time, place, and manner regulations for the use of the Capitol Complex by groups of persons exercising their free speech rights. The rules also declare the public business hours of the Capitol Building. The rules regulate the use of government property for commercial ventures.

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

Phillip S. Howe
 Counsel to the Secretary
 298 Centennial Building
 Springfield, Illinois 62706
 (217)785-3094

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

29. In Section 2005.40(1) add at the end of the subsection the words "from their own actions or the actions of persons or organizations controlled or directed by them at the time of the damage to estate property."

30. Renamed Section 2005.60 to read "Use of Buildings for Non-Demonstration Activity or Fund Raising Events".

31. In Section 2005.60(a) after the word "application" added the words "by letter". Also inserted the sentence "The application shall state the name of the organization, the date requested for the sale or activity, the location requested, and any alternative dates and locations" after the last sentence.

32. Add a new subsection (f) in 2005.60 which states "Nothing in this Section shall give the Director authority over the use of the Legislative chambers, meeting rooms, or committee rooms of the General Assembly. The use of each room shall be decided according to legislative rules."

33. In Section 2005.70(c) added the word "written" before the word "permit".

34. Deleted subsection (e) in Section 2005.70.

35. Changed Section 2005.50(d) to add the new definitions of "interfere" or "interference".

36. In Section 2005.50(a) add after the word "contemplated," the words "reasonably foreseeable, resulted from changed circumstances,".

37. After the second sentence in Section 2005.50(c) add the sentence "The marshals' duties shall include making certain, to the best of his/her ability under the circumstances, that the conditions of the permit are met, that compliance with the rules occurs, that the demonstration remains peaceful and orderly, and the participants remain within the physical boundaries of the permit."

38. Reworded Section 2005.50(d)(2) to read as follows: "not occur in the area designated and will create or cause a health and/or safety hazard and will impede substantially the performance of public business to be conducted in the area;".

SECRETARY OF STATE

NOTICE OF ADOPTED RULES

TITLE 71: PUBLIC BUILDINGS, FACILITIES, AND REAL PROPERTY
CHAPTER IV: SECRETARY OF STATEPART 2005
THE USE OF THE CAPITOL COMPLEX FACILITIES

Section	
2005.10	Applicability
2005.20	Definitions
2005.30	Business Hours and Public Access
2005.40	Prohibited Activities
2005.50	Demonstrations
2005.60	Use of Buildings for Non-Demonstration Activity or Fund Raising Events
2005.70	Distribution of Leaflets and Solicitations of Funds
2005.80	Secretary of State Police Department
2005.90	Severability

AUTHORITY: Implementing and authorized by Section 5(7) of "AN ACT to revise the law in relation to the Secretary of State" (Ill. Rev. Stat. 1987, ch. 124, par. 5(7)).

SOURCE: Adopted at 14 Ill. Reg. 7228, effective May 1, 1990.

Section 2005.10 Applicability

This Part is applicable to the use of the Stratton Building, the Visitors' Center, the Supreme Court Building, the Capitol Building, the Willard Ice Revenue Building, the Department of Driver Services Building, the Centennial Building and their grounds, the Archives Building, Driver's License Facility Mechanical Services Building at 316 North Klein, Klein and Mason Warehouse, Power Plant at 315 North Klein, Court of Claims, Waterways Building at 201 West Monroe, Legislative Commission at 300 West Monroe, the new Warehouse at 3701 Winchester Road, the Index Division at 111 East Monroe, the Emergency Services at 110 East Adam, the Securities Department at 900 South Spring, the Inspector General/Internal Affairs at 835 South Spring, the Secretary of State Police at 324 West Monroe, the Herndon Building at 421 East Capitol, the Property Control Warehouse Museum Collection Center at 11th and Ash Street, and the Plate Room Facility/Literacy Division at 4th and Jackson, pursuant to Ill. Rev. Stat. 1987, ch. 124, par. 5(7) (AN ACT to revise the law in relation to the Secretary of State).

Section 2005.20 Definitions

"Building" means the Stratton Office Building, Visitors' Center, the Capitol Building, the Centennial Building, and other buildings named in Section 2005.10 of this Part, in Springfield, Illinois.

SECRETARY OF STATE

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"Capitol Complex" means all buildings, grounds, and parking lots herein identified with boundaries being Washington Street, Third Street, Cook Street, and Pasfield Street in the City of Springfield, based upon Section 3.08 of the Space Needs Act (Ill. Rev. Stat. 1987, ch. 63, par. 223.08).

"Commercial Activity" means an activity whose primary purpose is to obtain a profit for the benefit of an individual, or business entity organized for profit and shall not include the solicitation of donations by anyone during a demonstration, or for charitable purposes, as defined by the Charitable Trusts Act (Ill. Rev. Stat. 1987, ch. 14, par. 51 et seq.) and An Act to regulate solicitations and collection of funds for charitable purposes. (Ill. Rev. Stat. 1987, ch 23, par. 5101 et seq.).

"Demonstration" means demonstrating, picketing, marching, rallying, selling non-commercial printed matter or materials, moving in procession, holding of vigils, and all other forms of public demonstrative activity that involve the communication or expression orally or by conduct, of views or grievances, engaged in by one or more persons, the conduct of which has the effect, intent, or propensity to draw a crowd or onlookers within 100 feet of the buildings named in Section 2005.10 of this Part or on the Capitol Complex grounds, or within the building or the Capitol. Demonstration shall also mean demonstrating, parading, picketing, speechmaking, holding of vigils, sit-ins, or other activities, conducted for the purpose of demonstrating approval or disapproval of governmental policies or practices (or the lack thereof), expressing a view on public issues, or bringing into public notice any issue or other matter. However, nothing herein shall be construed to govern lobbyists or lobbying as defined by the Lobbyist Registration Act (Ill. Rev. Stat. 1987, ch. 63, par. 171 et seq.), nor shall a demonstration mean the peaceful contact or discussions by one or more persons with elected representatives during a legislative session, or with executive branch officials, concerning their view on public or personal issue.

"Director" means the Director or Acting Director of the Department of Physical Services of the Office of the Secretary of State of Illinois.

"Grounds" shall mean the grass areas, garden areas, and shall exclude all parking areas in the Capitol Complex.

"Interfere" or "interference" shall mean the type of conduct which by its nature tends to hinder, disrupt, or obstruct the orderly function of the official enterprises being carried on in the building or on the land of the building or Capitol Complex.

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SECRETARY OF STATE

NOTICE OF ADOPTED RULES

display structure is part of symbolic expression in the exercise of free speech guaranteed by the First Amendment to the United States Constitution and Article I, Sections 4 and 5 of the 1970 Illinois Constitution. No more than 2 tents or small structures may be erected at the location designated by the Director, which location will not impede pedestrian or vehicular traffic or substantially damage the Capitol grounds i.e., damage to grass or grounds which would require replacement. The only locations which are authorized for structures and displays shall be the paved areas between the Centennial Building and the Capitol Building, in the north front of the Centennial Building and between the Stratton Building and the Archives Building. No structures or displays will be placed on grass areas which have an underground watering system on them.

- g) The display of commercial signs, placards, or other forms of advertisement, or the sale, display, or vending of commercial products or articles in the buildings or on the grounds is prohibited, except pursuant to contract with the State Government.
- h) The noise level from demonstrators, picketers, and protestors of any group or groups, or as individuals within the Capitol Building rotunda shall not exceed a decibel level of 85dB(A). If the noise level from these persons exceeds this limit, the Director shall direct all persons to decrease the noise or to reduce the numbers of people within the Capitol Building to lower the noise level to the specified level, which shall not exceed 75dB(A).
- i) No person or organization shall damage, destroy, remove, deface, defile, tarnish, or injure in any way State property within the buildings or on the grounds thereof. All persons and organizations engaging in this type of prohibited activity will be responsible for all costs, expenses, damages, and liability resulting from their own actions or the actions of persons or organizations controlled or directed by them at the time of the damage to state property.
- j) No skateboard riding is allowed in the Capitol Complex.

Section 2005.50 Demonstrations

- a) The holding or conducting of any demonstration, public meeting, gathering, or parade on or in the buildings or their grounds is prohibited unless a permit for such activity is issued by the Director. A written request addressed to the Director must be submitted at least 48 hours in advance of this event to be scheduled, unless the requestor can show by the preponderance of the evidence, that the cause or reason for the requested demonstration, meeting, gathering or parade was not known, contemplated, reasonably foreseeable, resulted from changed circumstances, or in existence within those 48 hours, except that no such request shall take precedence over an activity which was previously scheduled and approved by the Director.

SECRETARY OF STATE

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- b) The written request shall state the name of the individual, organization, corporation, association, society, fraternity, sorority, club, or group of whatever kind or nature seeking to use the building or the grounds. The request shall also list the names and addresses of all officers or leaders, the particular facility desired to be used, the dates and times sought, equipment to be used, or supplied, and the estimated number of the participants.
- c) Any group seeking a permit hereunder that will have 100 or more participants at any demonstration shall have one marshal per 25 participants. Marshals will be identified by insignia supplied by the Director. The marshals' duties shall include making certain, to the best of his/her ability under the circumstances, that the conditions of the permit are met, that compliance with the rules occurs, that the demonstration remains peaceful and orderly and the participants remain within the physical boundaries of the permit.
- d) The Director will issue a permit to an applicant unless he finds that the intended activity will:
 - 1) Unreasonably interfere with the movement of vehicular traffic in the parking lots of the Capitol Complex, or persons within the buildings or on the grounds;
 - 2) Not occur in the area designated and will create or cause a health and/or safety hazard and will impede substantially the performance of public business to be conducted in the area;
 - 3) Endanger the health and safety of the permit applicants or other persons;
 - 4) Be a commercial activity; or
 - 5) Conflicts in date, time, and place with a previously scheduled activity of another applicant or a government agency.
- e) Applicants denied a permit may modify their request to meet the objection and concerns of the Director and may resubmit their application for consideration.
- f) A written request in letter form addressed to the Director shall be considered an application. A written response from the Director approving part or all of the application shall be considered the permit. The written response shall state the reasons for denying in whole or part the request. The Director is required to show by the preponderance of the evidence that an unreasonable interference will occur or is occurring when he denies the request in whole or in part.

c) No alcohol or alcoholic beverages are allowed to be sold, consumed, delivered, or used in the buildings specified in Section 2005.10 of this Part, except as permitted by Section 6-15 of the Liquor Control Act of 1934 (III. Rev. Stat. 1987, ch. 43, par. 130).

d) All organizations that are permitted to use the Capitol Complex buildings or the buildings specified in Section 2005.10 of this Part shall indemnify the State and the Secretary of State from any injury or damage caused by their members' or participants' negligence or willful misconduct. The members who cause the damage or injury are primarily responsible. Such organization shall also restore the used areas to their pre-use appearance and condition, less reasonable wear and tear, and the Director shall be the final decision-maker on the clean-up of the used area. This subsection applies to those organizations listed in subsection (a) of this Section and any other organization receiving permission from the Director to use the specified buildings for meetings or parties.

e) All requests to use the buildings specified in Section 2005.10 or the Capitol Complex will be submitted in writing to the Director at least 48 hours in advance of the proposed starting time of the activity. Nothing in this Section shall give the Director authority over the use of the Chambers, meeting rooms, or committee rooms of the General Assembly. The use of each room shall be decided according to legislative rules.

f) Section 2005.70 Distribution of Leaflets and Solicitation of Funds No organization, including charitable organizations and political parties or candidates, shall distribute leaflets to, or solicit and collect funds from, persons entering or in the buildings specified in Section 2005.10, except from public sidewalks, walkways within the Capitol Complex, or on the north plaza of the Centennial Building.

b) No such distribution or solicitation shall be allowed in any automobile parking area under the control of the Director in Springfield or within business areas in the buildings specified in Section 2005.10 of this Part.

c) Activities included in subsection (a) of this Section shall not be allowed without the written permission of the Director, which shall not be withheld if the request pertains to political activity or charitable solicitation.

d) All requests to engage in such activity must be submitted in writing at least 48 hours in advance of the activity, unless the criteria for requests within less than the 48 hours set forth in Section 2005.50(a) of this Part are met.

g) A person or organization denied a permit in whole or in part, may appeal the denial to the Secretary of State. The appeal shall be in writing, stating the specific reasons why the Director's decision was incorrect and what relief is sought. The appeal must be submitted at least 24 hours prior to the time of the requested demonstration, to allow the Secretary time within which to consider and decide the appeal. The Secretary's decision shall be in writing, and shall be made at least 2 hours prior to the requested demonstration's time of starting. The Secretary's decision shall be final for the purposes of the Administrative Review Act (III. Rev. Stat. 1987, ch. 110, par. 3-101 et seq.).

Section 2005.60 Use of Buildings for Non-Demonstration Activity or Fund Raising Events

a) Organizations that apply to sell baked goods, cards, or other items with a price not to exceed \$50.00 in the buildings specified in Section 2005.10 of this Part shall submit an application by letter to the Director at least 48 hours in advance of the desired start of their sale. The application shall state the name of the organization, the date requested for the sale or activity, the location requested, and any alternative dates and locations.

I) Only one activity at a time will be approved by the Director for each location.

2) The only locations allowed for such sales are the northwest lobby of the Centennial Building, the area on the west side of the Stratton Building Cafeteria, and the area in front of the cafeteria at the Department of Driver Services Building at 2701 South Dirksen Parkway.

3) Sales may occur only during the public business hours.

4) The Director will only approve applications to sell submitted by not-for-profit organizations, who must submit a copy of the organization's tax exempt number form received from the United States Internal Revenue Service pursuant to 26 CFR 1.50(a)(2), as in effect on July 1, 1989 (no subsequent amendments or editions). No organization without a tax exempt number will be allowed to sell in the areas designated.

b) No commercial activity, such as selling real estate, automobiles, or insurance, is allowed in the buildings specified in Section 2005.10 of this Part.

SECRETARY OF STATE

NOTICE OF ADOPTED RULES

Section 2005.80 Secretary of State Police Department

- a) The Secretary of State's Police Department shall enforce all laws within the Capitol Complex and the buildings specified within Section 2005.10 of this Part.
- b) The Illinois statutes applicable to the presentation of order and peace within the specified buildings include, but are not limited to:
 - 1) disorderly conduct in the General Assembly (Section 12 of "AN ACT to revise the law in relation to the General Assembly" (Ill. Rev. Stat. 1987, ch. 63, par. 12));
 - 2) criminal damage to state supported property (Section 21-4 of the Criminal Code of 1961 (the Code) (Ill. Rev. Stat. 1987, ch. 38, par. 21-4));
 - 3) the unauthorized possession of firearms on state property (Section 21-5 of the Code);
 - 4) trespass to state lands (Section 21-5 of the Code);
 - 5) the unauthorized possession of explosives (Section 20-2 of the Code);
 - 6) mob action (Section 25 of the Code);
 - 7) disorderly conduct (Section 26 of the Code);
 - 8) interference with public officials (Section 31 of the Code);
 - 9) interference with judicial procedure (Section 32 of the Code); and
 - 10) threatening a public official (Section 12-9 of the Code).

Section 2005.90 Severability

If any part of these rules shall be held by a court of competent jurisdiction to be invalid, such holding shall not affect the remaining parts hereof.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) The Heading of the Part: Monetary Award Program (MAP)
- 2) Code Citation: 23 Ill. Adm. Code 2735
- 3) Section Numbers:

2735.20	Amendment
2735.30	Amendment
2735.70	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 30-15 et seq. of the Higher Education Student Assistance Law (Ill. Rev. Stat. 1989, ch. 122, par. 30-15 et seq.).
- 5) Effective date of Amendments: May 1, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this proposed amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: April 23, 1990
- 9) Notice of Proposal Published in Illinois Register:

November 27, 1989	13 Ill. Reg. 18251
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- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences from the proposed version: No substantive changes were made to the proposed amendments; at section 2735.20(e) the phrase "of college level study" was deleted.
- 12) Have all the changes agreed upon by the agency and JCAR been made? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on the Part? No

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ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- A) A recipient may receive MAP grant payment for less than Half-time enrollment provided the recipient was Enrolled on at least a Half-time basis throughout the Institution's Tuition refund/withdrawal adjustment period. See Section 2735.70(g).
- B) Effective with Terms beginning on or after July 1, 1990, no person who is incarcerated may receive a MAP grant.
- b) All recipients must demonstrate financial eligibility as determined from the financial data supplied to the Illinois Student Assistance Commission (ISAC). (See: Section 2735.40.)
- c) Eligibility is restricted to undergraduate students.
- 1) MAP recipients must not have received a baccalaureate degree nor have completed more than 150160 semester/225240 quarter credit hours of college level work at all Institutions attended.
- 2) Graduate Students are not eligible for MAP assistance. For purposes of this Part, an Institution shall classify as a "Graduate Student" any student who:
- A) is enrolled in an academic program or course above the baccalaureate level which is leading to any degree above the baccalaureate level; and
- B) is not eligible to receive federal financial assistance (34 CFR 674.2, 675.2, 676.2) as an undergraduate student; and
- C) has completed the equivalent of at least three years of Full-time postsecondary study, either prior to entrance into the academic program or as part of the academic program itself.
- d) A recipient may receive the equivalent of 10 semesters/15 quarters of Full-time equivalent MAP grant payment. See: 23 Ill. Adm. Code 2700.40(h). If a recipient has accumulated less than sixty eligibility units, he/she may receive one additional Term of Full-time MAP assistance.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- e) If an Applicant has completed more than 150160 semester/225240 quarter hours of college level study, the Applicant shall be allowed one additional Term of MAP eligibility provided:
- 1) the additional Term is used the final Term necessary to complete an undergraduate degree; and
- 2) the Applicant has not received the equivalent of 10 semesters/15 quarters of Full-time MAP grant payments.
- f) Seniors in their last Term of enrollment prior to receiving a baccalaureate and Applicants Enrolled in student teaching are classified as Full-time Students for purposes of MAP grant eligibility.

(Source: Amended at 14 Ill. Reg. 7242, effective May 1, 1990)

Section 2735.30 Application for MAP Grants

- a) An Applications for a MAP grant must be submitted annually. Applicants may use any one of the following forms to apply for MAP grants: forms which the United States Department of Education (ED) designates as an application form for the Pell Grant program. See Section 483 of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1090).
- ~~1) Application for Federal Student Aid (AFSA), published by the United States Department of Education (ED); or~~
- ~~2) Family Financial Statement (FFS), published by the American College Testing Program (ACT); or~~
- ~~3) Financial Aid Form (FAF), published by the College Scholarship Service (CSS); or~~
- ~~4) Application for Federal and State Student Aid (AFSSA), published by the ISAC; or~~
- ~~5) Applications approved by ISAC.~~
- b) Application Deadlines
- 1) Regular School Year applications must be received before June 1 from students who were Enrolled in a postsecondary Institution during the previous Regular School Year. Regular School Year applications must be received before October 1 from students not Enrolled during the previous Regular School Year. Applications for second semester or third quarter, only, must be received by March 15 of the regular School Year.

NOTICE OF ADOPTED AMENDMENTS

- 2) The payment of the term award by ISAC will require the institution of record to receive MAP payment on behalf of both institutions and to distribute the appropriate share of the award to the other institution. Payment by ISAC will not be made to two institutions.
- 3) The amount paid cannot exceed the maximum term award for full-time or half-time students at the institution of record, or the tuition and mandatory fee costs of attending both if the costs are less than the maximum term award.
- 4) Concurrent registration is limited to MAP approved institutions. The records at the institution of record must indicate the total credit hours enrolled.
- e) If a recipient's academic program involves out-of-state and/or foreign study, enrollment must be in accordance with the following provisions:
 - 1) The recipient must be enrolled at the MAP approved institution, and the out-of-state/foreign study must be in conjunction with the approved institution's curriculum;
 - 2) The MAP approved institution must record the course credits on the official academic transcript as institutionally earned credit and not as transfer credit;
 - 3) The recipient must be enrolled full-time and must be charged tuition and fees at least equal to tuition and mandatory fees charged all students.
 - 4) An institution shall not request more than two semesters/three quarters of MAP assistance for any one recipient.

- 2) The MAP approved institution must record the course credits on the official academic transcript as institutionally earned credit and not as transfer credit;
- 3) The recipient must be enrolled full-time and must be charged tuition and fees at least equal to tuition and mandatory fees charged all students.
- 4) An institution shall not request more than two semesters/three quarters of MAP assistance for any one recipient.

- f) If an announced recipient's credit hour enrollment decreases, the institution shall only request payment up to the amount of actual expenses incurred.
- g) If an applicant withdraws from enrollment after the expiration of the tuition refund/withdrawal adjustment period, the applicant shall receive MAP grant payment for costs incurred up to the term award provided the institution's tuition refund policy indicates the applicant has incurred charges in the amount of the claim.
- h) Eligibility units are accumulated by a recipient whenever MAP funds are disbursed on behalf of the recipient. See: 23 Ill. Adm. Code 2700.40(h).

(Source: Amended at 14 Ill. Reg. 7242, effective May 1, 1990)

NOTICE OF ADOPTED AMENDMENTS

- 2) Applications received between June 1 and October 1 from students enrolled in a postsecondary institution during the previous Regular School Year will be evaluated for grant assistance applicable either to the second semester or the second and third quarter of the Regular School Year.
- 3) All applications received after October 1 but prior to March 15 will be evaluated for grant assistance applicable only to the second semester or the third quarter of the Regular School Year.
- 4) To the extent necessary to administer the program within the limits of the MAP appropriation, the Commission may adjust the deadline dates established by subsection (b).
- c) When an application is incomplete, a notification will be sent to the applicant. The applicant then has an opportunity to furnish the missing information; however, depending on processing schedules, the applicant may be considered only for subsequent term(s).
- d) The ISAC informs applicants that they are MAP recipients on the basis of application data. All announced MAP recipients are subject to verification and the availability of funds.

- a) It is the responsibility of MAP recipients to gain admission to approved Illinois institutions. Illinois institutions are not obligated to admit Monetary Award recipients. Once the recipient is enrolled and attending classes, the institution shall receive tuition payments and other mandatory fees provided by the award. The receiving institution is obligated to provide Monetary Award recipients the same facilities and instructions, at the same charges, as all are provided other students.
- h) The MAP grant shall not pay for academic programs intended to prepare a student for the General Educational Development (GED) Test or for a high school diploma. See: e.g., 23 Ill. Adm. Code 215.
- c) The MAP grant shall not pay for audit courses, credit-by-examination and/or life experience, repeat courses (where a student has already received credit) non-credit course offerings, and correspondence courses. Such course work cannot be used to meet the half-time or full-time requirement.
- d) For any institution which has Concurrent Registration opportunities, the following policy pertains:
 - 1) The recipient must indicate his/her institution of record on the MAP application.

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

- 1) The Heading of the Part: MEDICAL PAYMENT
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: Emergency Action:
140.528 Amendment
- 4) Statutory Authority: Sections 5-5.1 et seq. 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Par(s). 5-5.1 et seq. 12-13)
- 5) Effective Date of Emergency Amendment: April 27, 1990
- 6) If this Emergency Amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable
- 7) Date Filed in Agency's Principal Office: April 27, 1990
- 8) Reason for Emergency: This rulemaking will affect survey methodologies used in nursing facilities to determine, among other things, the status of residents' health and safety. Because of the perceived threat to the health and safety of persons who would be adversely affected by the failure to implement this policy, the Department has determined that an emergency rulemaking is warranted.
- 9) A Complete Description of the Subjects and Issues Involved: This proposed rule change is implementing an annual QUIP assessment to be done concurrently with the annual IOC survey. There is no fiscal impact anticipated.
- 10) Are there any Proposed Amendments pending to this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.7	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.24	Amendment	April 13, 1990 (14 Ill. Reg. 5417)
140.400	Amendment	February 2, 1990 (14 Ill. Reg. 1737)
140.413	Amendment	March 23, 1990 (14 Ill. Reg. 4860)

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<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.420	Amendment	January 26, 1990 (14 Ill. Reg. 1570)
140.421	Amendment	January 26, 1990 (14 Ill. Reg. 1570)
140.435	Amendment	February 2, 1990 (14 Ill. Reg. 1737)
140.436	Amendment	February 2, 1990 (14 Ill. Reg. 1737)
140.461	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.462	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.463	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.475	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.476	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.477	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.478	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.479	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.480	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.481	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.542	Amendment	March 16, 1990 (14 Ill. Reg. 4415)

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMSPART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
140.2 Medical Assistance Programs
140.3 Covered Services Under The Medical Assistance Programs for AFDC, AFDC-MANG, AABD, AABD-MANG, RRP, Individuals Under Age 18 Not Eligible for AFDC, Pregnant Women Who Would Be Eligible if the Child Were Born and Pregnant Women and Infants Under Age One Year Who Do Not Qualify As Mandatory Categorically Needy
140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.5 Covered Medical Services Under GA and AMI
140.6 Medical Services Not Covered
140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Six
140.8 Medical Assistance For Qualified Severely Impaired Individuals
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
140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION/DRUG MANUAL

Section

- 140.11 Enrollment Conditions for Medical Providers
140.12 Participation Requirements for Medical Providers
140.13 Definitions
140.14 Denial of Application to Participate in the Medical Assistance Program
140.15 Recovery of Money
140.16 Termination of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program

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Section

- 140.18 Effect of Termination on Individuals Associated with Vendor
140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
140.20 Submittal of Claims
140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
140.22 Magnetic Tape Billings
140.23 Payment of Claims
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140.25 Overpayment or Underpayment of Claims
140.26 Payment to Factors Prohibited
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140.28 Record Requirements for Medical Providers
140.30 Audits
140.35 False Reporting and Other Fraudulent Activities
140.40 Prior Approval for Medical Services or Items
140.41 Prior Approval in Cases of Emergency
140.42 Limitation on Prior Approval
140.43 Post Approval for items or Services When Prior Approval Cannot Be Obtained
140.71 Drug Manual (Recodified)
140.72 Drug Manual (Recodified)
140.73 Drug Manual Updates (Recodified)

SUBPART C: HOSPITAL SERVICES

Section

- 140.94 Hospital Services (Recodified)
140.95 Participation (Recodified)
140.96 General Requirements (Recodified)
140.97 Special Requirements (Recodified)
140.98 Covered Hospital Services (Recodified)
140.99 Hospital Services Not Covered (Recodified)
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140.102 Heart Transplants (Recodified)
140.103 Liver Transplants (Recodified)
140.104 Bone Marrow Transplants (Recodified)
140.110 Disproportionate Share Hospital Adjustments (Recodified)
140.116 Payment for Inpatient Services for GA (Recodified)
140.117 Hospital Outpatient and Clinic Services (Recodified)
140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201 Payment for Hospital Services After June 30, 1982 (Repealed)

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	140.418	Department of Corrections Laboratory
	140.420	Dental Services
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AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 6503-1 et seq.) and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13).

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; preemptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; recodified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984;

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amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; preemptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912,

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effective May 13, 1986, for a maximum of 150 days; amended at 10 111. Reg. 11440, effective June 20, 1986; amended at 10 111. Reg. 14714, effective August 27, 1986; amended at 10 111. Reg. 15211, effective September 12, 1986; emergency amendment at 10 111. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 111. Reg. 18808, effective October 24, 1986; amended at 10 111. Reg. 19742, effective November 12, 1986; amended at 10 111. Reg. 21784, effective December 15, 1986; amended at 11 111. Reg. 698, effective December 19, 1986; amended at 11 111. Reg. 1418, effective December 31, 1986; amended at 11 111. Reg. 2323, effective January 16, 1987; amended at 11 111. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 111. Adm. Code 141 at 11 111. Reg. 4302; amended at 11 111. Reg. 4303, effective March 6, 1987; amended at 11 111. Reg. 7664, effective April 15, 1987; emergency amendment at 11 111. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 111. Reg. 9169, effective April 28, 1987; amended at 11 111. Reg. 10903, effective June 1, 1987; amended at 11 111. Reg. 11528, effective June 22, 1987; amended at 11 111. Reg. 12011, effective June 30, 1987; amended at 11 111. Reg. 12290, effective July 6, 1987; amended at 11 111. Reg. 14048, effective August 14, 1987; amended at 11 111. Reg. 14771, effective August 25, 1987; amended at 11 111. Reg. 16758, effective September 28, 1987; amended at 11 111. Reg. 17295, effective September 30, 1987; amended at 11 111. Reg. 18696, effective October 27, 1987; amended at 11 111. Reg. 20909, effective December 14, 1987; amended at 12 111. Reg. 916, effective January 1, 1988; emergency amendment at 12 111. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 111. Reg. 5427, effective March 15, 1988; amended at 12 111. Reg. 6246, effective March 16, 1988; amended at 12 111. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140. Table H and 140. Table I recodified to 89 111. Adm. Code 147.5 thru 147.205 and 147. Table A and 147. Table B at 12 111. Reg. 6956; amended at 12 111. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 111. Adm. Code 149.5 thru 149.325 at 12 111. Reg. 7401; amended at 12 111. Reg. 7695, effective April 21, 1988; amended at 12 111. Reg. 10497, effective June 3, 1988; amended at 12 111. Reg. 10717, effective June 14, 1988; emergency amendment at 12 111. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 111. Reg. 12509, effective July 15, 1988; amended at 12 111. Reg. 14271, effective August 29, 1988; emergency amendment at 12 111. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 111. Reg. 16738, effective October 5, 1988; amended at 12 111. Reg.

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17879, effective October 24, 1988; amended at 12 111. Reg. 18198, effective November 4, 1988; amended at 12 111. Reg. 19396, effective November 6, 1988; amended at 12 111. Reg. 19734, effective November 15, 1988; amended at 13 111. Reg. 125, effective January 1, 1989; amended at 13 111. Reg. 2475, effective February 14, 1989; amended at 13 111. Reg. 3069, effective February 28, 1989; amended at 13 111. Reg. 3351, effective March 6, 1989; amended at 13 111. Reg. 3917, effective March 17, 1989; amended at 13 111. Reg. 515, effective March 17, 1989; amended at 13 111. Reg. 515, effective April 3, 1989; amended at 13 111. Reg. 5718, effective April 10, 1989; Sections 140.850 thru 140.896 recodified to 89 111. Adm. Code 146.5 thru 146.225 at 13 111. Reg. 7040; amended at 13 111. Reg. 7025, effective April 24, 1989; amended at 13 111. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 111. Adm. Code 148.10 thru 148.390 at 13 111. Reg. 9572; emergency amendment at 13 111. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 111. Reg. 11516, effective July 3, 1989; amended at 13 111. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 111. Adm. Code 148.120 at 13 111. Reg. 12118; amended at 13 111. Reg. 12562, effective July 17, 1989; amended at 13 111. Reg. 14391, effective August 31, 1989; emergency amendment at 13 111. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 111. Reg. 16992, effective October 16, 1989; amended at 14 111. Reg. 190, effective December 21, 1989; amended at 14 111. Reg. 2564, effective February 9, 1990; emergency amendment at 14 111. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; amended at 14 111. Reg. 4543, effective March 12, 1990; emergency amendment at 14 111. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency amendment at 14 111. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency amendment at 14 111. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 111. Reg. 7141, effective April 27, 1990 emergency amendment at 14 111. Reg. 7249, effective April 27, 1990, for a maximum of 150 days.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

SUBPART E: GROUP CARE

Section 140.528 Payment of Quality Incentive

EMERGENCY

- a) The QIP payment maximum is \$2.00 per day per resident.
b) The allocation of payment among Quality Incentive

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Section 140.528 Payment of Quality Incentive (Cont'd)
EMERGENCY

Standards shall be as follows: Fifty percent (50%) of the incentive dollars will be allocated to the first four standards, under Sections 140.526(b) through (e). That allocation will be divided equally among the four standards. The remaining 50% will be allocated for standard (f) under that Section: "Effective Patient Care Management."

- e) ~~Facilities that qualify for QUIP payment(s) pursuant to Sections 140.525 through 140.529 for services rendered from January 1, 1985, through June 30, 1985, can elect to receive payment(s) under either Sections 140.525 through 140.529 or Sections 140.565 through 140.568 of this Part.~~
- 1) ~~Facilities which elect to receive QUIP payment(s) pursuant to Sections 140.525 through 140.529 for this period, waive the right to receive payment(s) for such time period pursuant to Sections 140.565 through 140.568.~~
- 2) ~~If no election is made, a facility is deemed to have elected to receive QUIP payment(s) pursuant to Sections 140.525 through 140.529 when such QUIP payment(s) would be higher than what the facility would receive pursuant to Sections 140.565 through 140.568.~~
- 3) ~~Sections 140.525 through 140.529 shall apply to reimbursement for all services rendered on or after January 1, 1985.~~
- d) ~~An IDPA assessor will conduct a quality incentive assessment in June 1985. The Department will determine whether or not a facility qualifies for an incentive payment(s) for the period, January 1 through September 30, 1985, based on that assessment. The Quality Incentive assessment conducted between October 1 and December 31, 1985, shall apply for the period October 1, 1985 through June 30, 1986. The quality incentive assessment conducted between January 1 and June 30, 1986 shall apply for the period July 1 through December 31, 1986. Thereafter, the assessment will be conducted semiannually.~~

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Section 140.528 Payment of Quality Incentive (Cont'd)
EMERGENCY

c) The quality incentive assessment will be conducted once a year concurrently with the annual Inspection of Care survey. The rate will become effective in January for those facilities that have a QUIP assessment conducted during the last six months of the year and July for those facilities that have a QUIP assessment conducted during the first six months of the year.

e)d) The Department shall provide written notification to the facility of the amount of the QUIP per diem payment within 45 days of the written notification of achievement.

f)e) If a facility loses its Medicaid certification or State licensure or fails to continue satisfying the basic qualifications under Section 140.525 (b), the Department shall terminate immediately any quality incentive payment(s). If the facility alters the program(s) upon which the QUIP Incentive Payment is based, the Department will reassess the altered program(s). If the reassessment results in a finding that the facility no longer qualifies for QUIP, IDPA will cancel the QUIP payment(s) after 10 days written notice from the Chief of the Bureau of Long Term Quality Care to the facility.

(Source: Emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days)

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SECRETARY OF STATE

NOTICE OF MODIFICATION TO MEET THE OBJECTION
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

In Section 2005.40(f) add at the end of the subsection "The only locations which are authorized for structures and displays shall be the paved areas between the Centennial Building and the Capitol Building, in the north front of the Centennial Building and between the Stratton Building and the Archives Building. No structures or displays will be placed on grass areas which have an underground watering system on them." This change is needed to limit the Director's discretion in approving locations for the placement of structures used during demonstrations. This change also helps resolve the Objection to Section 2005.50(d) by inserting a limit on the exercise of the Director's discretion.

In Section 2005.40(i) add at the end of the subsection the words "from their own actions or the actions of persons or organizations controlled or directed by them at the time of the damage to state property." This addition to the rule clarifies the imposition of liability during or after a demonstration. It removes some vagueness in the scope of the rules as they pertain to demonstrators.

In Section 2005.60 made the following changes:

Reworded Section 2005.60 to read "Use of Buildings for Non-Demonstration Activity or Fund Raising Events" for clarity.

In Section 2005.60(a) after the word "application" added the words "by letter" for clarity in the procedures. Also inserted the sentence "The application shall state the name of the organization, the date requested for the sale or activity, the location requested, and any alternative dates and locations" after the last sentence. This change is needed to give specificity for the application and to distinguish this application from the application for a demonstration.

Add a new subsection (f) in 2005.60 which states "Nothing in this Section shall give the Director authority over the use of the Legislative chambers, meeting rooms, or committee rooms of the General Assembly. The use of each room shall be decided according to legislative rules." This change is needed to clarify the limits of the Director's discretion over certain parts of the Capitol Complex. The Director does not administer the use of the legislative chambers and hearing rooms.

Changes in 2005.70 are designed to clarify the procedures which may be part of a demonstration. The addition of the word "written" in Section 2005.70(c) makes it clear a written permit from the Director is necessary. The deletion of Section 2005.70(e) occurs because demonstration or leaflets cannot be held responsible for the littering activities of persons to whom leaflets are given (Schneider v. State, 308 U.S. 147 (1938)).

SECRETARY OF STATE

NOTICE OF MODIFICATION TO MEET THE OBJECTION
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

B. In response to the Objection to Section 2005.50 the following changes were made:

Change Section 2005.50(d) to add the new definitions of "interfere" or "interference", based upon the Fourth District Appellate Court's definition in People v. Duda, 82 Ill. App. 3d 525, 402 N.E. 2d 819 (1980). This new definition gives judicially approved standards which the Director will use to grant or deny a permit.

In Section 2005.50(a), add after the word "contemplated," the words "reasonably foreseeable, resulted from changed circumstances,". This change is needed to clarify the reasons why a group or person seeking a permit can apply within less than 48 hours prior to the requested demonstration time.

After the second sentence in Section 2005.50(c) add the sentence "The marshals' duties shall include making certain, to the best of his/her ability under the circumstances, that the conditions of the permit are met, that compliance with the rules occurs, that the demonstration remains peaceful and orderly, and the participants remain within the physical boundaries of the permit." This addition is needed to clarify and specify the role of the marshals appointed by the organizers, informs the demonstrators of the expected conduct during the demonstration.

Reworded 2005.50(d)(2) to read as follows: "Not occur in the area designated and will create or cause a health and/or safety hazard and will impede substantially the performance of public business to be conducted in the area;" This change meets the Objection and clarifies the Director's discretion. This change is based on a California rule for that State's Capitol Complex.

Reworded 2005.50(d)(3) to read as follows: "Endanger the health and safety of the permit applicants or other persons;" This change is needed to more clearly state the limits of the Director's discretion.

Added a subsection (g) which reads as follows: "A person or organization denied a permit in whole or in part, may appeal the denial to the Secretary of State. The appeal shall be in writing, stating the specific reasons why the Director's decision was incorrect and what relief is sought. The appeal must be submitted at least 24 hours prior to the time of the requested demonstration, to allow the Secretary time within which to consider and decide the appeal. The Secretary's decision shall be in writing, and shall be made at least 2 hours prior to the requested demonstration's time of starting. The Secretary's decision shall be final for the purpose of

NOTICE OF MODIFICATION TO MEET THE OBJECTION
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

the Administrative Review Act (Ill. Rev. Stat. 1987, ch. 110, par. 3-101 et seq.") This change is needed to address the objection, by providing an appeal process for persons whose applications are denied. The standards the Director uses will be subject to review by the Circuit Courts. The rule as modified contains the standards for the Director's discretion.

OFFICE OF THE STATE FIRE MARSHAL
NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

OFFICE OF THE STATE FIRE MARSHAL

1) Heading of the Part:

Fire Equipment Distributor and Employee Standards

2) Code Citation:

41 Ill. Adm. Code 250

3) Register Citation to Notice of Proposed Amendments:

14 Ill. Reg. 5322 - April 13, 1990

4) Date, Time and Locations of Public Hearing:

May 17, 1990
2:00 P.M. - 5:00 P.M.
Auditorium
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield, Illinois 62703

5) Other Pertinent Information:

May 25, 1990
9:30 A.M. - 3:30 P.M.
Room 9-031
State of Illinois Center
100 W. Randolph Street
Chicago, Illinois 60601

The hearings will be for the sole purpose of gathering public comment on the proposed amendments. Persons interested in presenting testimony at this hearing are advised that the Office of the State Fire Marshal will adhere to the following procedures in the conduct of the hearing:
1. Each person presenting oral testimony will be limited to ten (10) minutes for the presentation of such testimony. This time does not include time for questions which may be asked of the commentator.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

2. The Hearings will end when no further public commentators are present or at the assigned times, whichever is earlier. The Hearing Officer may recess from time to time.
3. In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the Hearing Officer may impose such other rules of procedure, including the order of call of witnesses, as he/she deems necessary.

6) Name and Address of Agency Contact Person:

Questions regarding these proposed amendments or public hearings shall be directed to:

John J. Pavlou
General Counsel
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield, Illinois 62703

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of April 23, 1990, through April 27, 1990, and have been scheduled for review by the Committee at its June, 1990 meeting. Other items not contained in this published list may also be considered by the Joint Committee at its June meeting. Members of the public wishing to express their views with respect to a proposed rule should submit written comments to the Joint Committee at the following address: Joint Committee on Administrative Rules, 509 South Sixth Street, Room 500, Springfield, IL 62701.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>Scheduled for Consideration by JCAR</u>
6/7/90	<u>Department of Rehabilitation Services, Telecommunication Devices for the Hearing Impaired (89 Ill. Adm. Code 890)</u>	2/23/90 14 Ill. Reg. 2844	June, 1990
6/8/90	<u>Illinois Commerce Commission, Relocation Towing (92 Ill. Adm. Code 1710)</u>	2/23/90 14 Ill. Reg. 2721	June, 1990
6/8/90	<u>Department of Children and Family Services, Services Delivered by the Department (89 Ill. Adm. Code 302)</u>	1/5/90 14 Ill. Reg. 00001	June, 1990
6/8/90	<u>Legislative Information System, Access to Legislative Information System Information (3 Ill. Adm. Code 600)</u>	3/9/90 14 Ill. Reg. 3349	June, 1990
6/11/90	<u>Department of Public Aid, Refugee/Entrant/Repatriate Program (89 Ill. Adm. Code 115)</u>	2/16/90 14 Ill. Reg. 2469	June, 1990
6/11/90	<u>Department of Public Aid, Special Eligibility Groups (89 Ill. Adm. Code 118)</u>	2/16/90 14 Ill. Reg. 2473	June, 1990
6/11/90	<u>Department on Aging, Community Care Program (89 Ill. Adm. Code 240)</u>	1/19/90 14 Ill. Reg. 1077	June, 1990
6/11/90	<u>Department of Public Health, Asbestos Abatement for Public and Private Schools in Illinois (77 Ill. Adm. Code 885)</u>	1/5/90 14 Ill. Reg. 172	June, 1990

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Whereas, there is a continuing need for professional cooperation among national, state, and local organizations for which physical fitness, health, physical education, recreation, dance, and sports are a major function; and

Whereas, declaring a Physical Fitness and Sports Month and Physical Education and Sports Week in Illinois would encourage development and promotion of special programs to focus on developing our mental alertness, fostering regular exercise habits, improving our health and self-esteem;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 1990 as PHYSICAL FITNESS AND SPORTS MONTH and May 1-7, 1990, as PHYSICAL EDUCATION AND SPORTS WEEK in Illinois. I urge all citizens to use these occasions to renew their commitments to making regular physical activity an integral part of their lives.

Issued by the Governor April 19, 1990.

Filed with the Secretary of State April 30, 1990.

90-187
PLANT ILLINOIS WEEK

Whereas, April 27, 1990, has been designated Arbor Day in the State of Illinois; and

Whereas, trees can reduce the erosion of our precious topsoil, cut heating and cooling costs, moderate the temperature, cleanse the air of carbon dioxide and other pollutants, produce oxygen, and provide habitat for wildlife; and

Whereas, trees are a renewable source that provide paper, wood for our homes, fuel for our fires, and countless other wood products; and

Whereas, trees in our state increase property values, enhance the economic vitality of business areas, and beautify our communities; and

Whereas, trees, wherever they are planted, are a source of joy and spiritual renewal; and

Whereas, spring is an excellent time for planting. The Illinois Nurseyemen's Association and its members are helping to provide citizens and community-minded organizations with a more healthful and beautiful environment through landscape paintings;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim April 23-30, 1990, as PLANT ILLINOIS WEEK in Illinois. I urge civic, service, church, school, and gardening organizations as well as individual citizens to plant trees, shrubs, and flowers this spring for the benefit of present and future generations.

Issued by the Governor April 19, 1990.

Filed with the Secretary of State April 30, 1990.

90-188
TEACHER APPRECIATION WEEK

Whereas, Illinois teachers have provided dedicated service to their students and a strong commitment to the teaching profession; and

Whereas, citizens and youths alike have benefited greatly from the personal contributions of these teachers; and

Whereas, teachers at every grade level face unique challenges in their profession and should be commended for the exemplary fulfillment of their responsibilities;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 6-12, 1990, as TEACHER APPRECIATION WEEK in Illinois, recognizing the efforts of our children's educators.

Issued by the Governor April 19, 1990.

Filed with the Secretary of State April 30, 1990.

90-189
DAIRY QUEEN DAY

Whereas, the Dairy Queen industry was founded in Illinois on June 22, 1940, in Joliet; and

Whereas, the J.F. McCullough family of Green River, Illinois, was instrumental in developing the Dairy Queen soft serve product and launching the Dairy Queen chain; and

Whereas, Mr. Sherb Noble of Kankakee, Illinois, operated the first store and still owns seven stores; and

Whereas, the number of Dairy Queen stores has grown to more than 5,200 worldwide, 270 of which are in Illinois; and

Whereas, Dairy Queen stores have been serving Illinois citizens for 50 years;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim June 22, 1990, as DAIRY QUEEN DAY in Illinois in celebration of Dairy Queen's 50th birthday.

Issued by the Governor April 23, 1990.

Filed with the Secretary of State April 30, 1990.

90-190
ILLINOIS RIVERS APPRECIATION MONTH

Whereas, Illinois' development as a great state owes much to our rivers and those who explored them such as Marquette, Joliet, and LaSalle, and the builders of the forts and later cities along the banks of these rivers such as Massac on the Ohio, Starved Rock and Creve Coeur on the Illinois, Kaskaskia on the Mississippi, and Dearborn in Chicago; and

Whereas, Illinois communities, which originally flourished on the banks of the avenues of commerce our rivers provide, are today revitalizing their waterfronts to provide both economical and recreational opportunities while preserving important aspects

because of an aging population, the ability to sustain life through increased technology, changes in the setting where health care is delivered, changes in health care financing, and the changing needs of today's health care consumers; and whereas, the supply of nurses is not keeping pace with the demand and there is an urgent need not only to recruit well-qualified candidates into the profession, but to retain nurses in active practice; and whereas, more qualified nurses will be needed in the future to meet the increasingly complex health care needs of the citizens of Illinois; and whereas, the American Nurses Association and the Illinois Nurses Association have declared May 7 as National Nurses Day 1990;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 6-12, 1990, as NURSES WEEK in Illinois in recognition of this state's 110,000 Registered Nurses. Issued by the Governor April 23, 1990. Filed with the Secretary of State April 30, 1990.

90-193

OPERATION LIFESAVER AWARENESS DAY

whereas, the State of Illinois is a leader in supporting safety programs at rail/highway grade crossings; and whereas, more than 374 rail/highway grade crossing accidents occurred in Illinois during the past year, killing 70 people and injuring another 168; and whereas, many of these accidents could have been prevented by increased public awareness of crossing dangers and applicable driving safety laws; and whereas, Operation Lifesaver is the foremost public information and education program dedicated to preventing rail/highway grade crossing accidents in Illinois; and whereas, citizens should use added caution when approaching grade crossings;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 15, 1990, as OPERATION LIFESAVER AWARENESS DAY in Illinois and strongly urge all citizens to take strides to prevent grade crossing accidents and thus eliminate needless injuries and fatalities. Issued by the Governor April 23, 1990. Filed with the Secretary of State April 30, 1990.

90-194

TAKE PRIDE IN AMERICA MONTH

whereas, America is blessed with outstanding natural, cultural, and human resources; and whereas, these resources contribute to the economic and

whereas, Illinois citizens are becoming increasingly aware of the importance of our rivers as habitat for fish and other aquatic organisms, for recreation, as scenic resources, and for clean drinking water, and of the importance of the riparian corridor for soil conservation and wildlife habitat; and whereas, all citizens should be involved in efforts to clean our streams, practice soil conservation, protect scenic areas, and advocate recycling; and whereas, during June the Illinois Environmental Protection Agency and the Department of Conservation will work together to promote such efforts;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim June 1990 as ILLINOIS RIVERS APPRECIATION MONTH, to increase public awareness of the importance of our rivers as resources vital to our state. Issued by the Governor April 23, 1990. Filed with the Secretary of State April 30, 1990.

90-191

"JUST SAY NO" WEEK

whereas, "Just Say No" is a federal government substance abuse prevention initiative; and whereas, across the country, young people and adults have joined together to launch "Just Say No" projects and clubs; and whereas, the campaign is based on the premise that learning how to say "no" to drugs and alcohol, as well as negative peer pressure to use chemicals, may be the most powerful weapon society has in dealing with the substance abuse problem; and whereas, the National Institute on Drug Abuse estimates that five million children from every sector of our society will participate in various functions;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 14-18, 1990, as "JUST SAY NO" WEEK in Illinois, in conjunction with our nation's campaign which involves rallies, marches, and other special events to bring public attention to the problem of drug abuse. Issued by the Governor April 23, 1990. Filed with the Secretary of State April 30, 1990.

90-192

NURSES WEEK

whereas, nurses have a positive impact on people's lives every day by nature of their sound judgment, compassion, and clinical expertise; and whereas, nurses are the largest group of health care providers in this state; and whereas, the demand for nursing services is escalating

social well-being of our individual communities and our nation as a whole; and

Whereas, American citizens are unique in that they possess a volunteer spirit which has been rooted into their frontier tradition; and

Whereas, our future monuments to history and nature depend on this commitment of the American people; and

Whereas, the "Take Pride in America" campaign is a partnership of federal agencies, states, communities, and numerous public and private organizations committed to the wise use of our resources; and

Whereas, this campaign was established to focus attention on public land stewardship efforts by concerned citizens and groups around the country;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 1990 as TAKE PRIDE IN AMERICA MONTH in Illinois, and I call upon all citizens to recognize and participate in this important effort to preserve this country's resources.

Issued by the Governor April 23, 1990.

Filed with the Secretary of State April 30, 1990.

90-195

TOURISM WEEK

Whereas, tourism is one of Illinois' top three industries; and

Whereas, restaurants and hotels contribute greatly to the tourism industry in Illinois; and

Whereas, the National Restaurant Association (NRA), in cooperation with the Illinois Restaurant Association, will host nearly 100,000 restauranteurs and hotel management staff at the 71st NRA Restaurant, Hotel-Motel Show in Chicago's McCormick Place May 19-24, 1990; and

Whereas, as part of the trade show, the Illinois Restaurant Association will host its 5th Annual Illinois Tourism Luncheon;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 20-26, 1990, as TOURISM WEEK in Illinois.

Issued by the Governor April 23, 1990.

Filed with the Secretary of State April 30, 1990.

90-196

ASIAN AMERICAN HERITAGE MONTH

Whereas, Asian Americans are the fastest growing population group in Illinois and the United States; and

Whereas, Asian Americans have contributed to our nation's progress and prosperity in a wide range of fields including art, architecture, literature, education, government, law, industry, commerce, medicine, science, and technology; and

Whereas, Asian Americans have enriched our cultural heritage, by bringing with them the unique wealth of diverse cultures and traditions of their homelands; and

Whereas, together with all who journeyed to the United States in pursuit of freedom and opportunity, Asian Americans are now an integral part of this nation of immigrants; and

Whereas, every May since 1980, the State of Illinois has paid special tribute to the Asian American community for its contributions to our state and our nation;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 1990 as ASIAN AMERICAN HERITAGE MONTH in Illinois. I urge all citizens to join this celebration recognizing the infinite contributions of Asian Americans to the quality of life in the State of Illinois.

Issued by the Governor April 24, 1990.

Filed with the Secretary of State April 30, 1990.

90-197

CONGRATULATES EDNA S. WALDEN

Whereas, Edna S. Walden has served as an assistant for Illinois Secretary of State Jim Edgar for the past seven and a half years; and

Whereas, Edna has dedicated many hours to civic improvement through her eight years of service on the board of directors for the United Way and 10 years on the board of directors of the Sangamon County School Employees Credit Union; and

Whereas, Edna S. Walden has served the people of Illinois through her work on the Employee Suggestion Award Board, the Summer Internship Program, Operation Lifesaver Railroad Safety Council, and staff liaison for the Prevention Subcommittee of the Literacy Council; and

Whereas, Edna S. Walden also worked with distinction as an elementary school teacher; and

Whereas, Edna S. Walden has been a compassionate and sensitive advocate for the countless young men and women who have participated in internship and fellowship programs. She will be honored for her sincere and devoted service to the fellowship program April 26, 1990, at the fellowship luncheon; and

Whereas, Edna S. Walden has earned the respect and admiration of co-workers, friends, and others fortunate enough to become her acquaintances during her career;

Therefore, I, James R. Thompson, Governor of the State of Illinois, extend congratulations to EDNA S. WALDEN on her outstanding service and dedication to the citizens of our State.

Issued by the Governor April 24, 1990.

Filed with the Secretary of State April 30, 1990.

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patterns of this century; and

Whereas, the people who constitute the work force of this vast transportation industry should be recognized for their outstanding contributions to the daily needs of every farm, home, and business in the communities of this state and this country;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 13-19, 1990, as TRANSPORTATION WEEK in Illinois, and I express the appreciation of all Illinoisans to the people responsible for the efficient and dependable operation of our transport systems.

Issued by the Governor April 24, 1990.

Filed with the Secretary of State April 30, 1990.

90-202

ALL PRESIDENTS DAY

Whereas, on April 30, 1789, George Washington was inaugurated as the United States' first Executive President, an act which represented the official beginning of the Executive Presidency and an act which had a direct impact upon the U.S. Constitution and the organization of our federal government; and

Whereas, the history of our Presidents is intertwined with the development and emergence of the United States as a great and respected world power; and

Whereas, it is only fitting that all Illinoisans join in paying tribute to those who have occupied the Office of the President;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim April 30, 1990, as ALL PRESIDENTS DAY in Illinois.

Issued by the Governor April 25, 1990.

Filed with the Secretary of State April 30, 1990.

90-203

CONGRATULATES WILLIAM P. HOPKINS

Whereas, William P. Hopkins, who joined the Illinois Commerce Commission as Chief Internal Auditor on July 1, 1980, is retiring on May 1, 1990; and

Whereas, Bill has rendered skillful, conscientious service to the departments of Veterans Affairs and Mental Health and Developmental Disabilities, the Capital Development Board, and the Office of the Auditor General; and

Whereas, throughout his 22 years of service to the people of the State of Illinois, Bill has exhibited the highest degree of professional skill and integrity; and

Whereas, Bill has been instrumental in monitoring the integrity of the Illinois Commerce Commission for the last 10 years; and

Whereas, Bill has earned and maintained the highest respect

of those who know him through his work in Illinois state government;

Therefore, I, James R. Thompson, Governor of the State of Illinois, extend congratulations to WILLIAM P. HOPKINS for his meritorious service to our state and wish him a long and satisfying retirement.

Issued by the Governor April 25, 1990.

Filed with the Secretary of State April 30, 1990.

90-204

DAY OF MEMORIAL OF THE WARSAW GHETTO UPRISING

Whereas, the Jewish community in the State of Illinois and all over the world, during the month of April, commemorates the Warsaw Ghetto Uprising; and

Whereas, the Warsaw Ghetto Uprising began on April 19, 1943, and lasted until May 16. Sixty thousand Jews lost their lives resisting Nazi troops; and

Whereas, not since that period has there been such an alarming rate of anti-semitism and racist vandalism against synagogues and Jewish shops in the Chicago area and across the nation; and

Whereas, this memorial encourages all to remember the atrocities that took place less than 50 years ago and to use those memories as the base to educate and inspire our children for a better future; and

Whereas, the remembrance of the Warsaw Ghetto Uprising helps our nation in striving to end racial and religious oppression and renews our commitment to faith and freedom; and

Whereas, the 47th commemoration of the Warsaw Ghetto Uprising, sponsored by the Mid-West Jewish Council, will be held Sunday, April 29, 1990, at Mather High School, Chicago; and

Whereas, citizens of many faiths will be present to pay homage to those heroic individuals who sacrificed their lives for their beliefs in the preservation of basic human rights;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim April 29, 1990, to be a day of memorial of the WARSAW GHETTO UPRISING.

Issued by the Governor April 25, 1990.

Filed with the Secretary of State April 30, 1990.

90-205

LITTLE LEAGUE DAY

Whereas, each year, thousands of Illinois youngsters participate in Little League Baseball programs throughout the state. Some promising athletes obtain their start through the training and practice provided by participating in Little League games; and

present the facts about drinking and driving, to help high school students make informed decisions; and

Whereas, SADD chapters throughout the state will be working to prevent tragic alcohol- and drug-related accidents during the dangerous months of May and June--the time for prom and graduation festivities;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May and June 1990 as STUDENTS AGAINST DRIVING DRUNK MONTHS in Illinois, and I urge all students, parents, and other citizens to support SADD and its worthy efforts.

Issued by the Governor April 25, 1990.
Filed with the Secretary of State April 30, 1990.

90-208

W. CLEMENT AND JESSIE V. STONE DAY

Whereas, the Boys and Girls Clubs of Chicago (BGC) is renaming its headquarters the W. Clement and Jessie V. Stone Leadership Development Center to honor the support, devotion, and encouragement Mr. and Mrs. W. Clement Stone have given to the BGC; and

Whereas, the spirit and philosophy of Mr. and Mrs. Stone have influenced and inspired the work, missions, and goals of the BGC; and

Whereas, Mr. and Mrs. Stone should be commended on their love for children and their emphasis on nurturing Chicago's youth through BGC's 13 facilities; and

Whereas, the dedication of the W. Clement and Jessie V. Stone Leadership Development Center is made possible by a grant from the Aon Corporation;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 3, 1990, as W. CLEMENT AND JESSIE V. STONE DAY in Illinois, in honor of renaming the Boys and Girls Clubs of Chicago headquarters after these two fine individuals.

Issued by the Governor April 25, 1990.
Filed with the Secretary of State April 30, 1990.

90-209

YOUTH SERVICE DAY

Whereas, in October 1988, the Campus Outreach Opportunity League and Youth Service America established the first youth service day; and

Whereas, since that time, the program has adhered to its set purpose, which is to highlight the positive contributions that young people are making to aid their communities; and

Whereas, cities across the nation have pledged their support of this day by instituting special activities to encourage their young residents to serve others in the community;

Therefore, I, James R. Thompson, Governor of the State of

Whereas, many adult volunteers will devote their time and energies to training young ball players, not only in skills of the game, but also in good sportsmanship. Little League programs help develop the good character which is so vital to a youngster's future good citizenship;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim April 29, 1990, as LITTLE LEAGUE DAY in Illinois, in anticipation of a rewarding season for all.

Issued by the Governor April 25, 1990.
Filed with the Secretary of State April 30, 1990.

90-206

OLDER AMERICANS MONTH

Whereas, it is an established and significant tradition to honor older Americans during May and this is particularly significant in May 1990 as we enter a new decade and approach a new century; and

Whereas, the 1990 Illinois theme for Older Americans Month is "Aging with the Times"; and

Whereas, this theme was chosen because these are the times which foresee increasing numbers of Older Americans, times of historical change throughout the world, and times of changing attitudes toward aging and those who have aged; and

Whereas, in Illinois we continually strive for ways to meet the needs of today's older Americans and plan for ways to meet the needs of future generations of older Americans; and

Whereas, as we concentrate on today and look to the future, we also honor the past and celebrate the 25th anniversaries of the Medicare Program and the Older Americans Act;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 1990 as OLDER AMERICANS MONTH in Illinois and urge all of you who are aging with the times to join me as we celebrate the end of an era and prepare for a new century.

Issued by the Governor April 25, 1990.
Filed with the Secretary of State April 30, 1990.

90-207

STUDENTS AGAINST DRIVING DRUNK MONTHS

"Friends don't let friends drive drunk"

Whereas, the leading causes of death among young people are due to drinking and driving, underage drinking, and illicit drug use; and

Whereas, Students Against Driving Drunk (SADD) was established in 1981 to improve young people's knowledge and attitudes about alcohol and drugs, and to help save their lives and the lives of others; and

Whereas, the program provides a series of lesson plans to

90

Illinois, proclaim April 27, 1990, as YOUTH SERVICE DAY in Illinois and urge citizens to take notice of the great willingness to serve that is demonstrated by many of our state's young people.

Issued by the Governor April 25, 1990.

Filed with the Secretary of State April 30, 1990.

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90-210

CONGRATULATES ELI'S CHEESECAKE

Whereas, in October 1988, the Chicago Park District Board decided to renovate Seneca Park and its playground and rename the playground the Eli M. Schulman Playground in memory of the famous Chicago restaurateur; and

Whereas, concerned individuals took that initiative one step further and spearheaded a program to reconstruct the entire park; and

Whereas, the efforts of the city and its residents to preserve an area of safety and beauty in the Streeterville neighborhood will be formally dedicated May 7, 1990;

Therefore, I, James R. Thompson, Governor of the State of Illinois, congratulate ELI'S CHEESECAKE for its efforts in the worthwhile Eli M. Schulman Playground/Seneca Park restoration project.

Issued by the Governor April 26, 1990.

Filed with the Secretary of State April 30, 1990.