

2004

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 28 Issue 50
December 10, 2004
Pages 15716-15892

Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.cyberdriveillinois.com>

Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

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STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Administrative Complaint Procedures for Violations of Title III of HAVA
- 2) Code Citation: 26 Ill. Adm. Code 150
- 3)

<u>Sections Numbers:</u>	<u>Proposed Action:</u>
Section 150.5	New
Section 150.10	New
Section 150.15	New
Section 150.20	New
Section 150.25	New
Section 150.30	New
Section 150.35	New
Section 150.40	New
Section 150.45	New
Section 150.50	New
Section 150.55	New
Section 150.60	New
Section 150.65	New
Section 150.70	New
Section 150.75	New
Section 150.80	New
Section 150.85	New
Section 150.90	New
Section 150.95	New
Section 150.100	New
Section 150.105	New
Section 150.110	New
Section 150.115	New
Section 150.120	New
Section 150.125	New
Section 150.130	New
Section 150.135	New
Section 150.140	New
Section 150.145	New
- 4) Statutory Authority: Authorized by Title IV Section 402 of the Help America Vote Act [HAVA] codified at 42 USC 15301 to 15545 and Section 100/10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/10-5].

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED RULES

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

This proposed Part establishes the procedures to be used by anyone who files a complaint with the State Board of Elections alleging a violation of Title III of HAVA, codified in 42 USC 15301 to 15545. The complaint must be filed within 90 days after the violation or the Federal Election in which the violation occurred; it must be in writing, stating the specific nature of the violation; it must be signed by the complainant and notarized; and it must be well grounded in law and in fact. The complaint must then be served by the complainant upon the Respondent, who is defined as any entity subject to the provisions of Title III of HAVA.

The General Counsel of the State Board of Elections will conduct a preliminary review of the complaint to determine if it alleges a violation of Title III of HAVA and pertains to a Federal Election and to determine whether the complaint alleges sufficient facts to constitute a cause of action. If it is so determined, then the complaint will be assigned to a hearing examiner and proceed to either a public hearing (if requested by the complainant) or a review both to determine whether the complaint is well grounded in fact and law. After the public hearing or review, the hearing examiner will give a written recommendation that shall be given to both parties, the General Counsel and the Board. The matter will then be presented to the Board for final disposition with the granting of the appropriate relief.

If the General Counsel determines that the complaint is not sufficient or does not allege a violation of Title III of HAVA, the complaint will be presented to the Board for either dismissal or referral to the appropriate enforcement agency for further action. With the exception of the preliminary review of the General Counsel, at all times during the course of the proceedings the complainant and respondent will be given an opportunity to be present at any hearing or Board deliberation and to offer evidence and argument.

If the complaint names the Board as a Respondent, the matter will proceed directly to an alternative dispute resolution service unless waived by the complainant.

The complaint must be resolved by the Board within 90 days after the filing of the complaint. If the complaint cannot be resolved within such time and the complainant does not waive the deadline, the matter must be turned over to an alternative dispute resolution service. The matter must then be resolved within 60 days following the transfer of the case.

The proposed Part also establishes general procedures for administrative complaint proceedings that closely track the procedures in place to administer complaints filed under the Campaign Finance Act.

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED RULES

- 6) Will these proposed rules replace any emergency amendments currently in effect? Yes
- 7) Do these proposed rules contain an automatic repeal date? No
- 8) Do these proposed rules contain any incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This Part does not create or expand a state mandate on local government, including school districts.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to:

Steven S. Sandvoss, Acting General Counsel
State Board of Elections
1020 S. Spring St.
Springfield IL 62708
217/557-9939

- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping and financial reporting experience is needed for compliance with this rulemaking.
 - C) Types of professional skills necessary for compliance: Parties involved with these procedures should be represented by legal counsel.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: At the time of the publication of the regulatory agendas this rulemaking was not anticipated.

The full text of the Proposed Rules is identical to the Emergency Rules that begins on page 15840 of this Issue of the *Illinois Register*.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Numbers: 148.40 Proposed Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: These proposed changes to the Department's administrative rules concerning hospital services will allow reimbursement under specified circumstances for outpatient psychiatric clinic services for hospitals that do not provide inpatient psychiatric services. To be eligible for such outpatient reimbursement, a hospital must be either enrolled for the provision of inpatient psychiatric services or have been previously enrolled for the provision of such services on or after June 1, 2002. Under current policy, a hospital must be enrolled to provide psychiatric inpatient services in order to receive payment for outpatient psychiatric clinic services

These proposed changes are directed at maintaining high access to necessary outpatient psychiatric services for Medical Assistance clients. It is anticipated that this access will prevent an increase in acute psychiatric episodes that would require costly inpatient hospital stays.

The proposed changes are expected to result in an additional annual expenditure of approximately \$100,000.

- 6) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
148.126	Amendment	October 8, 2004 (28 Ill. Reg. 13324)

- 10) Statement of Statewide Policy Objective: These proposed amendments do not affect units of local government.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

- 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 this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217)524-0081

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

Any interested persons may review these proposed amendments on the Internet at <http://www.dpaininois.com/publicnotice/>. Access to the Internet is available through any local public library. In addition, the amendments may be reviewed at the Illinois Department of Human Services' local offices (except in Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 100 West Randolph Street, Suite 10-300, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 a.m. until 5:00 p.m. This notice is being provided in accordance with federal requirements at 42 CFR 447.205.

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

- 12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded hospitals
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this Rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the most recent regulatory agendas were published.

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

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMSPART 148
HOSPITAL SERVICES

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- 148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
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- 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
- 148.368 Volume Adjustment (Repealed)
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- 148.390 Hearings

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NOTICE OF PROPOSED AMENDMENT

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AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg.

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131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359, effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency

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amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section 148.40 Special Requirements

- a) Inpatient Psychiatric Services
 - 1) Payment for inpatient hospital psychiatric services shall be made only to:
 - A) A hospital that is a general hospital, as defined in Section 148.25(b), with a functional unit, as defined in Section 148.25(c)(1), that specializes in, and is enrolled with the Department to provide, psychiatric services; or
 - B) A hospital, as defined in Section 148.25(b), that holds a valid license as, and is enrolled with the Department as, a psychiatric hospital, as defined in 89 Ill. Adm. Code 149.50(c)(1).
 - 2) Inpatient psychiatric services are those services provided to patients who are in need of short-term acute inpatient hospitalization for active treatment of an emotional or mental disorder.
 - 3) Inpatient psychiatric services are not covered for Family and Children Assistance (formerly known as General Assistance) program participants who are 18 years of age or older.
 - 4) Federal Medicaid regulations preclude payment for patients over 20 or under 65 years of age in any Institution for Mental Diseases (IMD). Therefore, psychiatric hospitals may not receive reimbursement for services provided to patients over the age of 20 and under the age of 65. In the case of a patient receiving psychiatric services immediately preceding his/her 21st birthday, reimbursement for psychiatric services shall be provided until the earliest of the following:
 - A) The date the patient no longer requires the services; or
 - B) The date the patient reaches 22 years of age.
 - 5) A psychiatric hospital must be accredited by the Joint Commission on the Accreditation of Health Care Organizations to provide services to program participants under 21 years of age or be Medicare certified to provide services to program participants 65 years of age and older. Distinct part psychiatric units and psychiatric hospitals located in the State of Illinois,

DEPARTMENT OF PUBLIC AID

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or within a 100 mile radius of the State of Illinois, must execute an interagency agreement with a Department of Human Services (DHS) operated mental health center (State-operated facility) for coordination of services including, but not limited to, crisis screening and discharge planning to ensure linkage to aftercare services with private practitioners or community mental health services, as described in subsection (a)(6) of this Section.

- 6) Coordination of Care – Purpose. In accordance with subsection (a)(5) of this Section, distinct part psychiatric units and psychiatric hospitals located in the State of Illinois, or within a 100 mile radius of the State of Illinois, must execute a Coordination of Care Agreement in order to participate as a provider of inpatient psychiatric services. The Coordination of Care Agreement shall set forth an agreement between the DHS operated mental health center (State-operated facility) and the hospital for the coordination of services, including but not limited to crisis screening and discharge planning to ensure efficient use of inpatient care. The agreement shall also set forth the manner in which linkage to aftercare services with community mental health agencies or private practitioners shall be carried out.
- 7) Coordination of Care – General Provisions. The general provisions of the Coordination of Care Agreement described in subsection (a)(6) of this Section are as follows:
 - A) The hospital shall agree, on a continuing basis, to comply with applicable licensing standards as contained in State laws or regulations and shall maintain accreditation by JCAHO;
 - B) The provider shall comply with Title VI of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973 and regulations promulgated thereunder which prohibit discrimination on the grounds of sex, race, color, national origin or handicap;
 - C) The provider shall comply with the following applicable federal, State and local statutes pertaining to equal employment opportunity, affirmative action, and other related requirements: 42 USCA 2000e, 29 USCA 203 et seq. and 775 ILCS 25;
 - D) The Coordination of Care Agreement shall remain in effect until

DEPARTMENT OF PUBLIC AID

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amended by mutual consent or cancelled in writing by either party having given 30 days prior notification.

- 8) Coordination of Care – Special Requirements. The hospital shall:
- A) Provide on its premises, the facilities, staff, and programs for the diagnosis, admission, and treatment of persons who may require inpatient care and/or assessment of mental status, mental illness, emotional disability, and other psychiatric problems;
 - B) Notify the community mental health agency that serves the geographic area from which the recipient originated to allow the agency to prescreen the case prior to referring the individual to the designated State-operated facility. The community mental health agency's resources and other appropriate community alternatives shall be considered prior to making a referral to the State-operated facility for admission;
 - C) Complete any forms necessary and consistent with the Mental Health and Developmental Disabilities Code in the event of a referral for involuntary or judicial admission;
 - D) Notify the community mental health agency or private practitioner of the date and time of discharge and invite their participation in the discharge planning process;
 - E) Refer to the State-operated facility only those individuals for whom less restrictive alternatives are documented not to be appropriate at the time based on a clinical determination by the community mental health agency, a private practitioner (if applicable), or the hospital; and
 - F) Notify the State-operated facility prior to planned transfer of an individual and transfer the individual at such time as to assure arrival of the person prior to 11 a.m. Monday through Friday. In unusual situations, transfers may be made at other times after prior discussion between the hospital and the State-operated facility. The individual will only be transported to the State-operated facility when, based on a clinical determination, he/she is medically stable as determined by the transferring physician. A

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copy of the transfer summary from the hospital must accompany the recipient at the time of admission to the State-operated facility.

- 9) Coordination of Care – Special Requirements of the State-Operated Facility. The State-operated facility shall:
 - A) Admit individuals who have been screened as defined in the Coordination of Care Agreement and are appropriate for admission consistent with the provisions of the Mental Health and Developmental Disabilities Code.
 - B) Evaluate individuals for whom the hospital has executed a Petition and Certificate for involuntary/judicial admission consistent with the Mental Health and Developmental Disabilities Code.
 - C) Consider for admission voluntary individuals for whom less restrictive alternatives are documented not to be appropriate at the time, based on a clinical determination by the community mental health agency, private practitioner (if applicable), the hospital, or the State-operated facility.
- 10) Coordination of Care – Special Requirements for the Children's Mental Health Screening, Assessment and Support Services (SASS) Program. For patients under 21 years of age, all inpatient admissions must be authorized through the SASS Program. The hospital shall:
 - A) Prior to admission, contact the Crisis and Referral Entry Service (CARES), the Department's Statewide centralized intake and referral point for a mental health screening and assessment of the patient, pursuant to 59 Ill. Adm. Code 131.40;
 - B) For admissions authorized through a SASS screening, involve the SASS provider in the patient's treatment plan during the inpatient stay and in the development of a discharge plan in order to facilitate linkage to appropriate aftercare resources.
- 11) A participating hospital not enrolled for inpatient psychiatric services may provide psychiatric care as a general inpatient service only on an emergency basis for a maximum period of 72 hours or in cases in which the psychiatric services are secondary to the services for which the period

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of hospitalization is approved.

- b) Inpatient Rehabilitation Services
- 1) Payment for inpatient rehabilitation services shall be made only to a general hospital, as defined in Section 148.25(b), with a functional unit of the hospital, as defined in Section 148.25(c)(2), which specializes in, and is enrolled with the Department to provide, physical rehabilitation services or a hospital, as defined in 89 Ill. Adm. Code 149.50(c)(2), which holds a valid license as, and is enrolled with the Department as, a physical rehabilitation hospital.
 - 2) The primary reason for hospitalization is to provide a structured program of comprehensive rehabilitation services, furnished by specialists, to the patient with a major handicap for the purpose of habilitating or restoring the person to a realistic maximum level of functioning.
 - 3) Inpatient rehabilitation services are not covered for Family and Children Assistance (formerly known as General Assistance) program participants who are 18 years of age or older.
 - 4) For payment to be made, a rehabilitation facility, which includes a distinct part unit as described in Section 148.25(c)(2), must be certified by the Health Care Financing Administration for participation under the Medicare Program (Title XVIII) and must be licensed and/or certified by the Department of Public Health (DPH) to provide comprehensive physical rehabilitation services. Out-of-state hospitals that specialize in physical rehabilitation services must be licensed or certified to provide comprehensive physical rehabilitation services by the authorized licensing agency in the state in which the hospital is located.
 - 5) A rehabilitation facility must meet the following criteria:
 - A) Have a full-time (at least 35 hours per week) director of rehabilitation; a participating general hospital with a functional rehabilitation unit must have a part-time (at least 20 hours per week) director of rehabilitation;
 - B) Have an organized medical staff;

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- C) Have available consultants qualified to perform services in appropriate specialties;
 - D) Have adequate space and equipment to provide comprehensive diagnostic and treatment services;
 - E) Maintain records of diagnosis, treatment progress (notations must be made at regular intervals) and functional results; and
 - F) Submit reports as required by the Department of Public Aid (DPA).
- 6) A rehabilitation facility must provide, or have a contractual arrangement with an appropriate entity or agency to provide, the following minimal services:
- A) Full-time nursing services under the supervision of a registered nurse formally trained in rehabilitation nursing;
 - B) Full-time physical therapy and occupational therapy services; and
 - C) Social casework services as an integral part of the rehabilitation program.
- 7) A rehabilitation facility must have available the following minimal services:
- A) Psychological evaluation services;
 - B) Prosthetic and orthotic services;
 - C) Vocational counseling;
 - D) Speech therapy;
 - E) Clinical laboratory and x-ray services; and
 - F) Pharmacy services.
- 8) The director of rehabilitation must meet the following criteria:

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- A) Provide services to the hospital and its patients as specified in subsection (b)(5) of this Section;
 - B) Be a doctor of medicine or osteopathy;
 - C) Be licensed under State law to practice medicine or surgery; and
 - D) Must have, after completing a one-year hospital internship, at least two years of training or experience in the medical management of inpatients requiring rehabilitation services.
- 9) Personnel of the rehabilitation facility must meet the following minimum standards:
- A) Physicians shall have unlimited licenses to practice medicine and surgery in the state in which they practice. Consultants shall be Board Qualified or Board Certified in their specialty.
 - B) Physical therapists shall be licensed by the Illinois Department of Professional Regulation.
 - C) Occupational therapists shall be licensed by the Illinois Department of Professional Regulation.
 - D) Registered nurses and licensed practical nurses shall be currently licensed by the Illinois Department of Professional Regulation or comparable licensing agency in the State in which the facility is located.
 - E) Social workers shall have completed two years of graduate training leading to a Master's Degree in social work from an accredited graduate school of social work.
 - F) Psychologists shall have a Master's Degree in clinical psychology.
 - G) Vocational counselors shall have a Master's Degree in Rehabilitation Counseling, Psychology or Guidance from a school accredited by the North Central Association or its equivalent.

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- H) An orthotist or prosthetist, certified by the American Board of Certification in Orthotics and Prosthetics, shall fabricate or supervise the fabrication of all limbs and braces.
- c) End-Stage Renal Disease Treatment (ESRDT) Services. The Department provides payment to hospitals, as defined in Section 148.25(b), for ESRDT services only when the hospital is Medicare certified for ESRDT and services are provided as follows:
- 1) Inpatient hospital care is provided for the evaluation and treatment of acute renal disease;
 - 2) Outpatient chronic renal dialysis treatments are provided in the outpatient renal dialysis department of the hospital, a satellite unit of the hospital that is professionally associated with the center for medical direction and supervision, or a free-standing chronic dialysis center certified by Medicare, pursuant to 42 CFR 405, Subpart U (1994); or
 - 3) Home dialysis treatments are provided through the outpatient renal dialysis department of the hospital, a satellite unit of the hospital that is professionally associated with the center for medical direction and supervision, in a patient's home, or through a free-standing chronic dialysis center certified by Medicare, pursuant to 42 CFR 405, Subpart U (1994).
- d) Hospital-Based Organized Clinic Services. Hospital-based clinics, as described in Section 148.25(b)(4), must meet the requirements of 89 Ill. Adm. Code 140.461(a). The following two categories of hospital-based organized clinic services are recognized in the Medical Assistance Program:
- 1) Psychiatric Clinic Services
 - A) Psychiatric Clinic Services (Type A). Type A psychiatric clinic services are clinic service packages consisting of diagnostic evaluation; individual, group and family therapy; medical control; optional Electroconvulsive Therapy (ECT); and counseling, provided in the hospital clinic setting.
 - B) Psychiatric Clinic Services (Type B). Type B psychiatric clinic services are active treatment programs in which the individual

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patient is participating in no less than social, recreational, and task-oriented activities at least four hours per day at a minimum of three half days of active treatment per week. The duration of an individual patient's participation in this treatment program is limited to six months in any 12 month period.

- C) Coverage. Psychiatric clinic services are covered for all Medicaid-eligible individuals. The services are not covered for Family and Children Assistance (formerly known as General Assistance) program participants who are 18 years of age or older.
- D) Approval. The Department of Human Services and DPA are responsible for approval and enrollment of community hospitals providing psychiatric clinic services. In order to participate as a provider of psychiatric clinic services, a hospital must have previously been enrolled with the Department for the provision of inpatient psychiatric services on or after June 1, 2002 or must be currently enrolled for the provision of inpatient psychiatric services and execute a Psychiatric Clinic Services Type A and B Enrollment Assurance with DHS and DPA, which assures that the hospital is enrolled for the provision of inpatient psychiatric services and meets the following requisites:
- i) The hospital must be accredited by, and be in good standing with, the Joint Commission on Accreditation of Health Care Organizations (JCAHO);
 - ii) The hospital must have executed a Coordination of Care Agreement between the hospital and the designated DHS State-operated facility serving the mentally ill in the appropriate geographic area;
 - iii) The clinical staff of the psychiatric clinic must collaborate with the mental health service network to provide discharge, linkage and aftercare planning for recipients of outpatient services;
 - iv) The hospital must agree to participate in Local Area Networks in compliance with P.L. 99-660 and P.A. 86-844; and

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- v) The hospital must be enrolled to participate in Medicaid Program (Title XIX) and must meet all conditions and requirements set forth by DPA.
- E) Duration of Approval. The approval described in subsection (d)(1)(D) of this Section shall be in effect for a period of two years from the date DPA approves the psychiatric clinic's enrollment. The approval may be terminated by DPA or DHS with cause upon 30 days written notice to the hospital. Accordingly, the hospital must submit a 30 day written notification to DPA and DHS when terminating delivery of psychiatric clinic services.
- 2) Physical Rehabilitation Clinic Services
 - A) Physical rehabilitation clinic services include the same rehabilitative services provided to inpatients by hospitals enrolled to provide the services described in Section 148.40(b). Clinic services should be utilized when the patient's condition is such that it does not necessitate inpatient care and adequate care and treatment can be obtained on an outpatient basis through the hospital's specialized clinic.
 - B) Physical rehabilitation clinic services are not covered for Family and Children Assistance (formerly known as General Assistance) program participants who are 18 years of age or older.
- e) Maternal and Child Health Managed Care Clinics. Maternal and Child Health Managed Care Clinics, as described in 89 Ill. Adm. Code 140.461(f) and Section 148.25(b)(5), must meet the requirements of 89 Ill. Adm. Code 140.461(f).
- f) Transition to the Diagnosis Related Grouping Prospective Payment System (DRG PPS) (see 89 Ill. Adm. Code 149)
 - 1) Effective with admissions occurring on or after September 1, 1991, and before October 1, 1992, hospitals shall be reimbursed in accordance with the statutes and administrative rules governing the time period when the services were rendered.
 - 2) Effective with admissions occurring on or after October 1, 1992, hospitals

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that, on August 31, 1991, had a contract in effect with the Department under the Illinois Health Finance Reform Act [20 ILCS 2215] and that elected, effective September 1, 1991, to be reimbursed at rates stated in such contracts, may elect to continue to be reimbursed at rates stated in such contracts for general and specialty care in accordance with subsection (g) of this Section.

- 3) In the case of a hospital that was determined by the Department to be a rural hospital at the beginning of the rate period described in Section 148.25(g)(2)(A), those hospitals that shall be treated as sole community hospitals, as described in 89 Ill. Adm. Code 149.125(b), shall elect one of the following payment methodologies to be used by the Department in reimbursing that hospital for inpatient services during the rate period described in Section 148.25(g)(2)(A):
 - A) the DRG PPS, as described in 89 Ill. Adm. Code 149, or
 - B) the rate calculated under Section 148.260.
- 4) In the case of a hospital that was not determined by the Department to be a rural hospital at the beginning of the rate period described in Section 148.25(g)(2)(A), but was subsequently reclassified by the Department as a rural hospital, as described in Section 148.25(g)(3), on July 14, 1993, those hospitals that shall be treated as sole community hospitals, as described in 89 Ill. Adm. Code 149.125(b), shall elect one of the following payment methodologies to be used by the Department in reimbursing that hospital for inpatient admissions, or, if applicable, for inpatient services provided on October 1, 1993, and for the duration of the rate period described in Section 148.25(g)(2)(A):
 - A) the DRG PPS, as described in 89 Ill. Adm. Code 149, subject to the provisions of 89 Ill. Adm. Code 149.100(c)(1), or
 - B) the rate calculated under Section 148.260 that would have been in effect for the rate period described in Section 148.25(g)(2)(A) if the hospital had been designated as a sole community hospital on October 1, 1992.
- 5) For the rate periods described in Section 148.25(g)(2)(B), hospitals, as described in 89 Ill. Adm. Code 149.125(b), shall elect one of the following

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payment methodologies to be used by the Department in reimbursing that hospital for inpatient admissions, or, if applicable, for inpatient services provided during such rate periods described in Section 148.25(g)(2)(B):

- A) the DRG PPS, as described in 89 Ill. Adm. Code 149, subject to the provisions of 89 Ill. Adm. Code 149.100(c)(1), or
 - B) the rate calculated under Section 148.260.
- g) Annual Irrevocable Election
- 1) Hospitals described in subsections (f)(2) and (f)(3) of this Section may elect to be reimbursed under the special arrangements described in subsections (f)(2) and (f)(3) at the beginning of each rate period.
 - 2) Hospitals described in subsection (f)(4) of this Section may elect to be reimbursed under the special arrangements described in subsection (f)(4) effective with admissions, or, if applicable, with inpatient services provided, on October 1, 1993, and for the duration of the rate period described in Section 148.25(g)(2)(A).
 - 3) Hospitals described in subsection (f)(5) of this Section may elect to be reimbursed under the special arrangements described in subsection (f)(5) at the beginning of each rate period described in Section 148.25(g)(2)(B).
 - 4) Once a sole community hospital elects to be reimbursed under the DRG PPS, it may not later in that rate period elect to be classified as exempt. Once a sole community hospital elects to be reimbursed as exempt, it may not later in that rate period elect to be reimbursed under the DRG PPS.
 - 5) Hospitals that, on August 31, 1991, had a contract with the Department under the Illinois Health Finance Reform Act may elect to continue to be reimbursed at rates stated in such contracts for general and specialty care. Once such election has been made, the hospital may not later in that rate period elect to be reimbursed under any other methodology.
 - 6) Hospitals that, on August 31, 1991, had a contract with the Department under the Illinois Health Finance Reform Act and have elected to be reimbursed under the DRG PPS may not later elect to be reimbursed at rates stated in such contracts.

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- h) Notification of Reimbursement Methodology
- 1) Hospitals shall receive notification from the Department with respect to the reimbursement methodologies that shall be in effect for admissions occurring during the rate period.
 - 2) Hospitals described in subsections (f)(2), (f)(3), (f)(4), and (f)(5) of this Section shall receive notification of their reimbursement options accompanied by a Choice of Reimbursement form. Each hospital described in subsections (f)(2), (f)(3), (f)(4), and (f)(5) shall have 30 days after the date of such notification to file, with the Department, the reimbursement method of choice for the rate period. In the event the Department has not received the hospital's Choice of Reimbursement form within 30 days after the date of notification, as described in this Section, the hospital will automatically be reimbursed for the rate period under the reimbursement methodology that would have been in effect without benefit of the election described in subsection (g) of this Section.
- i) Zero Balance Bills. The Department requires a hospital to submit a bill for any inpatient service provided to an Illinois Medicaid eligible person, including newborns, regardless of payor. A "zero balance bill" is one on which the total "prior payments" are equal to or exceed the Department's liability on the claim. The Department requires that zero balance bills be submitted subsequent to discharge in the same manner as are other bills so that information can be available for the maintenance of accurate patient profiles and diagnosis-related grouping (DRG) data, and information needed for calculation of disproportionate share and other rates. The provisions of this subsection apply to all hospitals regardless of the reimbursement methodology under which they are reimbursed.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.5060 Proposed Action:
New Section
- 4) Statutory Authority: 35 ILCS 5/501(b)
- 5) A Complete Description of the Subjects and Issues Involved: Section 501(b) of the IITA requires taxpayers to disclose to the Department participation in a reportable transaction. A "reportable transaction" is any transaction that must be disclosed under Treasury Regulations Section 1.6011-4 and includes any listed transaction that is required to be disclosed under Treasury Regulation Section 1.6011-4T or 1.6011-4. In general, disclosure is made by furnishing the Department a copy of the federal disclosure statement. This rulemaking implements the provisions of IITA Section 501(b).
- 6) Will this rulemaking replace an emergency rulemaking currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking 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>IL Register Citation</u>
100.9030	New Section	28 Ill. Reg. 4091, 03/05/04
100.9040	New Section	28 Ill. Reg. 4091, 03/05/04
100.9050	New Section	28 Ill. Reg. 4091, 03/05/04
100.9060	New Section	28 Ill. Reg. 4091, 03/05/04
100.9700	Amendment	28 Ill. Reg. 4509, 03/12/04
100.2196	New Section	28 Ill. Reg. 12778, 09/17/04
100.9900	New Section	28 Ill. Reg. 14090, 10/29/04

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

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Brian Stocker
Staff Attorney - Income Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-7055

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking affects any taxpayer that participates in a reportable transaction and is required to file a federal disclosure statement.

B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking requires taxpayers that participated in a reportable transaction to furnish the Department a copy of the federal disclosure statement associated with that transaction. Therefore, this rulemaking does not impose significant additional reporting, bookkeeping or other procedures required for compliance.

C) Types of professional skills necessary for compliance: No new skills are required.

13) Regulatory Agenda on which this rulemaking was summarized: July 2004

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment on page 15858 of this issue of the Illinois Register.

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- 1) Heading of the Part: Standards of Service Applicable to 9-1-1 Emergency Systems
- 2) Code Citation: 83 Ill. Adm. Code 725
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
725.101	Amendment
725.105	Amendment
725.200	Amendment
725.205	Amendment
725.210	Amendment
725.220	Amendment
725.305	Amendment
725.400	Amendment
725.500	Amendment
725.505	Amendment
725.600	Amendment
725.620	Amendment
725.700	Amendment
725.800	Repeal
725.805	Repeal
725.810	Amendment
725.Appendix A	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 10 of the Emergency Telephone System Act [50 ILCS 750/10]
- 5) Effective Date of Amendments: December 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? Yes
- 8) A copy of the adopted amendments , including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 28 Ill. Reg. 3636; February 27, 2004
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:

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Section 725.505(i)(1): Replace "the effective date of this amendment" with "December 1, 2004"; replace "within 24 months after the effective date of this amendment" with "by December 1, 2006".

Section 725.810: Replace "one year after the effective date of this Part" with "until December 1, 2005".

- 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 any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The amendments will account for changes in the telecommunications industry since the last revision of Part 725 in 1996. The amendments recognize the existence of competitive local exchange carriers, which the previous rules did not treat. The amendments also account for changes in telecommunications technology and Federal Communications Commission rules.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Conrad S. Rubinkowski
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

(217)785-3922

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

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

PART 725

STANDARDS OF SERVICE APPLICABLE TO 9-1-1 EMERGENCY SYSTEMS

SUBPART A: GENERAL PROVISIONS

Section	
725.100	Application of Part
725.101	Waivers
725.105	Definitions

SUBPART B: AUTHORIZATION TO OPERATE

Section	
725.200	General Requirements
725.205	Tentative Plans
725.210	Final Plans
725.215	Order of Authority
725.220	Records and Reports
725.225	Auditing

SUBPART C: MANAGEMENT AND STAFFING

Section	
725.300	Management Systems
725.305	Commission Liaison

SUBPART D: STANDARDS OF SERVICE

Section	
725.400	General Standards

SUBPART E: ENGINEERING

Section	
725.500	Telecommunications Carriers
725.505	Public Safety Answering Point

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SUBPART F: OPERATIONS

Section	
725.600	System Review
725.605	Written Operating Procedures
725.610	Call Handling Procedures
725.615	Electronic Communication Devices
725.620	Disaster Procedures

SUBPART G: FACILITIES

Section	
725.700	Physical Security

SUBPART H: SURCHARGE

Section	
725.800	Assessment of Surcharge (Repealed)
725.805	Surcharge Billing (Repealed)
725.810	Telecommunications Carrier Surcharge Administration and Monthly Report to the Emergency Telephone System Board

725.APPENDIX A Telecommunications Carrier Monthly Report to ETSB

AUTHORITY: Implementing and authorized by Section 10 of the Emergency Telephone System Act [50 ILCS 750/10].

SOURCE: Adopted at 4 Ill. Reg. 2, p. 163, effective December 31, 1979; amended at 5 Ill. Reg. 888, effective January 9, 1981; codified at 8 Ill. Reg. 12188; Part repealed, new Part adopted at 20 Ill. Reg. 5335, effective April 1, 1996; amended at 28 Ill. Reg. 15742, effective December 1, 2004.

SUBPART A: GENERAL PROVISIONS

Section 725.101 Waivers

- a) A public agency or a telecommunications carrier may file a petition pursuant to 83 Ill. Adm. Code 200 for a temporary waiver from compliance with the requirements of Sections 725.205(d); 725.210(e); 725.220(c); 725.400(a), (d)(3)

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and (f); 725.500(c), (h), (i), (j), (k), (o), (p) and (q); 725.505(a), (e), (g), (i), (m) and (y); 725.620(b); [725.700](#); and 725.Appendix A, if the petitioner alleges that compliance with the provision is either technologically infeasible or that it is financially incapable of complying with the requirement. The petition must include a proposed schedule for compliance with the provision. In determining whether to grant a waiver from a specified requirement, the Commission shall consider the economic impact of compliance, costs and rate consequences (if applicable), and the effect of the waiver on the provision of emergency services.

- b) If granted, [this](#) waiver will be effective for a period of up to one year from the date of the order granting the waiver. A party seeking an extension of the waiver period must file a separate petition with the Commission. Any extension of the waiver period shall be for no longer than one year. A party may file for and be granted more than one waiver and more than one extension of the waiver period.

(Source: Amended at 28 Ill. Reg. 15742, effective December 1, 2004)

Section 725.105 Definitions

In the interpretation of this Part, the following definitions shall be used.

["9-1-1 System" – The geographic area that has been granted an order of authority by the Commission to use "9-1-1" as the primary emergency telephone number. \[50 ILCS 750/2.19\]](#)

"A' Links" – Message trunks capable of providing ANI connecting the serving central office of the 9-1-1 calling party and the designated 9-1-1 [selective routertandem control office](#).

"Access Line" – The connecting facility between a customer's premises network interface device and the local exchange carrier's facility that provides access to the switching network for local exchange and interexchange telecommunications service.

"Aid Outside Normal Jurisdiction Boundaries Agreement" – A written cooperative agreement entered into by all participating and adjacent agencies and public safety agencies providing that, once an emergency unit is dispatched to a request through a system, [that](#) unit shall render its services to the requesting party without regard to whether the unit is operating outside its normal

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jurisdictional boundaries.

"Alternate Routing" – Alternate routing allows 9-1-1 calls to be alternatively rerouted to another Public Safety Answering Point (PSAP) location in the case of the overflow calls on the "B" link or PSAP failure.

"Audible Signal" – A buzzer, bell, or tone device used to alert an individual that appropriate action is required.

~~"Automatic Alarm" or and "Automatic Alerting Device" – Any device thatwhich will access the 9-1-1 system for emergency services upon activation and does not provide for two-way communication. [50 ILCS 750/2.14]~~

~~"Automatic Location Identification" or "ALI" – In an E9-1-1 system, the automatic display at the PSAP of the caller's telephone number, the address/location of the telephone and supplementary emergency services information transmission of the originated caller's service address.~~

"Automatic Number Identification" or "ANI" – Automatic display of the 9-1-1 calling party's number on the PSAP monitor.

~~"B' Links" – The special service circuits between the 9-1-1 selective routers tandem control offices and the PSAP.~~

"Backup PSAP" – A Public Safety Answering Point thatwhich serves as an alternate to the primary PSAP for enhanced systems and is located at a different location than the municipality's/county's primary PSAP providing the service; thatwhich will accept overflow calls and calls that are rerouted due to "B"-link failure or because the primary PSAP is disabled.

"Basic 9-1-1" – A general term thatwhich refers to an *emergency telephone system thatwhich automatically connects a person dialing the digits "9-1-1" to an established PSAP through normal telephone service facilities.* [50 ILCS 750/2.07]

~~"Billing Concession" – A telecommunications carrier service where employees are offered services at discounted rates.~~

"Busy Hour" – The two consecutive half-hours each day during which the greatest volume of traffic is handled in the central office.

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"Busy Tone" – An audible signal indicating a call cannot be completed because the called access line is busy. The tone is applied 60 times per minute.

"Call Box" – A device that is normally mounted to an outside wall of the serving telecommunications carrier central office and designed to provide emergency on-site answering by authorized personnel at the central office location in the event a central office is isolated from the PSAP.

"Called Party Hold" – A telephone service feature that enables the called party to maintain a connection, even if the calling party has hung up, on any circuit so equipped.

"Call Referral" – A 9-1-1 service in which the PSAP telecommunicator provides the calling party with the telephone number of the appropriate public safety agency or other provider of emergency services.

"Call Relay" – A 9-1-1 service in which the PSAP telecommunicator takes the pertinent information from a caller and relays that information to the appropriate public safety agency or other provider of emergency services.

"Call Transfer" – A 9-1-1 service in which the PSAP telecommunicator receiving a call transfers that call to the appropriate public safety agency or other provider of emergency services.

"Central Office" – A switching office/facility in a telephone system ~~that~~which provides service to the general public, having the capability of terminating and interconnecting subscriber lines and/or trunks.

"Circuit" – The physical connection (or path) of channels, conductors, and equipment between two given points through which an electronic signal may be established.

"Centrex-type Service" – A telecommunications carrier central office based service with characteristics similar to those of private branch exchange type systems. When making an emergency call from a Centrex phone, it is necessary to dial an outside access code, typically the digit 9, before dialing the 9-1-1 emergency number.

"Commission" – The Illinois Commerce Commission.

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"Control Office" – The control office controls the switching of ANI and selective routing information to the appropriate PSAP. The control office serves as a tandem switch in the 9-1-1 network.

"Dedicated Direct Trunking" – An arrangement where a telephone line connection has no intermediate switching points between the originating central office and PSAP location. The facilities utilized in this arrangement may be either intra- or inter-exchange.

"Default Routing" – A feature ~~thatwhich~~ allows E9-1-1 calls to be routed to a designated default PSAP if the incoming E9-1-1 call cannot be selectively routed due to ANI failure, garbled digits, or other causes ~~thatwhich~~ prevent selective routing.

"Direct Dispatch" – A 9-1-1 service ~~thatwhich~~ provides for the direct dispatch by a PSAP telecommunicator of the appropriate unit upon receipt of a telephone request for ~~thesueh~~ services and the decision as to the proper action to be taken.

"Diverse Routing" – The practice of routing circuits along different physical paths in order to prevent total loss of 9-1-1 service in the event of a facility failure.

"E9-1-1 ~~Selective Router Tandem Office~~" – A telecommunications carrier switching office or stand alone selective routing switch equipped with enhanced 9-1-1 service capabilities. This switch serves as an E9-1-1 ~~selective router tandem office~~ for 9-1-1 calls from other local offices in the 9-1-1 service area.

"Emergency Call" – A telephone request for emergency services ~~thatwhich~~ requires immediate action to prevent loss of life, reduce bodily injury, prevent or reduce loss of property, and ~~anysueh~~ other situations as are determined by local custom.

"Emergency Service Number" or "ESN" – Sometimes known as emergency service zone (ESZ). An ESN is a three to five digit number representing a unique combination of public safety agencies (police, fire, and emergency medical service) designated to serve a specific range of addresses within a particular geographical area or ESZ. The term ESZ refers to the geographic area itself and is generally used only during the ESN definition process to label specific areas. The ESN facilitates the selective routing of calls to appropriate PSAPs. An ESN is a three to five digit number representing a unique combination of emergency service agencies designated to serve a specific range of addresses within a

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~~particular geographical area.~~

"Emergency Telephone System Board" or "ETSB" – A board appointed by the corporate authorities of any county or municipality that provides for the management and operation of a 9-1-1 system within the scope of ~~those such~~ duties and powers as are prescribed by the Emergency Telephone System Act (ETSA) [50 ILCS 750]. The corporate authorities shall provide for the manner of appointment, provided that members of the board meet the requirements of the statute.

"English Language Translation" or "ELT" – Database table that provides the names of the public safety agencies associated with an ESN/ESZ number, that is displayed on the ALI screen at the PSAP.

"Enhanced 9-1-1" or "E9-1-1" – A general term ~~that which~~ refers to an emergency telephone system with specific electronically controlled features such as ALI, ANI, or Selective Routing, and ~~that which~~ uses the master street address guide (MSAG) geographic files.

"Error Ratio" – The percentage of database records that is not MSAG valid for a specific 9-1-1 system.

"Exempt Lines" – Exempt lines are lines other than those for which a 9-1-1 surcharge may be imposed under the criteria set forth in Section 15 of the ETSA [50 ILCS 750/15]. Exempt lines include, but are not limited to, telecommunications carrier official lines and federal government lines.

"Forced Disconnect" – A feature ~~that which~~ allows the PSAP to release a telephone connection, even though the calling party has not been disconnected, to avoid caller jamming of the incoming trunks.

"Grade of Service" – The probability (P), expressed as a decimal fraction, of a telephone call being blocked. P.01 is the grade of service reflecting the probability that one call out of one hundred will be blocked.

"Idle Circuit Tone Application" – A feature ~~that which~~ applies a distinctive tone toward the PSAP attendant to distinguish between calls that have been abandoned before the attendant answers and calls where the caller is unable to speak for some reason.

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"Key Telephone System" – A telephone system in which the telephones have multiple buttons permitting the user to directly select the outgoing line on which to place a call. These systems are traditionally found in relatively small business environments, typically in the range of 50 telephones, usually with a small number of lines and stations, in which each station functions as a switch and permits users a choice over the outgoing line on which to place a call.

~~"Local Exchange Carrier" or "LEC" – A telecommunications carrier under the Public Utilities Act that provides local exchange telecommunications services as defined in Section 13-204 of the Public Utilities Act [220 ILCS 5/13-204], except a telecommunications carrier that is owned or operated by one or more political subdivisions, public or private institutions of higher education or municipal corporations of this State.~~

"Local Loop" – A channel between a customer's network interface and its serving central office. The most common form of loop, a pair of wires, is also called a line.

"Local Number Portability" or "LNP" – A process by which a telephone number may be reassigned from one local exchange carrier to another.

"Logging Recorder" – A machine that records both sides of telephone and radio transmissions.

"Master Street Address Guide" or "MSAG" – The computerized geographical file ~~that which~~ consists of all streets and address data within the 9-1-1 system area. This database is the key to the selective routing capability of E9-1-1 systems. It is to match an originating caller to a specific answering point based on the address data. The MSAG may require updating after the initial file is established.

"Mechanical Dialer" – A device that either manually or remotely triggers a dialing device to access the 9-1-1 system. [50 ILCS 750/2.15]

"Network" – The aggregate of transmission systems and switching systems. It is an arrangement of channels, such as loops, trunks, and associated switching facilities.

"Network Connections" – A voice grade communication channel directly between a subscriber and a telecommunications carrier's public switched network, without the intervention of any other telecommunications carrier's switched network,

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~~that~~*which* would be required to carry the subscriber's inter-premises traffic. The connection either:

is capable of providing access through the public switched network to a 9-1-1 system, if one exists; or

if no system exists at the time a surcharge is imposed under Section 15.3 of the ~~ETSA Emergency Telephone System Act~~ [50 ILCS 750/15.3], would be capable of providing access through the public switched network to the local 9-1-1 system if one existed. [220 ILCS 750/2.12(a)]

"Network Segment" – A portion of the network in which there are no intermediate switching points. "A" links and "B" links are network segments.

~~"9-1-1 System" – The geographic area that has been granted an order of authority by the Commission to use "9-1-1" as the primary emergency telephone number.~~

"On-line Date" – A date that is agreed to by all parties as to when a 9-1-1 system is activated for the public.

~~"Operator Services" – Any of a variety of telephone services that need the assistance of an operator or an automated "operator" (i.e., using interactive voice response technology and speech recognition). These services include collect calls, third party billed calls, and person-to-person calls.~~

"Order of Authority" – A formal order of the Commission ~~that~~*which* authorizes public agencies or public safety agencies to provide 9-1-1 service in a geographical area.

"Originating Switchhook Status Indication" – An audible and/or visual indication of the status of a calling party being held.

"Overflow" – A call or position used when a call is blocked or rerouted due to excessive traffic.

"Primary Point of Contact" ~~or "9-1-1 Contact Person"~~ – The ~~individual~~*entity* designated by the ~~9-1-1~~ system management as the contact point for the participating ~~telecommunications carriers~~*local exchange carrier(s)*.

"Private Branch Exchange" or "PBX" – A telephone switchboard with many

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stations not individually connected to the local exchange carrier switching network.

~~"PSAP" – Public Safety Answering Point, sometimes called a Center or 9-1-1 Center; the initial answering location of a 9-1-1 call.~~

"Public Agency" – The State, or any unit of local government or special purpose district located in whole or in part within this State, ~~that which~~ provides police, firefighting, medical or other emergency services or has authority to do so. [50 ILCS 750/2.01]

"Public Safety Agency" – A functional division of a public agency ~~that which~~ provides police, firefighting, medical or other emergency services. [50 ILCS 750/2.02]

"Public Safety Answering Point" or "PSAP", sometimes called a "Center" or "9-1-1 Center"; the initial answering location of a 9-1-1 call.

"Rate Center" – A geographically specified area used for determining mileage and/or usage dependent rates in the public switched network.

"Rehoming" – A major network change ~~that~~ involves moving a customer's local loop termination from one central office wireless center to another. Rehoming generally involves the retermination of private line facilities, although it can simply involve local loop termination for purposes of access to switched services. Rehomes also can be for the purpose of access to switched services. Rehomes also can be for the purposes of the carrier, perhaps in connection with a switch upgrade or switch move/decommission.

"Ringback" – A feature used in conjunction with "Called Party Hold" that allows the PSAP telecommunicator to ringback the caller who has disconnected before the necessary emergency data has been obtained.

"Ringback Tone" – A tone returned to the caller to indicate that a central office is providing ringing current to the called party's circuit.

~~"Route Diversity" – Two or more separate routes of communication arranged to reduce the possibility that, in the event of facility damage or failure, there would be any interruption of communications.~~

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"Secondary PSAP" – A location where a 9-1-1 call is transferred for dispatching purposes.

"Selective Routing" – A switching system ~~that~~^{which} automatically routes calls to predetermined PSAPs, based on the location of the calling telephone number.

"Service Address" – The location of the primary use of the network connection or connections.

"Surcharge" – An amount levied by the corporate authorities of any municipality or county on billed subscribers of network connections for installing and maintaining an Enhanced 9-1-1 system.

"System Management" – The ETSB that provides for the management and operation of a 9-1-1 system within the scope of ~~those~~^{such} duties and powers as are prescribed by the Emergency Telephone System Act. If no ETSB is established, then those persons given the authority to operate the 9-1-1 system by the local public agencies.

"System Provider" – ~~The contracted An~~ entity ~~that is certified as a telecommunications carrier by the Commission~~ providing 9-1-1 network ~~and or selective routing or~~ database services.

"Tandem Trunking" – An arrangement whereby an E9-1-1 call is routed from a central office to the 9-1-1 ~~selective router tandem control office~~ to the PSAP.

"TDD" – A telecommunications device for the deaf. See "TTY."

"Telecommunications Carrier" – Shall have the same meaning as defined in Section 13-202 of the Public Utilities Act [220 ILCS 5/13-202], including those carriers acting as resellers of telecommunications services. For the purpose of 9-1-1 service, this definition shall include telephone systems operating as mutual concerns. A telecommunications carrier under the Public Utilities Act may provide competitive or noncompetitive local exchange telecommunications services or any combination of the two as defined in Section 13-204 of the Public Utilities Act [220 ILCS 5/13-204].

"Telecommunications Service" – Shall have the same meaning as defined in Section 13-203 of the Public Utilities Act [220 ILCS 5/13-203].

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"Telecommunications Service Area" – The geographical area served by a telecommunications carrier.

"Telecommunicator" – A person who is trained and employed in public safety telecommunications. The term applies to complaint telephone operators, radio operators, data terminal operators or any combination of such functions in a PSAP.

"Terminal Equipment" – Telephone station apparatus.

"Transfer" – A feature ~~that~~which allows the PSAP telecommunicator to transfer E9-1-1 calls to a specific location or secondary PSAP.

"Trunk" – The general term for a telecommunications carrier facility that transmits signals between central offices or between a private branch exchange (PBX) and its local central office. A circuit used to connect a call between central offices.

"TTY" or "Teletypewriter" – A telegraph device capable of transmitting and receiving alphanumeric information over communications channels and capable of servicing the needs of those persons with a hearing or speech disability.

~~"TTY" – A teletypewriter, a device which employs graphic or braille communication in the transmission of coded signals through a wire or radio communication system.~~

"Uninterruptible Power ~~Supply~~Source" – An emergency power source ~~that~~which can detect any change in power line frequency or voltage and automatically compensates for these changes by supplying additional power or converting to an auxiliary power source, without any loss of voltage or frequency.

(Note: Words importing the singular number may extend and be applied to several persons or things, and words importing the plural number may include the singular.)

(Source: Amended at 28 Ill. Reg. 15742, effective December 1, 2004)

SUBPART B: AUTHORIZATION TO OPERATE

Section 725.200 General Requirements

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- a) All tentative and final plans for 9-1-1 systems shall be filed in compliance with this Part and the Emergency Telephone System Act [50 ILCS 750].
- b) Tentative plans shall be submitted to the Commission's 9-1-1 ~~Program~~Emergency Telephone Section for review as detailed in Section 725.205(c) through (e).
- c) Final plans shall be formally submitted to the Commission for approval as detailed in Section 725.210(a) through (f) (See 83 Ill. Adm. Code 200, "Rules of Practice").
- d) A 9-1-1 system shall not become operational without an order of authority from the Commission.
- e) The following modifications that require a Final Order from the Commission
~~Modification of the boundaries of an existing system or of the participants in an existing system~~ shall be reported to the Commission, with a revised final plan, consisting of the revised application narrative and/or revised exhibits, as prescribed in Section 725.210(d).~~Where modifications would result in the addition of a public agency as a participant in an existing system and such public agency is not exempt by law from submitting a plan for approval, such participation is subject to Commission approval and shall be approved provided that the petitioner has complied with all requirements of this Part and applicable laws.~~
 - 1) Changing boundaries that require an intergovernmental agreement between local governmental entities to exclude or include residents within the 9-1-1 jurisdiction;
 - 2) Consolidating two or more 9-1-1 systems by intergovernmental agreement into a joint 9-1-1 system; and
 - 3) Contracting for dispatch services.
- f) The following modifications do not require a Final Order from the Commission. System management must, however, provide written notification of such change to the 9-1-1 Program 10 days prior to the change taking place. The written notification must consist of the revised application narrative and/or revised exhibits as prescribed in Section 725.210(d): Except for E9-1-1 systems, the outline of a 9-1-1 system must coincide with applicable telephone service area limits, which shall consist of the entire telephone exchange.

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- 1) [Addition/deletion of a system participant or adjacent public safety agency as prescribed by Section 725.210\(d\)\(3\)-\(4\);](#)
 - 2) [Relocation of a primary, backup, or secondary PSAP facility; and](#)
 - 3) [Reductions/additions of primary or secondary PSAPs.](#)
- g) *The Emergency Telephone System Board in counties passing referendums and the Chairman of the County Board in counties implementing a 9-1-1 system shall be responsible to insure that all areas of the county are served [50 ILCS 750/10.2].*
- h) ~~Modification to an approved application or system other than the items listed in Section 725.200(e) should be submitted to the Commission's 9-1-1 Emergency Telephone Section in writing no later than 10 days after the change.~~

(Source: Amended at 28 Ill. Reg. 15742, effective December 1, 2004)

Section 725.205 Tentative Plans

- a) A local public agency proposing to operate a 9-1-1 system shall first hold an informational meeting. ~~This Such~~ meeting may include:
- 1) each public agency having jurisdiction in the [telephone service areaxchange or exchanges](#) of the proposed system;
 - 2) each public safety agency having jurisdiction in the [telephone service areaxchange or exchanges](#) of the proposed system;
 - 3) each [telecommunications carrierLEC](#) providing the [local exchange service exchange or exchanges](#) in the proposed service area;
 - 4) recognized emergency medical planning groups, e.g., Area Wide Hospital Emergency Services (AHES);
 - 5) any other emergency service providers and planning agencies deemed necessary by local desire; and
 - 6) any telecommunications carrier providing 9-1-1 related services.

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- b) ~~Any~~Such additional meetings as are necessary shall be held between the proposed served agencies and ~~any~~the telecommunications carrier serving the proposed 9-1-1 service area to determine the system design.
- c) Tentative plans shall consist of a narrative of the proposed system's operation and a completed "Application to Illinois Commerce Commission For the Provision of 9-1-1 Service," consisting of the following exhibits:
- 1) Exhibit 1: A map showing the boundaries of the proposed system;
 - 2) Exhibit 2: A map or maps showing the jurisdictional boundary of each system participant and adjoining public agencies and public safety agencies;
 - 3) Exhibit 3: A list of system participants showing the land area in square miles and the estimated population served in their jurisdictions, including their addresses, telephone numbers and form of dispatch;
 - 4) Exhibit 4: A list of the public agencies or public safety agencies adjacent to the proposed system boundaries, including their addresses and telephone numbers;
 - 5) Exhibit 5: A list of the involved ~~telecommunications carriers~~LECs, their ~~telephone service areas~~exchanges in the proposed system, ~~area code~~, prefixes involved, and type of 9-1-1 system as specified in Section 725.500(g);
 - 6) Exhibit 6: Identification of financial arrangements including revenues available for funding the 9-1-1 system;
 - 7) Exhibit 7: A summary of the anticipated implementation cost and annual operating cost of the proposed system ~~that~~which are directly associated with the 9-1-1 call handling process. Copies of contractual agreements between System Management and any telecommunications carriers shall be included;
 - 8) Exhibit 8: Call Handling Agreements: Copies of the proposed agreements between the PSAP and the public agencies and/or public safety agencies in a single system. Copies of the proposed agreements between PSAPs in adjacent systems or, in the absence of a PSAP, the public agencies or

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public safety agencies whose jurisdictional boundaries are contiguous. These agreements shall indicate the primary and secondary methods to be employed for notification of emergency calls received from requesting parties within their respective jurisdictions and shall include either direct dispatch, call referral, call relay, or call transfer;

- 9) Exhibit 9: Aid Outside Normal Jurisdictional Boundaries: A copy of the proposed annual agreement between the PSAP management and all public agencies and/or public safety agencies in a single system and in different systems but whose jurisdictional boundaries are contiguous. This agreement shall provide that, once an emergency unit is dispatched in response to a request through the system by direct dispatch, call referral, call relay, or call transfer, [this](#) unit shall render its service to the requesting party without regard to whether the unit is operating outside its normal jurisdictional boundaries. A copy of both agreements shall be filed with the Chief Clerk of the Commission at the time the petition is filed; and
 - 10) Exhibit 10: A completed checklist supplied by the Commission, [a network diagram, and a test plan pursuant to Section 725.505\(y\)](#) (completed to the extent possible in consideration of the tentative plan).
- d) A copy of the tentative plan shall be filed for review by the Commission [at least no later than 120 days after implementation of the approved surcharge or the signing of a contract or letter of intent with system providers, whichever comes first, but no later than](#) one year prior to the [proposed](#) on-line date. A copy of the tentative plan shall also be provided to the telecommunications carriers providing service within the service area of the PSAP. The Commission's 9-1-1 [Program Emergency Telephone Section](#) shall review each tentative plan and provide an opinion to the originating agency within 120 days after receipt.
 - e) Approval of tentative plans by the Commission's 9-1-1 [Program Emergency Telephone Section](#) shall be required prior to a final plan being submitted. Plans filed under Section 11 of the ETSA [\[50 ILCS 750/11\]](#) shall conform to minimum standards as established pursuant to Section 10 of the ETSA [\[50 ILCS 750/10\]](#).

(Source: Amended at 28 Ill. Reg. 15742, effective December 1, 2004)

Section 725.210 Final Plans

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- a) ~~Unless waived, the Commission shall hold hearings to review the final plan and shall either approve or disapprove the plan. The petitioner may request a waiver as described in subsection (b). The petitioner may request a hearing waiver as outlined below. The Commission, however, shall hold such hearings to formally review the final plan and shall either approve or disapprove the plan.~~ The hearing shall be waived if requested by the petitioner and if neither Commission ~~Staff~~ nor any other party objects to the hearing waiver.
- b) The following procedures must be taken in requesting a waiver of the Commission's hearing process:
- 1) The waiver request shall be stated in the cover letter to the Chief Clerk and in the petition. Replacement language to be inserted as (1) in the petition shall be:

Review the final (or modified) plan based on the information submitted in the application and allow the parties involved to waive a hearing on the matter.
 - 2) Publish a notice in local newspapers of general circulation at least 10 days prior to filing the application with the Commission. The notice shall appear in newspapers whose circulation covers all municipalities within the proposed system and those adjacent to the proposed system. A proof of publication from the newspapers shall be enclosed with the application.
 - 3) Notify all adjacent agencies of the intent to file a plan with the Commission for a 9-1-1 emergency telephone system. This letter shall state petitioner's address and telephone number and the Commission's 9-1-1 ~~Program~~ Emergency Telephone Section address and telephone number for purposes of additional information or objections to the plan. Copies of these letters shall be attached to the submitted plan.
 - 4) An affidavit from the serving telecommunications carriers that all information contained in the application is correct. The affidavits must be signed and notarized and submitted with the petition.
- c) Final plans submitted to the Commission shall have the concurrence of their participants.
- d) Final plans shall consist of a narrative of the proposed system's operation and a

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completed "Application to Illinois Commerce Commission For the Provision of 9-1-1 Service" consisting of the following exhibits:

- 1) Exhibit 1: A map showing the boundaries of the proposed system;
- 2) Exhibit 2: A map or maps showing the jurisdictional boundary of each system participant and adjoining public agencies and public safety agencies;
- 3) Exhibit 3: A list of system participants, the land area in square miles and the estimated population served in their jurisdictions, including their addresses, telephone numbers and form of dispatch;
- 4) Exhibit 4: A list of the public agencies or public safety agencies adjacent to the proposed system boundaries, including their addresses and telephone numbers;
- 5) Exhibit 5: A list of the involved [telecommunications carriers](#) ~~LECs~~, their [telephone service areas](#) ~~exchanges~~ in the proposed system, [area code](#), prefixes involved and type of 9-1-1 system as specified in Section 725.500(g);
- 6) Exhibit 6: Identification of the financial arrangements including revenues available for funding the 9-1-1 system;
- 7) Exhibit 7: A summary of the anticipated implementation cost and annual operating cost of the proposed system [that](#) ~~which~~ are directly associated with the 9-1-1 call handling process. Copies of contractual agreements between System Management and any telecommunications carriers shall be included;
- 8) Exhibit 8: Call Handling Agreements: Copies of the signed agreements between the PSAP and the public agencies and/or public safety agencies in a single system. Copies of the signed agreements between PSAPs in adjacent systems or, in the absence of a PSAP, the public agencies or public safety agencies whose jurisdictional boundaries are contiguous. These agreements shall indicate the primary and secondary methods to be employed for notification of emergency calls received from requesting parties with their respective jurisdictions and shall include either direct dispatch, call referral, call relay, or call transfer;

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- 9) Exhibit 9: Aid Outside Normal Jurisdiction Boundaries: A copy of the signed annual agreement between the PSAP management and all public agencies and/or public safety agencies in a single system and in different systems but whose jurisdictional boundaries are contiguous. This agreement shall provide that, once an emergency unit is dispatched in response to a request through the system by direct dispatch, call referral, call relay, or call transfer, ~~this~~ unit shall render its service to the requesting party without regard to whether the unit is operating outside its normal jurisdictional boundaries. A copy of both agreements shall be filed with the Chief Clerk of the Commission at the time the petition is filed; and
- 10) Exhibit 10: A completed checklist supplied by the Commission, [a network diagram, and a test plan pursuant to Section 725.505\(y\)](#).
- e) Final plans shall be formally submitted to the Commission for approval no later than six months prior to the planned on-line date.
- f) The Commission shall approve final plans when the petitioner has complied with the requirements of this Part and applicable laws.

(Source: Amended at 28 Ill. Reg. 15742, effective December 1, 2004)

Section 725.220 Records and Reports

- a) The system management shall maintain ~~those~~ records ~~as~~ it considers necessary to document its operations and satisfy the requirements of interagency agreements. As a minimum, ~~those~~ records shall include:
- 1) a log of major system operations;
 - 2) critical equipment outages; and
 - 3) records of telecommunications carrier database queries by system management.
- b) The records specified in subsection (a) ~~of this Section~~ shall be preserved for a minimum of one year.

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- c) The system management shall be required to file with the Commission's 9-1-1 [Program, the Commission's Chief Clerk's Office, and the Illinois Attorney General Emergency Telephone Section](#) by January 31 the following items:
- 1) the current 9-1-1 contact person for the 9-1-1 system;
 - 2) the current error ratio for the E9-1-1 database;
 - 3) the current surcharge being collected;
 - 4) the current makeup of the Emergency Telephone System Board;
 - 5) the current networking for the 9-1-1 system; ~~and~~
 - 6) copies of the annual certified notification of continuing agreement; ~~and-~~
 - 7) [names and locations of primary, secondary, and backup PSAPs.](#)

(Source: Amended at 28 Ill. Reg. 15742, effective December 1, 2004)

SUBPART C: MANAGEMENT AND STAFFING

Section 725.305 Commission Liaison

Each 9-1-1 system shall designate an individual as the Commission liaison for the system. The Commission's [9-1-1 Program Emergency Telephone Section](#) shall be notified of any change in the name of this liaison and of any change in the telephone number or address within ten days after ~~this~~ change.

(Source: Amended at 28 Ill. Reg. 15742, effective December 1, 2004)

SUBPART D: STANDARDS OF SERVICE

Section 725.400 General Standards

- a) The digits "9-1-1" shall be the primary emergency telephone number within the system, but a public agency or public safety agency shall maintain a separate secondary seven digit emergency backup number for at least six months after the 9-1-1 system is in operation and shall maintain a separate number for non-emergency telephone calls.

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- b) The system management shall ensure that 9-1-1 locatable addresses, with U.S. Postal Service notification, are assigned to all subscribers of an enhanced 9-1-1 system and provided to the 9-1-1 system provider.
- c) The system management shall coordinate with the appropriate authorities to ensure that road or street signs that are essential to the implementation of an enhanced 9-1-1 system be installed prior to activating the system.
- db) Database queries will only be allowed by PSAPs for purposes of dispatching or responding to ~~9-1-1~~ emergency calls or for database integrity verification as set forth in subsections (~~fd~~)(3) through (5) ~~of this Section.~~
- ee) Prior to an initial database integrity verification, system management shall obtain a court order detailing the information thatwhich is to be disclosed and the reason for disclosure.
- fd) The 9-1-1 database shall have the capability of allowing non-emergency database queries provided the following procedures are adhered to:
- 1) The system management shall be responsible for providing a level of security and confidentiality to the database thatwhich will prohibit any persons the means to access the database on a random inquiry;
 - 2) Direct access to 9-1-1 database information will be under strict control and, where the hardware being used is compatible, a password will be assigned for access;
 - 3) Non-emergency queries shall be by telephone number only and as necessary for purposes of database integrity. Non-emergency queries in excess of 10 per 24-hour period will only be done with 2 or more days advance notice to the respective telecommunications carrier system administrator for scheduling purposes. Queries may be for the specific purpose of cross-checking information in the 9-1-1 database with other sources of information, including telephone and other directories, maps, municipal database listings, etc.; and for verifying that database update information provided to the telecommunications carrier has indeed been posted and is correct. Queries will only be made on numbers that are present within the 9-1-1 system as identified in the Illinois Commerce Commission's order of authorization for the 9-1-1 system. On-site

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databases are exempt from telecommunications carrier advance notification requirements of this Section;

- 4) Information retrieved will be used exclusively for the maintenance, update, and verification of the 9-1-1 database [except as otherwise specified in subsection \(d\)](#). Any other use is expressly prohibited. The information is subject to strict non-disclosure agreements between the various telecommunications ~~carrier~~^{carrier} and system management. All personnel associated in any way with the ETSB or the 9-1-1 system are bound by these agreements; and
- 5) Direct database queries shall not adversely affect the normal operation of the 9-1-1 system. Direct database queries shall be limited to off-peak times. Direct database queries shall be suspended during any incident [thatwhich](#) could possibly result in a number of calls from the public being made to 9-1-1. Direct database queries shall not be made if there is any known outage or impairment in the database system, including a database data link outage. Direct queries shall also be suspended if there is any abnormal lag or delay noticed in receiving responses to database queries, or if notified to cease queries by telecommunications carrier personnel. The telecommunications carrier shall treat notification of 9-1-1 system management of database query suspension as a priority. Where practicable, this notification by the telecommunications carrier to 9-1-1 system management shall be made not later than fifteen minutes after a confirmed incident or event [thatwhich](#) will cause database queries to be suspended.
 - [ge](#)) The system management shall be responsible for the compliance of these standards, overall management, security and coordination of the 9-1-1 system.
 - [hf](#)) Upon a written request of the system management, the [telecommunications carriers](#)~~LECs~~ shall provide within ~~14~~^{fourteen} working days a report to assist in the validation of the accuracy of the 9-1-1 database. Before this report is delivered to the system management, the system management shall obtain a court order requiring the [telecommunications carriers](#)~~LECs~~ to release the information. A single court order may be used to comply with this subsection and subsection [\(ee\)](#) ~~of this Section~~.
 - 1) This report shall include the following information [where available in the 9-1-1 database](#):

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- A) telephone number – area code, prefix, and number in separate fields;
- B) pilot number – single telephone number used to tie multiple numbers within a system together;
- C) service address – including street name, street numbers, suffix, directional, community name, state, zip code, and location and/or descriptive information, including intersection if MSAG indicates an intersection, in separate fields;
- D) billing address – if different than the service address, in separate fields, to be provided on a telephone number only basis pursuant to procedures defined by the telecommunications carrier and the system management. Billing address information shall be subject to non-disclosure agreements;
- E) name – first, last, and middle names or initials in separate fields;
- F) date service was initiated – the month, day, and year that service was initiated in separate fields. If this information is not available, the date reflecting the most current service order activity may be provided instead;
- G) type of service – residential, business, coin, etc.;
- H) PBX/Centrex Extensions/Station Numbers – identify those numbers that are part of a PBX/Centrex system where this information is available;
- I) surcharge status – where this information is available, the report shall identify those lines on which a surcharge is being collected and the date on which the collection was initiated. Identify those lines on which no surcharge is being collected and the reason for each exemption, including telecommunications carrier lines, in separate fields;
- J) Emergency Service Number (ESN) – appropriate ESN, if assigned, is to be made available only from the primary telecommunications

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carrier providing database development and routing services.

- 2) This report may be requested in writing, at a maximum, on a monthly basis. Information will be gathered from service order activity from the previous month. The information in this report is considered proprietary and shall be used exclusively for validating the accuracy of the 9-1-1 database. This report will be delivered in an electronic ~~only ASCII or Database III~~ format. It will not be delivered in paper format. There will be a charge for this report ~~that, which~~ will be a tariffed item by each telecommunications carrier.

i) 9-1-1 system management will have the following responsibilities:

- 1) Coordination of project management for system implementation and ongoing changes, including, but not limited to, project timeline, milestone progress report, and communications with all participants;
- 2) Coordination of delivery of services between the 9-1-1 service provider, participating telecommunications carriers and the Commission; and
- 3) Notification of Commission Staff within a minimum of 14 calendar days prior to 9-1-1 activation.

j) Each 9-1-1 system shall have only one 9-1-1 system provider that shall provide the overall 9-1-1 database and selective routing network and associated duties for the entire system. In addition, the 9-1-1 system provider shall assume the lead role in coordinating entire projects for each telecommunications carrier in conjunction with 9-1-1 system management. Responsibilities of the 9-1-1 service provider shall include, but not be limited to:

- 1) Adhering to the acceptable and agreed upon standards for database record exchange as prescribed, at a minimum, by the National Emergency Number Association (located at 422 Beecher Rd., Columbus OH 43230) in "Recommended Formats and Protocols for ALI Data Exchange, ALI Response and GIS Mapping" (NENA 02-010 approved on 1/2002, that combined versions 1, 2, 2.1, 3.1, and 4);
- 2) Coordination of updating and maintaining subscriber 9-1-1 data provided by other participating telecommunications carriers to meet the

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requirements set forth in Section 15.4(d) of the ETSA [50 ILCS 750/15.4(d)];

- 3) Coordination of updating and maintaining the Master Street Address Guide with 9-1-1 system management and the participating telecommunications carriers;
- 4) Updating the ALI database on a daily basis during normal business days;
- 5) Providing notification of errors to the appropriate entities within 24 hours for corrective action;
- 6) Providing the error percentage status to 9-1-1 system management no more than once monthly, but, at a minimum, annually within the 4th quarter of each year, no later than December 31;
- 7) Providing a network diagram to 9-1-1 system management, no more than once monthly, but, at a minimum, annually within the 4th quarter of each year, no later than December 31;
- 8) Coordination of ordering and installation of all network components with all participating telecommunications carriers to meet the requirements in Section 725.500;
- 9) Coordination with all participating telecommunications carriers and 9-1-1 system management in order to obtain all required information for selective router tables, i.e., NPA/NXX, ESN, default ESN; and
- 10) Coordination with 9-1-1 system management for loading of the 9-1-1 database.

(Source: Amended at 28 Ill. Reg. 15742, effective December 1, 2004)

SUBPART E: ENGINEERING

Section 725.500 Telecommunications Carriers

- a) A 9-1-1 telecommunications service provides a terminating only service that connects a person who has dialed the universal emergency service code 9-1-1 to the PSAP assigned to that trunk group. Consistent with the language

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contained in subsection (c) ~~of this Section~~, 9-1-1 telecommunications service shall be provided through either dedicated direct trunking or tandem trunking. [No 9-1-1 calls shall ever be delivered to Operator Services.](#)

- b) Each telecommunications carrier shall file tariffs under Section 9-102 of the Public Utilities Act [220 ILCS 5/9-102] for 9-1-1 Telecommunications Service to be applied to all services peculiar to 9-1-1 installations.
- c) Dedicated direct trunking shall be considered to be the standard method of providing incoming 9-1-1 circuits. Incoming ~~trunking trunks~~ shall initially be designed assuming a minimum offered load of 1.00 CCS (expected traffic load) per 1000 main stations to be served, or a minimum of two trunks, whichever is higher. Within 6 months ~~after~~ the on-line date, each trunk group shall be re-evaluated and maintained to assure 99% completion of calls placed to 9-1-1 during the average busy hour of the average busy day, or a minimum of two trunks, whichever is higher. In the event there is a host/remote central office configuration, additional trunks should be added in either a separate trunk group from each host/remote or in consolidated trunk groups based on cost and engineering considerations. Each trunk group should be sized to deliver calls to the selective routing switch being engineered in such a manner that will meet or exceed a ~~P.01p-01~~ grade of service.
 - 1) If dedicated direct trunking is not available from a remote switch, either to the host office or to the 9-1-1 control office serving the PSAPs, use of the umbilical for 9-1-1 will be allowed from the remote to the host. When direct remote trunking is available, dedicated trunk groups shall be provisioned directly from the remote switch.
 - 2) Alternative incoming 9-1-1 trunking methods may be utilized by the PSAP if technology and/or local telecommunications facilities can be designed and implemented. The quantity of trunks and related switching components in the telephone network shall be engineered in accordance with good engineering practices and the applicable Commission Standards of Service specified for the interoffice and intertoll network to ensure completion of calls placed to 9-1-1 during the average busy hour of the average busy day. A detailed description of the trunking method to be used must be included in tentative 9-1-1 plans. ~~Approval~~[The approval](#) by the Commission's 9-1-1 ~~Program regarding~~[Emergency Telephone Section](#) ~~of~~ alternative incoming 9-1-1 trunking methods shall be required by the petitioner prior to submitting the final application. [Requests for](#)

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[alternative trunking methods for existing systems require a detailed written description of the trunking method to be used for approval by the Commission's 9-1-1 Program prior to implementation.](#)

- d) All 9-1-1 circuits shall be arranged for one way incoming only service to the PSAP. Outbound dialing on 9-1-1 circuits is prohibited.
- e) Telecommunications carriers shall use the Common Language Circuit Identifier "ES" in identification of 9-1-1 telecommunications service "A" link trunks and the circuit identifier "EMNC" shall be used for "B" link circuits to prevent confusion with other special services.
- f) Coin-free dialing shall be provided from all coin telephones within an exchange with 9-1-1 service. ~~Telephone companies shall notify all non-telecommunications carrier providers of 9-1-1 service in the system.~~
- g) "9-1-1 Telecommunications Service" may be of two types: Basic or Enhanced 9-1-1 or E9-1-1.
 - 1) Consistent with the language contained in subsections (c) and (d) ~~of this Section~~, Basic 9-1-1 telecommunications service shall be provided through either dedicated direct trunking and/or tandem trunking. The features associated with the dedicated direct trunking service shall be according to the following format types:
 - A) Type #1 – This is the most basic configuration available, and provides:
 - i) no per-call charge,
 - ii) loop-type ringdown signaling toward PSAP,
 - iii) ringback tone to caller, and
 - iv) transmission path for communication between the caller and the PSAP.
 - B) Type #2 – This configuration provides all the features of the Type #1 circuit with the following options:

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- i) called party hold,
 - ii) forced disconnect,
 - iii) idle circuit tone application, and
 - iv) originating Switchhook Status Indication contingent on the installation of appropriate terminal equipment at the PSAP.
- C) Type #3 – This configuration provides all the features of the Type #1 and Type #2 circuits with the addition of ringback of the calling party on a held line.
- D) Type #4 – This configuration provides for optional features beyond those described in the configuration of Type #2 or Type #3. This type of Basic 9-1-1 also requires trunks capable of carrying ANI.
- 2) The E9-1-1 feature provides the capability to serve several PSAPs existing within the 9-1-1 service area with tandem trunking through the E9-1-1 ~~selective router~~~~tandem office~~. The main characteristic of E9-1-1 service is the capability of the E9-1-1 ~~selective router~~~~tandem office~~ to selectively route a 9-1-1 call originating from any station in the 9-1-1 service area to the correct primary PSAP. The features associated with tandem trunking in an E9-1-1 System may include the following:
- A) selective routing;
 - B) default routing;
 - C) alternate routing;
 - D) central office transfer;
 - E) ANI; and
 - F) ALI.
- h) The transmission grade of service on 9-1-1 circuits using inter-exchange facilities shall be at least equivalent to the transmission grade of service specified in 83 Ill. Adm. Code 730.520 dealing with interoffice transmission objectives.

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- i) The transmission grade of service for the intra-exchange loop portion of any 9-1-1 circuit shall be at least equivalent to the transmission grade of service specified in 83 Ill. Adm. Code 730.525 dealing with local loop transmission objectives.
- j) When all 9-1-1 circuits are busy in the originating central office, the switching facility, where equipped to provide the function, shall route the caller to an announcement or busy tone. When an all-trunks busy situation occurs in an intermediate switching facility, that machine shall, where equipped, route the caller to an appropriate backup answering location, announcement, or busy tone.
- k) All telecommunications carriers shall arrange for each of their switching offices to accept the 9-1-1 code. ~~no later than two years after a referendum has passed or the signing of a contract or letter of intent in the area that is served by that switching office. When the 9-1-1 code is dialable in a switching office but not providing service, the caller shall receive either live or mechanical intercept service.~~
- l) No circuits associated with a 9-1-1 system shall be opened, grounded, short circuited, or tested in any manner until maintenance personnel have obtained release of the affected circuits from the appropriate PSAP personnel. Telecommunications carrier maintenance personnel will endeavor to advise PSAP personnel regarding the length of time that will be required to perform any work involving circuits associated with a 9-1-1 system. Telecommunications carrier personnel shall notify 9-1-1 system management a minimum of 48 hours prior to performing any action that could adversely affect 9-1-1 service, including, but not limited to: central office switching installations, E9-1-1 selective router installations, upgrades, rehomes, or NPA additions.
- m) Each telecommunications carrier shall adopt practices to minimize the possibility of service disruption on all circuits associated with 9-1-1 service to a PSAP. ~~These Such~~ practices will provide for circuit guarding at all terminations with protective devices that will minimize accidental worker contact. ~~These Such~~ practices shall also contain procedures for physical identification of all 9-1-1 circuit appearances with special warning tags and/or labels, and identification of circuits in company records.
- n) Prior to a 9-1-1 system going on-line, each telecommunications carrier is responsible for having in its records a contact number for each PSAP in the event of outage or failure of a 9-1-1 system.

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- o) Except as otherwise provided in this Part, call boxes shall be a part of the 9-1-1 system. Each system shall be engineered and provisioned with call boxes to adequately serve a system in the event the central office is isolated from the control office or selective router. Call boxes shall only be provisioned to central offices and to those remote central offices that have the capability to stand alone and function when severed from the host central office. A high priority of attention shall be given to all trouble reports and requested restorals. Call boxes shall be designed to meet the following requirements:
- 1) Call boxes shall have a minimum of two lines, with additional lines agreed to by system management and the telecommunications carriers;
 - 2) The type of vault used to house the call box circuitry shall be weather resistant and have a locking capability;
 - 3) The call boxes shall be provisioned with a transfer switch for use by authorized personnel to route 9-1-1 calls from the network to the call box jacks;
 - 4) The call boxes shall be provisioned with the lines busied out until the transfer switch is thrown to prevent calls from ringing into an unattended call box;
 - 5) The call boxes shall be equipped with an intrusion alarm at an additional cost to be assessed to the system management through a tariff filed pursuant to Section 9-201 of the Public Utilities Act;
 - 6) Call boxes shall be located, installed and maintained so that 9-1-1 system personnel have unrestricted access to the call box 24 hours per day, 7 days per week. If the call box is to be located within any secured area, the telecommunications service provider shall provide 9-1-1 system management immediate, unrestricted access to the secured area; and
 - 7) The calls boxes shall be tested in conjunction with 9-1-1 system management annually, at a minimum.
- p) All telecommunications carriers shall coordinate call box procedures or alternative call box procedures with 9-1-1 system management and the

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Commission's 9-1-1 Program. Where call boxes are not a viable solution for a telecommunications carrier, the following options are available:

- 1) Diverse routing is required if used in lieu of a call box and shall be provisioned to meet the P.01 grade of service by the telecommunications carrier and shall meet the following requirements:
 - A) A minimum of two facility paths that are in physically separate cable routes between the central office and the 9-1-1 selective router; and
 - B) Trunks divided as equally as possible in the two facility paths between the central office and the 9-1-1 selective router. Trunking shall be provisioned as stated in subsection (c).
 - 2) Other viable solutions as technology permits may be utilized with prior approval by the Commission's 9-1-1 Program. A detailed written description of the proposed solution to be utilized must be submitted to the Commission's 9-1-1 Program for approval prior to deployment. Approval will be determined based on good engineering practices, the cost and rate consequences (if applicable), and the effect on the provisioning of 9-1-1 service.
- qp) Each telecommunications carrier shall adopt practices to notify a primary point of contact within a 9-1-1 system within 15 minutes after a confirmed outage within the system and to also advise the primary point of contact as to the magnitude of the outage. If more than one 9-1-1 system is served out of a central office, the telecommunications carrier shall make notification to a primary PSAP within each 9-1-1 system affected.
- rq) Each telecommunications carrier shall adopt practices to notify a primary point of contact within a 9-1-1 system within 15 minutes after the confirmed restoration of 9-1-1 services.
- s) Each telecommunications carrier shall provide written notification including 24 hour 9-1-1 service and repair center contacts to 9-1-1 system management prior to offering telecommunications services within the 9-1-1 service area.

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- t) Each telecommunications carrier shall deliver 9-1-1 service elements as requested by 9-1-1 system management for the provisioning and ongoing maintenance of the 9-1-1 systems as follows:
- 1) Provide surcharge coordination with 9-1-1 system management;
 - 2) Provide database coordination with the system provider;
 - 3) Provide network coordination with the system provider; and
 - 4) Provide maintenance and repair procedures, service and repair center contact information, restoration plan and call trace procedures to 9-1-1 system management.
- u) Each telecommunications carrier shall adopt testing practices in conjunction with 9-1-1 system management to perform, at a minimum, central office to PSAP 9-1-1 test calls when any of the following changes occur:
- 1) New central office switching installations;
 - 2) E9-1-1 selective router installations, upgrades, or rehomes;
 - 3) NPA additions;
 - 4) Central office switch upgrades to allow LNP;
 - 5) Number pooling implementations; and
 - 6) Any other event that affects 9-1-1.
- v) Each telecommunications carrier shall adopt practices and implement procedures to reduce or minimize the conditions that cause default routed calls.
- w) Each telecommunications carrier shall provide the feature "default routing" to all 9-1-1 customers. Each telecommunications carrier shall adopt practices to coordinate default routing requirements with the 9-1-1 service provider for the 9-1-1 service area in which they are operating. Default routing will be provided, at a minimum, by county. Where an exchange boundary/rate center crosses county boundaries, the telecommunications carrier may establish a single default with the approval of 9-1-1 system management for those affected 9-1-1 systems.

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- x) Each telecommunications carrier shall adopt practices and procedures to deliver 9-1-1 calls to the appropriate selective router based on the originating caller's location and assigned NPA for the 9-1-1 service provider's selective router coverage area.
- y) Each telecommunications carrier will adopt practices to provide the appropriate telecommunications services to Private Business Switch and Private Residential Switch subscribers for the purposes of complying with Sections 15.5 and 15.6 of the ETSA [50 ILCS 750/15.5 and 15.6] and 83 Ill. Adm. Code 726.
- z) Each telecommunications carrier shall update the 9-1-1 database on a daily basis (Monday through Friday during business hours).

(Source: Amended at 28 Ill. Reg. 15742, effective December 1, 2004)

Section 725.505 Public Safety Answering Point

- a) All 9-1-1 call answering equipment used by a PSAP ~~must comply with applicable Federal Communications Commission rules, 83 Ill. Adm. Code 740, and local telecommunications carrier tariffs and~~ must be compatible with the telecommunications carrier's LEC's central office equipment and trunking arrangements.
- b) Each PSAP, after consultation with the telecommunications carrier LEC, shall designate an area of adequate size to be used by the telecommunications carrier LEC for termination of the company's lines and equipment.
- c) Premises equipment for each~~Each~~ 9-1-1 circuit will indicate incoming calls by both audible and visible signals. Each outgoing circuit shall have a visual display of its status.
- d) Each 9-1-1 answering position shall have access to all incoming 9-1-1 lines and outgoing circuits peculiar to its zone of responsibility.
- e) Call transfer equipment shall be designed to achieve transfers with at least 99.9% completion. (This may require the use of dedicated direct trunking toward the responding agency.) ~~When~~At such time as the telecommunicator verifies that the transfer has been completed and the telecommunicator's services are no longer required, the telecommunicator may manually release himself/herself from the

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call, provided that the telephone equipment is so designed. A 9-1-1 system should be designed so that a call will never be transferred more than once.

- f) Each answering positionPSAP shall have direct access to an operational teletypewriter (~~TDD/TTY~~), and all PSAP telecommunicators~~personnel~~ shall be trained in its use at least every six months. 9-1-1 system management will ensure that TTY equipment is available to continue service in the event of emergency, malfunction, or power failure.~~A portable will be held in reserve per 9-1-1 system to replace any malfunctioning TDD/TTY.~~
- g) Each PSAP shall have at least one overflow answering position to handle those circumstances when the call volume exceeds the capability of the primary telecommunicator position. This position must have the capability of being answered by a trained PSAP telecommunicator and be capable of receiving the Enhanced 9-1-1 features if it is a participant in an Enhanced 9-1-1 system. Supervisory positions may be utilized to satisfy this requirement only if the position will be answered by emergency trained personnel. Overflow calls shall be routed to a backup PSAP except as provided for in subsection (i) ~~of this Section~~.
- h) System management shall provide continuous and uninterrupted operation to the persons within the system's boundaries 24 hours per day.
- i) Backup PSAP
- 1) Each 9-1-1 system shall have a backup PSAP. A backup PSAP shall meet the same standards as the primary PSAP except as provided for in subsections (i)(2) and (3) ~~of this Section~~. Furthermore, 9-1-1 systems that were issued authorization to operate prior to December 1, 2004 and that still do not currently maintain a back-up PSAP must comply with this Section by December 1, 2006.
 - 2) In a ~~county~~9-1-1 system with less than 15,000 billable access lines, where the ~~system~~county has demonstrated that the requirements of subsections (g) and (h) ~~of this Section~~ would place an undue financial burden upon the system, a full feature backup PSAP does not have to be maintained. For those systems, the backup PSAP requirement may be met by one of the following:
 - A) An unattended PSAP shall have:

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- i) the capability to provide 9-1-1 service;
 - ii) the communication equipment necessary to dispatch emergency services;
 - iii) a backup power supply; ~~and~~
 - iv) the ability to communicate via TTY; and
 - v) the capability to be immediately activated with authorized personnel.
- B) Call Box devices only if:
- i) the 9-1-1 system has five or fewer telecommunications carrier~~LEC~~ central offices;
 - ii) system management has provided the communication equipment necessary to dispatch emergency services; and
 - iii) they can be immediately activated with authorized personnel.
- 3) 9-1-1 systems with fewer~~less~~ than 15,000 billable access lines that have two or more PSAPs shall meet the standards as outlined in subsections (g), (h), and (i)~~of this Section~~. 9-1-1 systems operating under this exemption should, as funds become available, upgrade their backup PSAP capability to meet those standards as specified in subsections (g), (h), and (i)~~of this Section~~. When a 9-1-1 system starting with fewer~~less~~ than 15,000 billable access lines increases its billable access lines to 15,000 for a period of 1 year, it shall upgrade to meet the standards as specified in subsections (g), (h), and (i)~~of this Section~~.
- j) PSAP telecommunicators shall be trained in emergency dispatch procedures as specified by 9-1-1 system management to fulfill the responsibilities of their position with the following requirements:-

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- 1) [Newly hired telecommunicators must receive, at a minimum, a 40-hour training curriculum approved by 9-1-1 system management prior to 9-1-1 call handling.](#)
 - 2) [If emergency medical dispatch is being provided that involves the dispatch of any fire department or emergency medical service agency, additional training must be completed in accordance to the Emergency Medical Services \(EMT\) Systems Act \[210 ILCS 50\] and 77 Ill. Adm. Code 515.](#)
 - 3) [Continuing education for existing telecommunicators is required and will be specified by 9-1-1 system management.](#)
- k) System management shall provide for the installation of a master logging recorder of adequate capacity to record both sides of a conversation of each incoming 9-1-1 call and any radio transmissions relating to the 9-1-1 call and its disposition. ~~These~~[Such](#) recordings shall have the time of each event noted. System management may elect to record on a circuit-by-circuit basis or by way of the telecommunicator's position.
- l) System management shall ensure that each PSAP maintains an archive of the [storage media](#)~~tapes~~ for a minimum of ~~30~~[thirty](#) days without recirculation of any [media](#)~~tape~~.
- m) In order for a 9-1-1 plan to be approved, the facility selected for the primary PSAP, backup PSAP, and, where instituted, a secondary PSAP, must be equipped with an emergency back-up power source capable of supplying electrical power to serve the basic power requirements of the PSAP, without interruption, for a minimum of four hours. [The back-up power source shall be tested for reliability on a monthly basis.](#)
- n) Where sophisticated telephone equipment or customer premise equipment is implemented and which is not tolerant of power fluctuations or interruptions, and is vital to the PSAP's operation, an uninterruptible power source shall be installed at all PSAP locations.
- o) In some instances, the system management may desire to have route diversity for its telephone circuits. The [telecommunications carrier](#)~~LEC~~ serving the PSAP shall be responsible for providing the necessary information regarding the availability and cost of this service.

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- p) Each PSAP shall have at least one non-published telephone number to be provided to [telecommunications carrier](#)~~LEC~~ operators, adjoining PSAPs and agencies to advise the PSAP of emergency messages.
- q) System management shall adopt practices to ensure the following:
- 1) When call box operation is necessary, authorized personnel shall respond to the call boxes who are trained in the operation of call box procedures;
 - 2) In instances where a call box is situated in split [telecommunications carrier](#)~~LEC~~ exchanges (an exchange shared with more than one 9-1-1 system or jurisdiction), procedures shall be developed by the 9-1-1 systems involved to respond to the call box in instances of outages or disasters; ~~and~~
 - 3) That when a primary point of contact is notified by telecommunications carrier personnel that an outage has occurred in a 9-1-1 system, the PSAP being notified must make notification to other PSAPs in the 9-1-1 system that is affected by the outage; ~~and-~~
 - 4) [That default routing requirements will be coordinated with the 9-1-1 system provider, telecommunications carriers, and 9-1-1 system management.](#)
- r) System management shall have the obligation of continual review using recognized administrative, engineering and database security procedures to determine and assure adequate service to the general public in accordance with the Act and this Part.
- s) PSAP employees shall be instructed to be efficient and courteous in the handling of all calls and to comply with the provisions of all applicable federal and State laws in maintaining secrecy of communications.
- t) Each PSAP shall insure that all 9-1-1 emergency calls are answered and handled without preference to the location of the caller.
- u) [It shall be the joint responsibility of the 9-1-1 system and the telecommunications carrier to ensure that the error ratio of each 9-1-1 system's database shall not, at any time, exceed 1%. Where LEC facilities permit, and assignable radio frequencies are available, wireless technology may be considered as an alternative](#)

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~~to the call box system capability as required in Section 725.500(o) of this Part. System management shall be responsible for the identification and licensing of radio frequencies with the Federal Communications Commission; for costs for equipping or for converting any central office within the 9-1-1 system with wireless links that are equal to the number of land-based trunks; and for any other equipment necessary to provide emergency communications via wireless technology. When wireless technology is utilized, the wireless links will be activated in the event the central office is severed from the rest of the network. Wireless links shall be provisioned to all central offices that can stand alone and function when severed from the host central office. System management shall coordinate any conversion with the LEC. Approval of the Commission's 9-1-1 Emergency Telephone Section shall be required prior to implementation.~~

- v) Each PSAP should answer ~~90~~^{ninety} percent of all 9-1-1 calls within ~~10~~^{ten} seconds.
- w) All calls of an administrative or non-emergency nature shall be referred to the appropriate agency's published telephone number. After the referral is made, the telecommunicator shall release the circuit for public use.
- x) A current copy of this Part shall be on file in every PSAP.
- y) Call through testing is required prior to going on-line.
 - 1) ~~A formal written test plan shall be provided to the Commission's 9-1-1 Program as well as an attachment to the final plan submitted to the Commission for the system's authorization to operate. The test plan will explain how 9-1-1 system management plans to perform its testing set forth in subsection (y)(2). Testing shall be for a minimum of two weeks for communities or multi-jurisdictional communities and two weeks for county systems that are served by live 9-1-1 end-offices.~~
 - 2) ~~System management shall ensure that call through and field testing has been performed on a minimum of 40% of all access lines in the 9-1-1 service area, including each NXX for every participating telecommunications carrier and for every ESN within each telecommunications carrier's service area prior to the 9-1-1 system being able to announce its availability to the public. Testing shall be:~~

A) ~~for a minimum of:~~

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- ~~i) Four weeks for communities or multi-jurisdictional communities; and~~
 - ~~ii) Six weeks for county systems that are not currently being served 9-1-1 service; or~~
 - ~~B) For a minimum of 80% of all access lines in a system for both communities or multi-jurisdictional communities and county systems.~~
 - z) Ongoing testing after the 9-1-1 system is on-line shall include the following:
 - 1) 9-1-1 system management shall conduct testing with all telecommunications carriers, including, but not limited to, the 9-1-1 database, network trunking, system overflow, system backup, default routing, call transfer and call boxes on a continuing basis to ensure system integrity. The testing shall be coordinated in advance by 9-1-1 system management, 9-1-1 service providers, and the participating telecommunications carriers.
 - 2) 9-1-1 system management shall participate in coordinated testing with the participating telecommunications carriers when any of the following occur:
 - A) New central office switching installations;
 - B) E9-1-1 selective router installations, upgrades or rehomes;
 - C) NPA additions;
 - D) When a central office switch is made LNP capable;
 - E) Number pooling; and
 - F) Any other event that affects 9-1-1.
 - 3) Upon request, after notification of implementation, 9-1-1 system management shall participate in coordinated testing with the private residential or business switch operators.

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- 4) 9-1-1 system management shall forward all error reports within two business days after finding the error to the 9-1-1 system provider.
- 5) 9-1-1 system management shall attempt to retest and/or validate that all errors have been corrected (e.g., no record found, misroutes).
- 6) The 9-1-1 system provider shall correct the error within two business days after receipt of an error report from 9-1-1 system management.
- 7) If the error affects multiple carriers and 9-1-1 systems, then the correction shall take place within two to four business days after receipt of an error from 9-1-1 system management.
- 8) 9-1-1 system management shall on a continuing basis maintain the MSAG, the ELT for each ESN, and the associated telephone numbers for the ELTs.

(Source: Amended at 28 Ill. Reg. 15742, effective December 1, 2004)

SUBPART F: OPERATIONS

Section 725.600 System Review

- a) *The corporate authorities of any county or municipality that imposes a surcharge shall establish an Emergency Telephone System Board. The corporate authorities shall provide for the manner of appointment and the number of members of the Board, provided that the Board*~~The ETSB where appointed shall act as the advisory or policy board for each 9-1-1 system. If there is no ETSB, each system shall establish an advisory or policy board which shall consist of not fewer than 5 members, one of whom shall~~*may be a public member who is a resident of the local exchange service territory included in the 9-1-1 coverage area, one of whom (in counties with a population less than 100,000) shall be a member of the county board, and at least three of whom shall be representatives of the 9-1-1 public safety agencies, including but not limited to police departments, fire departments, emergency medical services providers, and emergency services and disaster agencies and appointed on the basis of their ability and experience. Elected officials are also eligible to serve on the Board-board. [50 ILCS 750/15.4(a)]*~~The board shall serve as the grievance committee for the resolution of disputes.~~

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- b) Any two or more municipalities, counties, or combination thereof that impose a surcharge may, instead of establishing individual boards, establish by intergovernmental agreement a Joint Emergency Telephone System Board. The manner of appointment of such a Joint Board shall be prescribed in the agreement. The intergovernmental agreement must be consistent with subsection (a). Any participating agency which feels that adequate service is not being provided, in accordance with their negotiated agreement, may present its grievance before the advisory or policy board as identified in subsection (a) of this Section.
- c) The powers and duties of the Board shall be defined by ordinance of the municipality or county or by intergovernmental agreement in the case of a Joint Board. [50 ILCS 750/15.4]

(Source: Amended at 28 Ill. Reg. 15742, effective December 1, 2004)

Section 725.620 Disaster Procedures

- a) Each PSAP management shall develop procedures providing for the continued operation of a 9-1-1 answer point in the event that critical functions of the PSAP are partially or totally disabled due to natural or man-made disasters.
- b) Each telecommunications carrier's LEC's central office shall be equipped with call boxes to serve a 9-1-1 system if there is an outage or disaster or may be provisioned to provide diverse routing in lieu of a call box, except as provided in Section 725.500(p)(2). Once accessed by authorized personnel, the call boxes are under direct control of system management. ~~Call boxes shall be designed to meet the following:~~
- 1) ~~Have a minimum of two lines, with additional lines agreed to by system management and the LECs;~~
 - 2) ~~The type of vault used to house the call box circuitry shall be weather resistant and have a locking capability;~~
 - 3) ~~The call boxes shall be provisioned with a transfer switch for use by authorized personnel to route transfer 9-1-1 calls from the network to the call box jacks;~~
 - 4) ~~The call boxes shall be provisioned with the lines busied out until the~~

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~~transfer switch is thrown to prevent calls from ringing into an unattended call box; and~~

- 5) ~~The call boxes shall be equipped with an intrusion alarm at an additional cost to be assessed to the system management through the tariff process.~~

(Source: Amended at 28 Ill. Reg. 15742, effective December 1, 2004)

SUBPART G: FACILITIES

Section 725.700 Physical Security

- a) ~~System management must ensure that critical~~Critical areas of a PSAP, backup PSAP, and secondary PSAP shall have adequate physical security to prevent malicious disruption of service and shall be protected against damage due to vandalism, terrorism, and civil disturbances. ~~PSAP personnel shall be isolated from direct public contact. These~~Such critical areas shall, at a minimum, include all communications equipment, PSAP~~communications~~ personnel, electronic equipment rooms, and mechanical equipment rooms that are vital to the operation of the PSAP.
- b) ~~The PSAP and PSAP personnel shall be isolated from direct public contact. Wherever practical, service entrances for electric and telephone service shall be underground, at least to the respective utility's serving distribution facility. Sufficient protective measures shall be taken against vandalism and natural or manmade hazards at each PSAP.~~
- c) ~~Entry to the PSAP shall be restricted to authorized persons only. Additionally, doors that lead directly from the exterior into the PSAP or from within a building into the PSAP shall be secured at all times. Access to the communications mechanical equipment rooms shall be restricted within the building by means of secured doors.~~
- d) ~~Access to the communications and electronic equipment rooms shall be restricted within the building by means of secured doors.~~
- e) ~~Wherever practical, service entrances for electric and telephone service shall be underground, at least to the respective utilities' nearest serving distribution point. Protective measures shall be taken against vandalism and natural or manmade hazards at each PSAP.~~

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- f) [The PSAP shall be equipped with a fire extinguisher. Personnel shall be instructed in proper use of these extinguishers.](#)

(Source: Amended at 28 Ill. Reg. 15742, effective December 1, 2004)

SUBPART H: SURCHARGE

Section 725.800 Assessment of Surcharge (Repealed)

- a) ~~Any municipality or any county may impose a monthly surcharge on billed subscribers of network connections provided by telecommunications carriers engaged in the business of transmitting messages by means of electricity originating within the corporate limits of the municipality or county imposing the surcharge, provided that:~~
- 1) ~~The rate at which the surcharge shall be determined shall be established by passage of a referendum by the electors and passage of an ordinance imposing the surcharge by the municipality or county.~~
 - 2) ~~The referendum requirement in subsection (a)(1) of this Section shall not apply to any municipality with a population over 500,000 and the surcharge may not exceed \$1.25 per network connection.~~
- b) ~~The surcharge per month per network connection allowed by Section 15.3 of the Emergency Telephone System Act [50 ILCS 750/15.3] and upon passage of an ordinance by the municipality or county shall be collected by the telecommunications carrier and held in a special fund for the municipality, county or joint ETSB imposing the surcharge. The amount of surcharge collected by the telecommunications carrier shall be paid to the particular municipality, county, or joint ETSB not later than 30 days after the surcharge is collected, net any network or other sophisticated 9-1-1 system charges due the particular telecommunications carrier. The telecommunications carrier collecting the surcharge shall be entitled to deduct 3% of the gross amount of the surcharge collected to reimburse the telecommunications carrier for the expense of accounting and collecting the surcharge. For Centrex type service, each telecommunications carrier shall assess the surcharge equal to one network connection for every ten Centrex lines, except for those municipal or county lines exempt from surcharge under the Act. Each telecommunications carrier's tariff rates for nonrecurring and recurring services attributable to Centrex type lines shall utilize the same ratio as utilized for surcharge.~~
- e) ~~The surcharge shall only be imposed by a municipality, county or Joint ETSB for the purposes of providing Enhanced 9-1-1 service.~~

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(Source: Repealed at 28 Ill. Reg. 15742, effective December 1, 2004)

Section 725.805 Surcharge Billing (Repealed)

- a) ~~The surcharge shall only be applied to those in-service network connections as defined in Section 725.105.~~
- b) ~~Trunks and/or lines supporting the following types of service shall be billed a 9-1-1 surcharge:~~
 - 1) ~~Centrex-type service (billed as described in Section 725.800(b));~~
 - 2) ~~Dormitory service;~~
 - 3) ~~Hospital service;~~
 - 4) ~~Hotel/motel service;~~
 - 5) ~~Pay telephones as defined in 83 Ill. Adm. Code 771;~~
 - 6) ~~BX;~~
 - 7) ~~Semi-public coin;~~
 - 8) ~~services on temporary suspension;~~
 - 9) ~~Billing concession;~~
 - 10) ~~Key telephone systems;~~
 - 11) ~~Business lines; and~~
 - 12) ~~Residential lines.~~
- e) ~~The surcharge may also be assessed to other billed subscribers of network connections if and to the extent permitted under Section 15.3 of the ETSA.~~

(Source: Repealed at 28 Ill. Reg. 15742, effective December 1, 2004)

Section 725.810 Telecommunications Carrier Surcharge Administration and Monthly Report to the Emergency Telephone System Board

Telecommunications carriers, whether they are considered resellers or facility based carriers, are responsible for their own surcharge administration. Telecommunications carriers that have contracted with a wholesale provider to bill, collect, and remit the 9-1-1 surcharge shall have until December 1, 2005 to renegotiate their interconnection agreement with that provider and arrange to directly bill, collect and remit the appropriate 9-1-1 surcharge. In addition, eachEach telecommunications carrier shall provide to the ETSB, PSAP, or jurisdiction a detailed monthly listing of the actual number of network connections, including the number of residential, business, payphone, Centrex, PBX, and exempt-type lines, in the 9-1-1 or proposed system to assist the jurisdiction in determining the line count for planning and projecting revenues and costs for the 9-1-1 or proposed system. See Appendix A of this Part. The listing shall not contain information which the telecommunications carrier determines to be confidential.

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(Source: Amended at 28 Ill. Reg. 15742, effective December 1, 2004)

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Section 725.APPENDIX A Telecommunications Carrier Monthly Report to ETSB

~~Telecommunications Local Exchange~~

Carrier Name: _____

Remittance for (Month/Year): _____

Total Number of Access Lines: _____

	Number	Rate	Revenues
Residential Lines	_____	_____	_____
Basic Business Lines	_____	_____	_____
Payphone Lines	_____	_____	_____
Centrex/ PBX Lines Billed	_____	_____	_____
Centrex / PBX Lines Not Billed (_____)			
Exempt Lines (_____)			
TOTALS	_____		_____

Date Prepared

~~Preparer~~ Originator

Telephone Number

(Source: Amended at 28 Ill. Reg. 15742, effective December 1, 2004)

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- 1) Heading of the Part: Medication
- 2) Code Citation: 11 Ill. Adm. Code 603
- 3) Section Number: 603.70 Adopted Action:
Amended
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date: December 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is available for public inspection at the IRB Central Office (100 West Randolph, Suite 7-701 Chicago, Illinois) between the hours of 9:00 a.m. and 5:00 p.m.
- 9) Notice of Proposal Published in Illinois Register: 28 Ill. Reg. 7533; May 28, 2004
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: In new subsection (g)(5), cross-referenced the subsections that set out criteria on which penalties for violations of acceptable furosemide levels will be based.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? Yes
- 13) Will this rulemaking replace emergency amendments currently in effect? No.
Companion emergency amendments expired on October 7, 2004.
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and purpose of Rulemaking: Currently, if the Racing Board laboratory reports a furosemide amount of 99 nanograms, the trainer of the horse receives a written warning. If the laboratory reports an amount of 100 nanograms, an increase of only one nanogram, the trainer receives a \$1,000 fine, a suspension of not less than 30 days and loss of the purse. As previously written, the penalties contained in Section 603.70(g)(4) are too

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severe and inconsistent. This rulemaking amends the penalties to more accurately reflect the nature of the violation.

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

Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601

(312) 814-5017

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

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NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 603
MEDICATION

Section	
603.10	Pre-Race Saliva Tests
603.20	Racing Soundness Exam
603.30	Foreign Substances and Pharmaceutical Aids Banned
603.40	Twenty-four Hour Ban
603.50	Trainer Responsibility
603.55	Prima Facie Evidence
603.60	Permitted Use of Foreign Substances and Threshold Levels
603.70	Furosemide
603.80	Needles, Syringes and Injectables
603.90	Drugs, Chemicals and Prescription Items
603.100	Detention Barn
603.110	Test Samples
603.120	Referee Samples
603.130	Laboratory Findings and Reports
603.140	Distribution of Purses and Retention of Samples
603.150	Post Mortems
603.160	Penalties
603.170	Veterinarian's Records
603.180	Carbon Dioxide Tests

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

SOURCE: Adopted at 21 Ill. Reg. 3232, effective March 4, 1997; amended at 22 Ill. Reg. 2217, effective January 1, 1998; amended at 22 Ill. Reg. 3594, effective February 1, 1998; amended at 25 Ill. Reg. 15611, effective December 1, 2001; amended at 26 Ill. Reg. 12360, effective August 1, 2002; amended at 27 Ill. Reg. 5027, effective March 7, 2003; amended at 27 Ill. Reg. 7331, effective April 15, 2003; amended at 28 Ill. Reg. 1374, effective January 19, 2004; amended at 28 Ill. Reg. 4751, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 7565, effective May 11, 2004, for a maximum of 150 days; emergency expired October 7, 2004; amended at 28 Ill. Reg. 15790, effective December 1, 2004.

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Section 603.70 Furosemide

- a) The Board recognizes that Exercise Induced Pulmonary Hemorrhage (EIPH) is almost universal in performance horses. The Board also recognizes that the diuretic furosemide is helpful in the management of the EIPH syndrome; this includes horses that already had a bleeding episode as well as horses that have not yet exhibited the epistaxis. In regulating the race day use of furosemide, the Board has placed strict controls on the dose, route and time the medication is administered. Additionally, Board security personnel monitors these horses during and after the administration. Advances in drug testing techniques permit the Board laboratory to quantitate post-race serum samples for furosemide, providing a thorough regulation of the drug. All of these measures are designed to prevent the misuse of furosemide.
- b) Veterinarian's List
 - 1) When a horse is added to the furosemide list, it shall be placed on the veterinarian's list and shall be ineligible to race for 14 days. The 14 day ineligibility period begins on the certification date defined in subsections (c)(1)(A), (B), (C), and (D). During this 14 day period, the horse shall not be permitted to race with or without furosemide. Before the horse shall be permitted to enter a race, it must qualify on furosemide by participating in a qualifying race or by performing an official workout without bleeding, to the satisfaction of the State Veterinarian. Horses must wait 9 days following the certification date before participating in a qualifying race.
 - 2) A horse bleeding while racing with furosemide shall be barred from racing for a minimum of 30 days.
 - 3) A horse bleeding a second time in any 12 month period while racing with furosemide shall be barred from racing for a minimum of 60 days.
 - 4) A horse bleeding a third time in any 12 month period while racing with furosemide shall be barred from racing for a minimum of 180 days or the ~~remainder~~reminder of the 12 month period, whichever is greater.
 - 5) After the expiration of the barred periods in subsections (b)(2), (3) and (4), a horse must qualify on furosemide by participating in a qualifying race or performing an official workout without bleeding to the satisfaction of the

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State Veterinarian. Prior to the workout, a blood sample may be collected by the State Veterinarian and sent to the Board laboratory for testing. After the workout, the State Veterinarian may witness an endoscopic examination of the horse to confirm that it has not bled.

- c) Eligibility for Furosemide Treatment
- 1) A horse is eligible to race with furosemide if at least one of the following occurs:
 - A) It bleeds internally or externally in the presence of an official veterinarian, or if a veterinarian licensed by the State of Illinois attests in writing that he/she witnessed a bleeding episode. The State Veterinarian will then issue a bleeder certificate and place the horse on the furosemide list. The certification date shall be the day the bleeding episode was witnessed by or reported to the State Veterinarian;
 - B) A veterinarian licensed by the Board concludes that it will be in the best interest of a horse's health to race with furosemide. The trainer shall submit to the State Veterinarian a certificate signed by the licensed veterinarian requesting approval to place the horse on the furosemide list. The certification date shall be the day the State Veterinarian grants approval. This subsection (c)(1)(B) applies to thoroughbred horses only;
 - C) The trainer provides the Board or its designee with evidence that the horse bled in another racing jurisdiction. Acceptable evidence shall be a valid bleeder certificate approved by an official veterinarian. The certification date shall be the date shown on the bleeder certificate;
 - D) The trainer provides the Board or its designee with evidence that the horse has been running consistently, up to its last start, with furosemide in other racing jurisdictions as shown on the official past performance lines. Acceptable past performance lines for thoroughbreds and/or quarter horses shall be Equibase and/or Racing Form. Acceptable past performance lines for harness horses shall be the official past performances of the United States Trotting Association (USTA) or Canadian Trotting Association

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(CTA) or the eligibility papers. The certification date shall be the earliest available date the horse shows running with furosemide on the official past performance lines. If the past performance lines of a horse show that the horse has been running on and off furosemide in other racing jurisdictions, the horse shall not be permitted to run with furosemide in Illinois, unless the occasions the horse ran without furosemide were due to rule restrictions imposed on the horse by those particular racing jurisdictions.

2) Signing a Furosemide Certification Affidavit

- A) The stewards may permit a horse to be treated with furosemide for one race if the certification described in subsection (c)(1)(A), (B), (C) or (D) is not available at the time the horse must be treated with furosemide. The trainer or his/her representative shall sign a Furosemide Certification Affidavit.
- B) Within 10 days after the race, the trainer of the horse shall produce for the stewards or their designee written certification from a state where the horse has bled or a statement in an official chart that the named horse bled following a race or a workout in that state. The certification date must comply with the 14 day requirement specified in subsection (b)(1).
- C) Any purse money earned by the horse in the race shall be held during the 10 day period.
- D) If the trainer fails to produce the evidence required in subsection (c)(2)(B), or if the certification date does not comply with the 14 day ineligibility period specified in subsection (b)(1), the stewards shall impose a fine of not less than \$200 and not more than \$1500 and/or suspend the trainer's license and shall redistribute the amount of any purse money earned by the horse.

d) Removal from Furosemide List

- 1) Once a horse is placed on the furosemide list, it must continue to race with furosemide unless the removal from the list is approved by the stewards. The stewards may remove a horse from the furosemide list upon the written request of the trainer if the horse's performance is negatively

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affected by the use of furosemide, or upon the recommendation of the State Veterinarian if a horse has an adverse physiological reaction to furosemide.

- 2) Once removed from the furosemide list, a thoroughbred horse shall be ineligible to participate in a race for a minimum of 30 days. A harness horse shall be ineligible for a minimum of 14 days. The ineligibility period shall be counted from the day the stewards approve the removal of the horse from the furosemide list. Prior to starting in a race, a horse must participate without furosemide in a qualifying race or perform an official workout without bleeding. Prior to the qualifying race or workout, a blood sample may be collected by the State Veterinarian and sent to the Board laboratory for testing. After the qualifying race or workout, the State Veterinarian may witness an endoscopic examination of the horse to confirm that it has not bled.
- e) Administration of Furosemide
- 1) All horses on the furosemide list must be treated with furosemide in order to be permitted to participate in a race.
 - 2) Furosemide shall be administered between 4 hours and 15 minutes and 3 hours and 45 minutes before post time of the race in which a horse is entered.
 - 3) A Board licensed veterinarian shall administer not less than 150 mg and not more than 250 mg of furosemide intravenously and shall verify the administration on prescribed affidavits before the post time of the first race.
 - 4) The trainer or his/her licensed employee shall witness the furosemide administration.
 - 5) The furosemide administration may take place in the horse's own stall or in a centralized location.
 - 6) For violations of this subsection (e), the stewards shall scratch a horse from the race and the trainer may be fined not less than \$200 and not more than \$500.

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- f) Absence of Furosemide
In the event a horse listed on the furosemide list races without furosemide, the horse shall be disqualified and any purse money earned by the horse redistributed. In addition, the stewards may suspend or fine the trainer and/or veterinarian not less than \$200 and not more than \$1500.
- g) Excessive Use of Furosemide
- 1) The test level for furosemide shall not be in excess of 60 nanograms (ng) per milliliter (ml) of serum or plasma.
 - 2) The first two times the laboratory reports an amount of furosemide equal to between 61 ng-85 ng/ml, inclusive, the trainer shall receive a written warning. For each subsequent overage at this level by the same trainer, the trainer shall be fined no more than \$200.
 - 3) The first time the laboratory reports an amount of furosemide equal to between 86 ng-99 ng/ml inclusive, the trainer shall receive a written warning. For each subsequent overage at this level by the same trainer, the trainer shall be fined no more than \$500 and suspended not more than 30 days.
 - 4) In the event a post-race sample contains an amount of furosemide greater than 99 ng/ml, the trainer shall be fined no more than ~~\$2500~~\$1000 and/or suspended ~~no more~~not less than ~~60~~30 days and the purse shall be redistributed.
 - 5) When imposing penalties, the stewards shall consider the criteria in Section 603.160(b)(3), (4), (5) and (6) of this Part.
- h) Trainer's Responsibilities for Horses on the Furosemide List
- 1) The trainer shall be responsible for:
 - A) providing the racing office at the time of entry with accurate information regarding the use of furosemide on horses he/she enters to race;
 - B) providing the information required for furosemide approval of his/her horses to Board staff coordinating the administration of

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furosemide;

- C) notifying his/her veterinarian of furosemide horses and the date and times for race day treatment;
 - D) having horses on the furosemide list stabled at the barn and in the stall assigned by the Racing Secretary or his/her designee;
 - E) posting a "Security Stall" sign on the stalls of his/her horses entered to race (see 11 Ill. Adm. Code 436);
 - F) ensuring horses are treated with furosemide on race day at the prescribed time, witnessing the administration of furosemide and guarding the horse until the horse is taken to the paddock (see 11 Ill. Adm. Code 436).
- 2) The stewards may suspend the trainer or assess a fine of no less than \$200 and no more than \$500 for violation of this subsection (h).
- i) Veterinarian's Responsibilities
- 1) The practicing veterinarian shall be responsible for:
 - A) administering the proper furosemide medication and dose at the proper time to the proper horse.
 - B) providing Board staff, upon request, with any documentation related to horses that are stabled on approved facilities and medication samples and/or paraphernalia used to administer any medication to a horse. Samples and/or paraphernalia may be sent to the Board laboratory for testing.
 - 2) The stewards may suspend the veterinarian or assess a fine of no less than \$200 and no more than \$500 for violations of this subsection (i).
- j) Security
- 1) Each horse racing with furosemide shall be detained in a stall assigned by the Racing Secretary at least 4 hours and 15 minutes before the post time of the race in which it is entered, and shall remain in the stall until taken

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to the paddock to be saddled or harnessed for the race, except that the stewards may permit horses to leave the "security stall" to engage in exercise blow-outs or warm-up heats.

- 2) The barn area is a secure area and shall be under the supervision of the Board.
 - 3) No unauthorized person shall approach the security area. If any unauthorized person does approach the security area, a report of the incident is to be made immediately to one of the State Veterinarians, the stewards or a Board investigator.
 - 4) Board staff may direct a veterinarian to take a blood sample immediately prior to the administration of furosemide to be submitted to the Board's laboratory for analysis.
 - 5) Board staff may collect from a veterinarian the syringe containing any medication about to be administered to a horse for testing at the Board laboratory.
- k) This Section shall apply to all horses entering in and competing in race meetings as defined in Section 3.07 of the Act [230 ILCS 5/3.07], as well as all horses shipping in from other racing jurisdictions, domestic or foreign.

(Source: Amended at 28 Ill. Reg. 15790, effective December 1, 2004)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Drivers, Trainers, and Agents
- 2) Code Citation: 11 Ill. Adm. Code 1317
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1317.30	Repealed
1317.85	New
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date: December 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is available for public inspection at the IRB Central Office (100 West Randolph, Suite 7-701, Chicago, Illinois) between the hours of 9:00 a.m. and 5:00 p.m.
- 9) Notice of Proposal Published in Illinois Register: 28 Ill. Reg. 11073; August 6, 2004
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any other proposed amendments pending on this Part? No
- 15) Summary and purpose of amendments: The rulemaking repeals obsolete language contained in Section 1317.30. This rulemaking also creates a new Section, 1317.85 that defines conflict of interest for harness drivers by prohibiting a driver from driving against another racehorse in which he or she has a financial or business interest.
- 16) Information and questions regarding this adopted amendment shall be directed to:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601

(312) 814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER f: RULES AND REGULATIONS OF HARNESS RACING

PART 1317
DRIVERS, TRAINERS, AND AGENTS

Section	
1317.10	Proper License
1317.20	Approval of License
1317.30	Driver's Bench (Repealed)
1317.40	Disorderly Conduct
1317.50	Caretakers
1317.60	Colors
1317.70	Restricted Areas for Drivers in Colors
1317.80	Driver Substitutions
1317.85	Conflict of Interest
1317.90	Driving Violations
1317.100	Color Registration
1317.110	Repeated Violations
1317.120	Accidents
1317.130	Physical Examination
1317.140	Objections
1317.150	Drivers Meeting
1317.160	Traffic Procedure

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

SOURCE: Published in Rules and Regulations of Harness Racing, (original date not cited in publication); amended December 22, 1977, filed December 30, 1977; codified at 5 Ill. Reg. 10943; amended at 10 Ill. Reg. 10144, effective May 27, 1986; amended at 11 Ill. Reg. 14813, effective August 24, 1987; amended at 14 Ill. Reg. 17639, effective October 16, 1990; amended at 28 Ill. Reg. 15800, effective December 1, 2004.

Section 1317.30 Driver's Bench ([Repealed](#))

~~Drivers wearing colors, but not competing in a particular race, shall view said race from benches set aside for them by the race track operator.~~

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(Source: Repealed at 28 Ill. Reg. 15800, effective December 1, 2004)

Section 1317.85 Conflict of Interest

- a) No driver shall drive a horse in a race in which there shall start another horse that he in any way represents or handles, unless coupled as an entry.
- b) No driver shall drive a horse in a race in which there shall start another horse in which he has a financial or business interest, or an interest that is injurious to racing as determined by the stewards, unless coupled as an entry.

(Source: Added at 28 Ill. Reg. 15800, effective December 1, 2004)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Procedures and Standards
- 2) Code Citation: 92 Ill. Adm. Code 1001
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1001.441	Amend
1001.442	Amend
- 4) Statutory Authority: Subpart A implements Sections 2-113, 2-118, 6-108, 6-205, and 6-206 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-108, 6-205 and 6-206]. Subpart B implements Chapter 7 and is authorized by Sections 2-103, 2-104, 2-106, 2-107, 2-108, 2-113, and 2-114, and Ch. 7 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-106, 2-107, 2-108, 2-113, 2-114 and Ch. 7]. Subpart C implements Sections 6-205(c) and 6-206(c)3 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 6-205(c) and 6-206(c)3]. Subpart D is authorized by Sections 2-104 and 11-501 of the Illinois Vehicle Code and implements Sections 6-103, 6-205(c), 6-206(c)3, and 6-208 of the Illinois Vehicle Code [625 ILCS 5/ 2-104, 6-103, 6-205(c), 6-206(c)3, 6-208 and 11-501]. Subpart F implements Sections 2-113, 2-118, 6-208.2, 11-501.1, and 11-501.8 and is authorized by Sections 2-103, 2-104, and 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-208.2, 11-501.1 and 11-501.8].
- 5) Effective Date of Amendments: November 19, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal Springfield office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 28 Ill. Reg. 12410; September 3, 2004
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Some revisions to the original proposal were made according to recommendations made by JCAR in its "Identical First Notice Line Numbered Version", received by the Department of Administrative Hearings in September 2004, and in the "Second Notice Changes" issued by JCAR and received about November 15, 2004.

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Please note that this rulemaking added titles to all subsections amended. In other words, this Part has become so voluminous that it has become increasingly difficult to quickly find a specific rule when one is looking for it. The titles will, hopefully, make it easier to locate specific rules.

Furthermore, additional changes were made as a result of public comment and/or the JCAR's suggested revisions. Those changes are as follows:

We received public comment from 3 interlock device providers on this rulemaking. Only one provider requested that changes be made to the rulemaking; the other 2 letters expressed approval of the rulemaking and specifically endorsed the promulgation of the new paragraph (14) in subsection (e) of §1001.442.

The other provider asked that we revise the rulemaking by (1) in §1001.441(j)(3), defining the number of days after the recalibration date that the BAIID provider must notify the Secretary of State of a missed calibration, and (2) in §1001.442(e)(14), that we delay the deadline for the replacement of interlock devices that do not include one of the anti-circumvention technologies required by this new paragraph until April 1, 2005 (rather than March 1, 2005). We considered these comments and decided to accept, in part, the first suggestion and decline to adopt the second, for the following reasons:

We agree that the rules should define the exact number of days by which BAIID providers must notify the Secretary of State of a missed recalibration by a permittee. Unlike installations, which must be accomplished within 14 days after the issuance of a permit and the Secretary notified of installation within 7 days after the date of installation (see §1001.441(g)), there is, as yet, no hard and fast deadline by which BAIID providers must notify the Secretary of missed recalibrations. This is also true of de-installations, which one could argue is the most important of all. However, we believe that the period of time requested by the provider (20 days), is simply too long. Rather, we believe that we should standardize all of these deadlines to match the 7-day deadline now used for installation of BAIIDs. In the case of recalibration, this notification would trigger a "10 days to comply" warning letter from the Secretary of State's BAIID Division (pursuant to internal policy and procedure) upon which failure to comply would result in the cancellation of the BAIID permittee's restricted driving permit. Note that we have amended subsection (j)(2) by adding the 7-day deadline for notification of removal/deinstallation.

In regard to the request that the deadline for installation of interlock devices with the required anti-circumvention technology be pushed back to April 1, 2005, we believe that

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this extension is unnecessary. The elimination of the anti-circumvention technology in question leaves two options that are already allowed and in widespread use. There is no reason why any BAIID provider could not switch to those technologies today; they are permitted to do so now, and, thus, there is no reason to wait until the new rules go into effect. If this were not the case and there was a specific begin and end date for the proposed changes, then we would be more sympathetic to such a change. We believe that, given the ready availability of interlock devices with the required anti-circumvention technology, there is no reason to further delay its use.

In regard to the request by JCAR that we promulgate standards and procedures for the approval of the new anti-circumvention technologies, it was agreed that §1001.442(e) would be amended to provide that new anti-circumvention technologies would be approved according to the procedures in subsection (e). This subsection discusses at length the criteria for certification/approval of interlock devices. We acknowledge that this section discusses or relates more to certifying the reliability of interlock devices than to anti-circumvention technologies. This is because anti-circumvention technologies are a relatively new feature. Note also that the federal NHTSA standards upon which our approval process is based were published in 1992. The states that rely on these standards have not received any other assistance since that date.

Furthermore, interlock technology continues to evolve at a rapid pace. There are currently under development 2 new anti-circumvention technologies: one uses digital imaging technology to take a photograph of the person who uses (blows into) the interlock; the other uses global positioning uplink satellite technology to allow monitoring agencies to obtain real time information on BAIID permittees. In other words, the permittee's BAC is immediately transmitted to the monitoring agency. Our point is that the technological development is too fluid to allow for the promulgation of specific rulemaking on the standards to be utilized for approving them. We are confident, however, that the general rules already in effect will allow us to continue to require the use of the best services and technology available at any given point in time.

We believe that the BAIID service provider community shares this confidence. Please note that none of the 3 providers who commented upon this rulemaking expressed any concern with the approval process.

In regard to the other issues raised by the JCAR, we responded as follows:

- JCAR asked that we amend §1001.441(j)(3) so that "it's factual circumstances shall also result in a notice being sent to the Secretary of State." We have addressed this concern by removing the reference to the receipt of a notification or report in the opening

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paragraph, imposing a 67-day deadline upon the submission of monitor reports, and elaborating upon the procedure that will be followed in determining the reason for the failure of the BAIID Division to receive timely monitor reports. Note that the first notice draft of subsection (j)(3) refers to the failure of a BAIID permittee to take in a vehicle for monitor reports or send the appropriate portion of the device to the BAIID service provider. This statement oversimplified the problem. We have found that there are multiple reasons for the BAIID Division to not receive monitor reports in a timely fashion. For example, the permittee might bring his/her device in for monitoring in a timely fashion, but the BAIID service provider might fail to transmit the information to the Secretary of State in a timely fashion. The first notice draft fails to acknowledge this possibility. We believe that the second notice amendment clarifies the process that has been followed in resolving these matters.

- JCAR questioned our use of the > symbol in §1001.442(e)(14). It is meant to reflect that the positive>negative>positive air pressure test requirement must occur in rapid sequence in order for the test to be valid. It is not a technical symbol, and any other symbol could be used in its place. JCAR did not express a preference for some other specific notation.
 - JCAR asked that the reference to the use of “other drugs” in the amended §1001.441(j)(4) be clarified. Rather than do this, we decided to strike the reference to other drugs, and limit the sanctions of the BAIID program exclusively to the use of alcoholic beverages.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other proposed amendments to this Part pending? No
- 15) Summary and Purposes of Amendments: These amendments achieve the following objectives:

Section 1001.441(i) and (j) are being amended to impose the immediate cancellation of a BAIID permit if a BAIID permittee fails to take in a vehicle equipped with the interlock device for timely monitor reports or send the appropriate portion of the device to the BAIID provider or installer for timely monitor reports. The Secretary will first conduct an informal inquiry (i.e., attempt to contact the BAIID provider and/or BAIID permittee by telephone and/or e-mail) in order to determine the cause for not receiving the report. If a satisfactory result is not obtained from this inquiry, then the BAIID Division will send a letter to the BAIID permittee indicating that if the device is not taken in for a

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monitor report within 10 days after the date of the letter, then the failure to comply will result in the cancellation of the permit or permits, prior to imposing the cancellation. (Currently, this violation results in a notation in the permittee's record. See §1001.441(i)(1). This language is stricken and the violation is moved to a new §1001.441(j)(3).)

Furthermore, as a result of the public comment we received, we have added a 7-day deadline for reporting to the Secretary of State the removal/deinstallation of an interlock device by a BAIID provider (§1001.441(j)(2)) and the failure of a BAIID permittee to bring his/her device in for a timely monitor report (§1001.441(j)(3)).

Section 1001.442(e)(14) is being added to eliminate a current anti-circumvention technology utilized by one of the six approved BAIIDs by the Secretary of State's BAIID Program. This elimination comes as a result of concerns by the Secretary that a BAIID permittee could effectively bypass the device. In place of this eliminated technology, the proposed rule change requires all BAIIDs to use one of the two anti-circumvention methods utilized by the other five approved devices. The proposed rule change also allows for expanding the list of approved anti-circumvention technologies to include new technologies that are currently being field-tested.

Additional information on these objectives is also recited in paragraph #11 above.

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

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

(217) 785-8245
mloro@ilsos.net

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1001
PROCEDURES AND STANDARDS

SUBPART A: FORMAL ADMINISTRATIVE HEARINGS

Section

- 1001.10 Applicability
- 1001.20 Definitions
- 1001.30 Right to Counsel
- 1001.40 Appearance of Attorney
- 1001.50 Special Appearance
- 1001.60 Substitution of Parties
- 1001.70 Commencement of Actions; Notice of Hearing
- 1001.80 Motions
- 1001.90 Form of Papers
- 1001.100 Conduct of Formal Hearings
- 1001.110 Orders
- 1001.120 Record of Hearings
- 1001.130 Invalidity

SUBPART B: ILLINOIS SAFETY RESPONSIBILITY HEARINGS

Section

- 1001.200 Applicability
- 1001.210 Definitions
- 1001.220 Hearings: Notice; Location; Procedures; Record
- 1001.230 Rules of Evidence
- 1001.240 Scope of Hearings
- 1001.250 Decisions and Orders
- 1001.260 Rehearings
- 1001.270 Judicial Review
- 1001.280 Invalidity

SUBPART C: RULES ON THE CONDUCT OF INFORMAL HEARINGS IN
DRIVER'S LICENSE SUSPENSIONS AND REVOCATIONS

Section

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1001.300	Applicability
1001.310	Definitions
1001.320	Right to Representation
1001.330	Records and Reports
1001.340	Location of Hearings
1001.350	Duties and Responsibilities
1001.360	Decisions
1001.370	Invalidity

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

Section	
1001.400	Applicability; Statement of Principle and Purpose
1001.410	Definitions
1001.420	General Provisions Relating to the Issuance of Restricted Driving Permits
1001.430	General Provisions for Reinstatement of Driving Privileges after Revocation
1001.440	Provisions for Alcohol and Drug Related Revocations, Suspensions, and Cancellations
1001.441	Procedures for Breath Alcohol Ignition Interlock Device Conditioned RDPs
1001.442	BAIID Providers Certification Procedures and Responsibilities; Approval of Breath Alcohol Ignition Interlock Devices; Inspections; BAIID Installer's Responsibilities; Disqualification of a BAIID Provider
1001.443	Breath Alcohol Ignition Interlock Device Multiple Offender – Compliance with Interlock Program
1001.444	Installer's Responsibilities (Repealed)
1001.450	New Hearings
1001.460	Requests for Modification of Revocations and Suspensions
1001.470	Renewal, Correction and Cancellation of RDPs
1001.480	Unsatisfied Judgment Suspensions
1001.485	Reinstatement Application Based Upon Issuance of Drivers License in a State Which is a Member of the Driver License Compact
1001.490	Invalidity

SUBPART E: FORMAL MEDICAL HEARINGS

Section	
1001.500	Applicability
1001.510	Definitions

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- 1001.520 Procedure
- 1001.530 Conduct of Medical Formal Hearings
- 1001.540 Subsequent Hearings

SUBPART F: ZERO TOLERANCE SUSPENSION OF DRIVING PRIVILEGES;
PERSONS UNDER THE AGE OF 21 YEARS; IMPLIED CONSENT
HEARINGS; RESTRICTED DRIVING PERMITS

Section

- 1001.600 Applicability
- 1001.610 Definitions
- 1001.620 Burden of Proof
- 1001.630 Implied Consent Hearings; Religious Exception
- 1001.640 Implied Consent Hearings; Medical Exception
- 1001.650 Rebuttable Presumption
- 1001.660 Alcohol and Drug Education and Awareness Program
- 1001.670 Petition for Restricted Driving Permits
- 1001.680 Form and Location of Hearings
- 1001.690 Invalidity

SUBPART G: MOTOR VEHICLE FRANCHISE ACT

Section

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

1001.APPENDIX A BAIID Regions and Minimum Installation/Service Center Site Location Guidelines (Repealed)

AUTHORITY: Subpart A implements Sections 2-113, 2-118, 6-108, 6-205, and 6-206 and is

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authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-108, 6-205 and 6-206]. Subpart B implements Chapter 7 and is authorized by Sections 2-103, 2-104, 2-106, 2-107, 2-108, 2-113, and 2-114, and Ch. 7 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-106, 2-107, 2-108, 2-113, 2-114 and Ch. 7]. Subpart C implements Sections 6-205(c) and 6-206(c)3 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 6-205(c) and 6-206(c)3]. Subpart D is authorized by Sections 2-104 and 11-501 of the Illinois Vehicle Code and implementing Sections 6-103, 6-205(c), 6-206(c)3, and 6-208 of the Illinois Vehicle Code [625 ILCS 5/2-104, 6-103, 6-205(c), 6-206(c)3, 6-208 and 11-501]. Subpart E implements Sections 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, and 6-908 and is authorized by Sections 2-103, 2-104, 6-906, and 6-909 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, 6-908 and 6-909]. Subpart F implements Sections 2-113, 2-118, 6-208.2, 11-501.1, and 11-501.8 and is authorized by Sections 2-103, 2-104, and 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-208.2, 11-501.1 and 11-501.8]. Subpart G implements and is authorized by the Motor Vehicle Franchise Act [815 ILCS 710].

SOURCE: Adopted and codified at 7 Ill. Reg. 7501, effective June 17, 1983; amended at 8 Ill. Reg. 4220, effective April 1, 1984; emergency amendment at 9 Ill. Reg. 17030, effective October 18, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 4558, effective March 18, 1986; amended at 11 Ill. Reg. 17844, effective October 15, 1987; amended at 13 Ill. Reg. 15803, effective October 1, 1989; amended at 14 Ill. Reg. 2601, effective February 15, 1990; amended at 14 Ill. Reg. 16041, effective October 1, 1990; emergency amendment at 16 Ill. Reg. 19926, effective December 8, 1992, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 2047, effective January 27, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6274, effective May 1, 1993; amended at 17 Ill. Reg. 8528, effective June 1, 1993; emergency amendment at 18 Ill. Reg. 7916, effective May 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 15127, effective September 21, 1994; emergency amendment at 19 Ill. Reg. 54, effective January 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6667, effective May 1, 1995; emergency amendment at 20 Ill. Reg. 1626, effective January 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 8328, effective June 12, 1996; emergency amendment at 20 Ill. Reg. 9355, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15773, effective November 28, 1996; amended at 23 Ill. Reg. 692, effective January 15, 1999; amended at 24 Ill. Reg. 19257, effective December 15, 2000; expedited correction at 25 Ill. Reg. 7352, effective December 15, 2000; emergency amendment at 25 Ill. Reg. 13790, effective October 15, 2001, for a maximum of 150 days; emergency expired on March 13, 2002; emergency amendment at 25 Ill. Reg. 14979, effective November 9, 2001, for a maximum of 150 days; emergency expired on April 7, 2002; amended at 26 Ill. Reg. 9380, effective June 13, 2002; amended at 26 Ill. Reg. 13347, effective August 21, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 14706, effective September 20, 2002, for a maximum of 150 days; emergency expired on February 16, 2003; amended at 27 Ill. Reg. 5969, effective

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March 31, 2003; amended at 27 Ill. Reg. 13577, effective August 1, 2003; amended at 28 Ill. Reg. 12123, effective September 1, 2004; amended at 28 Ill. Reg. 15804, effective November 19, 2004.

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

Section 1001.441 Procedures for Breath Alcohol Ignition Interlock Device Conditioned RDPs

- a) BAIID Required for RDP; Fee Required
 - 1) The issuance of RDPs to a BAIID petitioner shall be conditioned upon the use of a Breath Alcohol Ignition Interlock Device (BAIID), as required by Sections 6-205, 6-206 and/or 11-501 of the IVC. As provided in these Sections, a BAIID petitioner must pay a non-refundable fee of \$20 per month on an annual basis, for a total annual payment of \$240. This total annual payment must be paid in advance and prior to the issuance of any permit. Payment must be submitted in the form of a money order, check, or a credit card charge (with a pre-approved card), made payable to the Secretary of State. This fee must be paid by all petitioners for the issuance of restricted driving permits at any hearing conducted on or after 9 November 2001. The payment of the fee also applies to any petitioner who was issued a BAIID permit prior to 9 November 2001 and whose driving record requires that he/she install an interlock device according to the definition set forth in P.A. 92-418 (see Sections 6-205(c) and (d) and 6-206(c)3 of the IVC), and who petitions for a hearing to renew his/her restricted driving permits on or after 9 November 2001. Anyone driving on a BAIID permit on 9 November 2001 and whose driving record does not require that he/she operate a vehicle with a BAIID according to the definition set forth in P.A. 92-418, must nonetheless drive with the BAIID until the expiration of his/her permits (without payment of the above-referenced fee). Thereafter, such a petitioner is entitled to renew the restricted driving permits without the installation of the interlock device.
 - 2) A BAIID petitioner who is renewing restricted driving permits and who also is eligible for the full reinstatement of driving privileges less than 12 months from the date of the expiration of the current restricted driving permits at the time he/she renews the permits, shall not be required to

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make an annual payment. If the petitioner has been scheduled for a formal hearing on a petition for reinstatement at the time of renewal, then petitioner shall pay the above-referenced fee in an amount equal to the number of months between the date of renewal and date of the hearing, plus an additional 3 months (not to exceed 12 months), times \$20. If the petitioner does not have a formal hearing on a petition for reinstatement scheduled at the time of renewal, then the fee shall be paid for 9 months. If, however, the petitioner is denied full reinstatement, then the petitioner must resume payment on an annual basis.

- b) Notification of BAIID Requirements. The Secretary shall notify any BAIID petitioner who requests a hearing of the procedures for obtaining a BAIID and the BAIID requirements. Notification may be accomplished in one of the following ways, though not limited thereto: informal hearing officer; phone contact; written notification, or by electronic mail.
- c) Type of Hearing Required. All hearings involving a BAIID petitioner seeking driving relief shall be formal hearings. Any extension or modification of an RDP issued under this Section may be done at an informal hearing. Any hearing involving a BAIID petitioner shall be conducted as any other hearing under this Part and all other applicable standards shall apply.
- d) Petitioner Must Meet Requirements of Subpart D. The Secretary shall issue an RDP to a BAIID petitioner if, through the hearing process, the petitioner is determined to meet all of the requirements of this Subpart D and installs and utilizes a device in all motor vehicles operated by the BAIID petitioner and, where applicable, all motor vehicles owned by the BAIID petitioner as required by the RDP issued under this Subpart D. BAIIDs shall not be installed on and BAIID permittees shall not operate motorcycles or motor driven cycles.
- e) Hearing Officer's Responsibilities; Petitioner's Responsibilities. Prior to the taking of evidence at the hearing:
 - 1) The hearing officer shall make sure that the BAIID petitioner understands: all of the provisions and requirements of receiving a BAIID permit; that to obtain an RDP the BAIID petitioner must minimally meet all of the requirements of Section 1001.440 of this Subpart D and install and utilize the device; that a BAIID petitioner's agreement to install a BAIID or willingness to comply with the BAIID requirements does not guarantee issuance of an RDP; and that all costs associated with the device are the

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responsibility of the BAIID petitioner; and

- 2) The BAIID petitioner shall advise the hearing officer that he/she understands all of the provisions and conditions of the BAIID requirements and whether he/she agrees to comply with the BAIID requirements. If the BAIID petitioner is unwilling to use the device, or comply with this Section, he/she shall be advised that restricted driving permits cannot be granted.
- f) Decision. After the hearing, the hearing officer shall consider the evidence and the relief requested and make a recommendation as in any other hearing under this Part.
- 1) If the hearing officer does not determine that the relief requested should be granted, an order denying relief shall be prepared.
 - 2) If the hearing officer determines that an RDP should be granted, an order granting a RDP shall be prepared with the additional requirement that the RDP is conditioned upon the installation and continued use of the device. All RDPs issued under this Section shall require continued use of the device until the driving privileges of the petitioner are reinstated.
- g) Installation of BAIID. Upon the issuance of an RDP under this Section, the Secretary shall send a list of certified BAIID providers to the BAIID permittee. In addition to the other requirements under this Part, the BAIID Permittee may operate the vehicle for 14 days from the issuance of the RDP without the device installed only for the purpose of taking the vehicle to a BAIID provider or installer for installation of the device. The installer or BAIID provider must notify the Secretary that a device has been installed in the vehicles designated by the BAIID permittee within 7 days from the date of the installation of the device. Proof of installation shall be by such means as determined by the Secretary from the installer or BAIID provider. Failure to comply with these requirements will result in the denial of driving relief and the cancellation of any RDP issued.
- h) Petitioner's Responsibilities – Driving with BAIID. Any BAIID petitioner receiving an RDP under this Section must comply with the following requirements:
- 1) Operate only vehicles with an installed, operating device authorized by the Secretary whether the vehicle is owned, rented, leased, loaned, or

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otherwise in the possession of the BAIID permittee as required by the RDP issued under this Section.

- 2) Take the vehicle with the device installed to the BAIID provider or installer or send the appropriate portion of the device to the BAIID provider or installer within the first 30 days for an initial monitor report to help the BAIID permittee learn how to correctly use the device, and thereafter not longer than every 60 days for the purposes of calibration and having a monitor report of the device's activity prepared and sent to the Secretary by the BAIID provider or installer.
 - 3) Take the vehicle with the device installed to the BAIID provider or installer or send the appropriate portion of the device to the BAIID provider or installer as instructed for a monitor report within 5 working days after any service or inspection notification.
 - 4) Maintain a journal of events surrounding unsuccessful attempts to start the vehicle, failures to successfully complete a running retest, or any problems with the device. If BAIIDs have been installed on multiple vehicles pursuant to Section 1001.443, a separate journal must be kept for each vehicle, recording unsuccessful attempts to start the vehicle, failures to successfully complete a running retest, or any problems with the device, and recording the name of the driver operating the vehicle at the time of the event.
 - 5) May not have an interlock device removed or deinstalled from his or her vehicle without first notifying the Secretary and surrendering to the Secretary or his designee the permittee's restricted driving permit.
- i) Review of Monitor Reports; Sanctions for Failure to Comply. Upon receipt or nonreceipt of the monitor reports, the Secretary shall review them and take the following action. The failure of the BAIID permittee to comply with the requirements of this Subpart D will be made part of his/her record of performance to be considered at future formal hearings.
- 1) ~~For any BAIID permittee who fails to take a vehicle with the device in for timely monitor reports or send the appropriate portion of the device, utilizing a traceable package delivery service, to the BAIID provider or installer for timely monitor reports, send a letter to the BAIID permittee indicating that if the device is not taken in for a monitor report within 10~~

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~~days after the date of the letter, the failure to comply will be made part of his/her record of performance;~~

- 12) For any BAIID permittee whose monitor reports show 10 or more unsuccessful attempts to start the vehicle, or a failure to successfully complete a running retest, during the initial monitor period, send a warning letter to the BAIID permittee indicating that future unsuccessful attempts to start the vehicle or failure to successfully complete a running retest will result in the Secretary sending a letter to the BAIID permittee asking for an explanation of the unsuccessful attempts to start the vehicle or the failure to successfully complete a running retest;
- 23) For any BAIID permittee whose monitor reports show 10 or more unsuccessful attempts to start the vehicle after the initial monitor report period, send the BAIID permittee a letter asking for an explanation of the unsuccessful attempts to start the vehicle. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance;
- 34) For any BAIID permittee whose monitor reports show a failure to successfully complete a running retest, after the initial monitor report period, send the BAIID permittee a letter asking for an explanation of the failure to successfully complete a running retest. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonable assure the Secretary, the failure to comply will be made part of his/her record of performance;
- 45) For any BAIID permittee whose monitor reports show a BrAC reading of 0.05 or more or a pattern of BrAC readings consistent with the use of alcoholic beverages, regardless of any other provision contained in this Section, there shall arise a rebuttable presumption that the BAIID permittee consumed alcoholic beverages. The presumption may result in the cancellation of the RDP if the BAIID permittee is required to abstain from alcohol/drugs (whose alcohol/drug use was classified at High Risk-Dependent). In every case, the Secretary shall send a letter asking for an

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explanation of the BrAC reading or the pattern of BrAC readings consistent with the use of alcoholic beverages. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that the BAIID permittee did not consume alcoholic beverages, no further action will be taken. If a response from a BAIID permittee whose alcohol/drug use was classified at High Risk-Dependent is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance and the Secretary shall cancel the RDP and authorize the immediate removal/deinstallation of any BAIID. If a response from a BAIID permittee whose alcohol/drug use was classified at something other than High Risk-Dependent is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance;

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

67) For any BAIID permittee whose initial monitor or monitor reports show any tampering with or unauthorized circumvention of the device or physical inspection by an installer shows any tampering with or unauthorized circumvention of the device, the Secretary shall immediately cancel the RDP and authorize the immediate removal/deinstallation of the device.

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

1) Any law enforcement report showing operation of a vehicle by a BAIID permittee without a device as required by the RDP issued under this Section. The law enforcement officer shall, at the time of the stop,

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confiscate the RDP and send it, or a copy of it, along with the report, to the Secretary;

- 2) Notification from a BAIID provider or installer on a removal/deinstallation report form stating that the device installed in a BAIID permittee's vehicle has been removed and/or is no longer being utilized by the permittee, as required by subsection (d), including a removal or deinstallation caused by the BAIID permittee's failure to pay lease or rental fees due to the BAIID provider, unless the permittee has notified the Secretary that he or she is no longer utilizing the device and surrendered the BAIID permit to the Secretary as required in subsection (h). This notification shall be sent to the Secretary no more than 7 days after the removal/deinstallation;
 - 3) Failure to submit a BAIID for monitoring in a timely manner. Unless notified by a BAIID provider pursuant to subsection (j)(2), all monitor reports shall be submitted to the Secretary within 67 days after the previous monitor report. If the Secretary fails to receive a BAIID permittee's monitor reports in the 67 days, then the Secretary will conduct an informal inquiry (will attempt to contact the BAIID provider and permittee by telephone or e-mail) for the purpose of determining the cause for this failure. If it is determined or if it appears that the BAIID permittee failed to take in a vehicle with the device for timely monitor reports or failed to send the appropriate portion of the device, utilizing a traceable package delivery service, to the BAIID provider or installer for timely monitor reports, then the Secretary will send a letter to the BAIID permittee stating that if the device is not taken in for a monitor report within 10 days after the date of the letter, then any permits issued to the BAIID permittee will be cancelled;
 - 43) Any law enforcement report involving a DUI arrest or other law enforcement report indicating use of alcohol in violation of Subpart D.
- k) Hearing to Contest Cancellation of BAIID Permit. Any BAIID permittee whose RDP is cancelled as provided for in this Section may request a hearing to contest the cancellation within 60 days from the effective date of the cancellation. Such a hearing will be scheduled and held on an expedited basis. The hearing will be conducted as any other formal hearing under this Part. Any BAIID permittee whose RDP is cancelled under the provisions of this Section and who is required to abstain from alcohol/drugs (whose alcohol/drug use was classified at High

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Risk-Dependent) and who admits to consuming alcoholic beverages may not request a hearing to contest the cancellation.

- l) No Hearing for 12 Months After Cancellation. Any BAIID permittee whose RDP is cancelled for any reason as provided for in this Section shall not be granted another hearing for any type of driving relief for one year from the date of the cancellation, except to contest the cancellation as provided in subsection (k). This provision does not apply to BAIID permittees who: voluntarily have surrendered their RDPs; have not committed any offense or act that would be grounds for the cancellation of their RDPs; or are able to demonstrate that he/she was not the perpetrator of the offense or conduct ~~that~~ which otherwise would be grounds for the cancellation of his/her RDPs.
- m) Formal Order – Content. Any formal order entered ~~that~~ which grants the issuance of an RDP as provided for in this Section shall, in addition to all other requirements, clearly indicate the following:
 - 1) That the RDP is issued conditioned upon BAIID installation and proper usage of the BAIID by the permittee; and
 - 2) That the BAIID permittee is aware of all conditions and terms of BAIID installation and proper usage of the BAIID, and he or she accepts those conditions and terms as conditions precedent to the issuance of the RDP.
- n) RDPs – Content. Any RDPs issued as provided for in this Section shall, in addition to all other requirements, clearly indicate:
 - 1) That the RDP is issued pursuant to the BAIID requirements of this Section, and that a vehicle operated by a BAIID permittee must be equipped with an installed, properly operating device;
 - 2) That the provisions of the RDP also allow the BAIID permittee to drive to and from the BAIID provider or installer for the purposes of installing the device within 14 days after the issuance of the RDP, or obtaining monitor reports, and any necessary servicing.
- o) Use of Monitor Reports. The Secretary shall gather all monitor reports and any other information relative to the permittee's performance and compliance with the BAIID requirements under this Subpart D. Such reports may be used as evidence at any administrative hearing conducted by the Secretary under this Part.

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- p) Modification or Waiver of BAIID. The Secretary may make a medical or physical BAIID modification or waiver for RDPs issued under this Section.
- q) Employment Exemption from BAIID Requirements. In determining whether a BAIID permittee is exempt from the BAIID requirements pursuant to the waiver provided for in Sections 6-205 and 6-206 of the IVC, the following shall apply:
- 1) The term "employer" shall not include an entity owned or controlled in whole or in part by the permittee or any member of the permittee's immediate family, unless the entity is a corporation and the permittee and the permittee's immediate family own a total of less than 5% of the outstanding shares of stock in the corporation. Immediate family shall include spouse, children, children's spouses, parents, spouse's parents, siblings, siblings' spouses and spouse's siblings;
 - 2) The exemption shall not apply where the employer's vehicle is assigned exclusively to the BAIID permittee and used solely for commuting to and from employment.
- r) Decertification of BAIID Providers and BAIID Device. The Secretary must notify the BAIID permittee of the decertification of a BAIID provider or the decertification of a particular type of BAIID. The BAIID permittee must then select a new BAIID provider or type of BAIID from the list of approved BAIID providers maintained by the Secretary. The BAIID permittee must inform the Secretary of that selection within 7 days after the receipt of notification from the Secretary. The BAIID permittee must complete registration with a new BAIID provider and/or installation of a new BAIID within 21 days after the receipt of the notification from the Secretary. Failure to complete these steps within the 21-day period may result in cancellation of the BAIID permittee's RDP. All costs related to any change in BAIID provider or BAIID shall be paid by the BAIID permittee.
- s) Reciprocity with Other States. The Secretary will honor the BAIID requirements imposed by other states on Illinois drivers and drivers licensed in other states, for offenses committed in other states,⁵ and will reciprocate other states' recognition of BAIID requirements imposed by Illinois on drivers licensed in Illinois, or licensed in other states for offenses committed in Illinois.

(Source: Amended at 28 Ill. Reg. 15804, effective November 19, 2004)

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

- a) [Certification Required to Provide BAIID Services.](#) No person or entity may provide BAIID services pursuant to this Subpart D unless certified as a BAIID provider by the Secretary. The Secretary shall begin accepting applications for certification immediately after August 1, 2003. All certified BAIID providers must apply for recertification on an annual, calendar year basis, with applications for recertification due in the Secretary's office no later than December 1 of each year. Upon the certification of one or more BAIID providers under this amended Subpart D, the Secretary will cease assigning BAIID permittees to BAIID manufacturers pursuant to the geographic districts set forth in previous rules.
- b) [Who May Provide BAIID Services.](#) BAIID providers may be a manufacturer of BAIIDs, an authorized representative of a manufacturer of BAIIDs, an installer of BAIIDs or other business entity. Without regard to the specific business operations of the BAIID provider, all certified BAIID providers under this Section shall be responsible for insuring that all of the duties and responsibilities of a BAIID provider are carried out in accordance with this Subpart D, including, but not limited to, providing, distributing, installing and servicing approved BAIIDs. BAIID providers may provide these services through their own resources, through a subsidiary, or through contractual relationships with third parties.
- c) [Information Required in Application for Certification.](#) Persons or entities desiring to be certified as BAIID providers may submit an application for certification at any time after August 1, 2003. An application for certification or recertification as a BAIID provider shall include all of the following information:
- 1) The name, business address and telephone number of the applicant. If the applicant is a business entity other than a corporation, the application must include the names and addresses of the owners of the entity. If the applicant is a corporation, the application must include the names and addresses of any person or entity owning 10% or more of the outstanding shares of the corporation;
 - 2) The names, business addresses and telephone numbers, and titles of any officers, managers or supervisors of the applicant who will be involved in the provision of BAIID services;

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- 3) A description of each BAIID ~~which~~ the applicant proposes to install, including the name and address of the manufacturer and the model of the unit. Unless the BAIID has been certified by the Secretary pursuant to this Section, the application must include the information necessary to obtain certification of the BAIID pursuant to this Section;
- 4) If the applicant is not a BAIID manufacturer, the application must include proof of the applicant's right to distribute and install the particular types of BAIIDs the applicant is proposing to utilize. Such proof may include a letter (composed on letterhead stationary), or a copy of a purchase, lease, rental or distribution agreement with the manufacturer;
- 5) A detailed description of the applicant's plan for distribution, installation and service of BAIIDs in Illinois, including the names and addresses of all installers the applicant intends to use. This plan must demonstrate the applicant's ability to distribute and install BAIIDs and submit reports to the Secretary within the time frames established by this Subpart D;
- 6) Proof ~~that~~ the applicant possesses the minimum liability insurance coverage required by this Section, and a statement agreeing to the indemnification and hold harmless provisions of this Section;
- 7) In the event an original or amended application to be certified or recertified as a BAIID provider is denied, the Secretary shall limit additional applications from that applicant to one every 12 months;
- 8) In deciding whether to grant or deny an application to be a BAIID provider, the Secretary may take into consideration the applicant's past performance in manufacturing, distributing, installing or servicing BAIIDs if the applicant has previously engaged in this type of business;
- 9) A BAIID provider who has been certified pursuant to this Section may at any time submit an amended application seeking approval to distribute and install a type of BAIID in addition to or other than the types previously approved for that BAIID provider;
- 10) The Secretary shall notify the applicant in writing of his decision regarding the application for certification as a BAIID provider.

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- d) [Services that Must be Provided](#). After certification by the Secretary, BAIID providers shall provide the following services and meet the following requirements:
- 1) The BAIID provider shall submit proof of liability insurance with its application to the Secretary. General commercial liability and/or product liability insurance, which shall include coverage for installation services, shall be maintained with minimum liability limits of \$1 million per occurrence and \$3 million aggregate total. If the BAIID provider is not both the manufacturer and installer of the device, proof of liability insurance must be provided showing coverage of both the manufacturer and the installers. If proof of separate policies for the manufacturer and installers is provided, each policy must have minimum liability limits of \$1 million per occurrence and \$3 million aggregate total. Other commercially acceptable insurance arrangements, in the same minimum amounts, may be accepted at the discretion of the Secretary;
 - 2) As a condition of being certified as a BAIID provider, the BAIID provider shall agree to indemnify and hold the State of Illinois and the Secretary, their officers, agents and employees, harmless from and against any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments, including costs, attorneys' and witnesses' fees, and expenses incident thereto, relating to bodily injuries to persons (including death) and for loss of, damage to, or destruction of real and/or tangible personal property (including property of the State) resulting from the negligence or misconduct of the BAIID provider, its employees, agents, or contractors in the manufacture, installation, service, repair, use or removal of a BAIID or performance of any other duties required by this Section;
 - 3) All installations of BAIIDs shall be done in a workmanlike manner and shall be in accordance with the standards set forth in this Section and with the requirements of the manufacturer. All BAIIDs installed shall be in working order and shall perform in accordance with the standards set forth in this Section. All BAIIDs must be installed and all reports to the Secretary must be made within the time frames established by this Subpart D;
 - 4) The BAIID provider shall only install models of BAIIDs that the provider has been authorized to install pursuant to this Section and the BAIIDs

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shall only be installed at installation sites reported to the Secretary pursuant to this Section;

- 5) Any BAIID provider that sells, rents, and/or leases ignition interlock devices in Illinois pursuant to this Subpart D shall report to the Secretary within 7 days all such sales, rentals, and/or leases listing the name of the individual, his or her driver's license number, the installer, the installer's location, the make and serial number of the device, the make and model of the vehicle it is installed in, and VIN number of the vehicle;
- 6) The BAIID provider shall provide a toll free customer service/question/complaint hotline that is answered, at a minimum, during normal business hours, Monday through Friday;
- 7) The BAIID provider shall provide a course of training and written instructions for the BAIID permittee on operation, maintenance, and safeguards against improper operations. The BAIID provider shall warn the BAIID permittee that any tampering with or unauthorized circumvention of the device will result in the immediate cancellation of his or her RDP. The BAIID provider shall instruct the BAIID permittee to maintain a journal of events surrounding failed readings or problems with the device. Copies of all materials used in this course of training shall be provided to the Secretary;
- 8) The BAIID provider shall provide service for malfunctioning or defective BAIIDs within a maximum of 48 hours after notification of a request for service. This support shall be in effect during the period the device is required to be installed in a motor vehicle;
- 9) The BAIID provider shall provide, at the request of the Secretary, expert or other required testimony in any civil or criminal proceedings or administrative hearings as to issues involving BAIIDs, including the method of manufacture of the device and how the device functions;
- 10) If a BAIID provider requires a security deposit by a BAIID permittee and the amount of the deposit required is more than an amount equal to one month's rental or lease fee, the security deposit must be deposited in an escrow account established at a bank, savings bank or savings and loan association located within the State of Illinois. The BAIID provider will

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provide the Secretary with a certified statement of the escrow account upon his request;

- 11) BAIID providers must submit monitor reports or reports of any other service to the Secretary whenever a BAIID is brought in for monitoring or whenever a BAIID is brought in pursuant to a service or notification report. Except as provided in subsection (d)(11), the reports must be submitted to the Secretary no later than 7 days from the date the BAIID is brought in or an appropriate portion of the BAIID is sent to the BAIID provider. All BAIIDs shall be recalibrated whenever they are brought in for any type of service or monitoring using a wet bath simulator or other approved equivalent procedure; i.e., dry gas standard;
- 12) The BAIID provider shall report to the Secretary within two business days the discovery of any evidence of tampering with or attempts to circumvent a BAIID. The BAIID provider shall preserve any available physical evidence of tampering circumvention and shall make that evidence available to the Secretary;
- 13) BAIID providers shall provide to the Secretary, upon request, additional reports, to include but not be limited to, records of installation, reinstallations, deinstallations, calibrations, maintenance checks and usage records on devices placed in service in the State;
- 14) The BAIID provider shall provide service to all BAIID permittees who request services from the BAIID provider and who have met the requirements of this Subpart D, including the payment of fees due to the provider;
- 15) The BAIID provider must immediately notify the Secretary in writing if it or its manufacturer or installer becomes unable to produce, supply, service, repair, maintain, or monitor BAIIDs in a manner ~~that~~^{which} enables it to service BAIID permittees as required and within the deadlines specified in this Subpart D;
- 16) The BAIID provider shall provide the Secretary a list of all locations in Illinois where the device may be purchased, rented, leased, installed, removed, serviced, repaired, calibrated, accuracy checked, inspected and monitored. The BAIID provider shall notify the Secretary within 48 hours

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of any new installation locations or any installation locations ~~that~~which are closed;

- 17) The Secretary may designate the form, format and method of delivery (e.g., facsimile, electronic transfer, etc.), for any reports, information, or data required to be filed with the Secretary pursuant to this Subpart D, including, but not limited to, installation verification forms, monitoring report forms, noncompliance report forms, notices of calibration, verification, tampering or circumvention, and removal or deinstallation report forms;
 - 18) The Secretary shall review and approve leases or rental agreements the BAIID provider intends to utilize between the BAIID provider and the BAIID permittee. The BAIID provider shall submit to the Secretary a copy of the schedule of all fees ~~that~~which will be charged to BAIID permittees, and shall submit an amended schedule of fees whenever there is a change to the BAIID provider's fees;
 - 19) The BAIID providers shall agree to take assignments to unserved areas of Illinois pursuant to this Section, as those areas are defined in subsection (i)(2);
 - 20) The Secretary shall have the right to conduct independent inspections of BAIID providers, manufacturers and installers, including inspection of any devices present at the time of the inspection, to determine if they are in compliance with the requirements of this Subpart D. The Secretary shall notify in writing and require the BAIID provider to correct any noncompliance revealed during any inspections. Within 30 days after receiving a notice of noncompliance, the BAIID provider shall notify the Secretary in writing of any corrective action taken;
 - 21) Upon the request of the Secretary, the BAIID provider shall, at no cost to the State of Illinois, provide the Secretary with not more than two BAIIDs for each model ~~that~~which is certified under this Section. These models will be used for demonstration and training purposes.
- e) Criteria for Certification of Interlock Devices. Only BAIIDs ~~that~~which have been certified for use in Illinois pursuant to this Section may be installed in the vehicles of BAIID permittees by BAIID providers. Certification of a BAIID may be granted by the Secretary based on the following criteria:

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- 1) Approval of a device may be granted by the Secretary, based on a review and evaluation of test results from any nationally recognized and certified laboratory test facility ~~that~~^{which} is accredited by one of the following: International Standards Organization (ISO-25), National Voluntary Lab Accreditation Program – National Institutes of Standards & Technology (NVLAP), or Clinical Laboratory Improvement Amendments – U.S. Department of Health and Human Services (CLIA). The evaluation and test results must affirm the device's ability to meet the Model Safety and Utility Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs) promulgated by the National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation, 400 S. 7th St. SW, Washington, D.C. 20590, (202)366-5593, 57 Fed. Reg. 1172, April 7, 1992 (no subsequent dates or editions), except for:
 - A) 1.4.S, Power, if the device is not designed to be operated from the battery;
 - B) 1.5.2.S, Extreme Operating Range, if the device is not designed to be operated below -20° C and above +70° C;
 - C) 2.3.S, Warm Up, if the device is not designed to be operated below -20° C;
 - D) 2.5.S, Temperature Package, if the device is not designed to be operated below -20° C and above +70° C;
- 2) The BAIID provider must certify that the BAIID:
 - A) Does not impede the safe operation of a vehicle;
 - B) Minimizes opportunities to bypass the device;
 - C) Performs accurately and reliably under normal conditions;
 - D) Prevents a BAIID permittee from starting a vehicle when the BAIID permittee has a prohibited BrAC; i.e., $P \geq 0.025$;
 - E) Satisfies the requirements for certification set forth in this Section;

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- 3) No device shall be given approval if it demonstrates an accuracy rate \geq 0.01 in unstressed conditions or \geq 0.02 in stressed conditions. The terms "stressed" and "unstressed" shall be defined according to the NHTSA standards referred to in subsection (e)(1);
- 4) Any device to be approved shall be designed and constructed with an alcohol setpoint of 0.025;
- 5) Any device to be approved shall require the operator of the vehicle to submit to a running retest at a random time within 5 to 15 minutes after starting the vehicle. Running retests shall continue at a rate of two per hour in random intervals not to exceed 45 minutes after the first running retest;
- 6) Any device to be approved shall be designed and constructed to immediately begin blowing the horn if:
 - A) The running retest is not performed;
 - B) The BrAC readings of the running retest is 0.05 or more; or
 - C) Tampering or circumvention attempts are detected;
- 7) The BAIID shall be required to have permanent lockout 5 days after it gives service or inspection notification to the BAIID permittee if it is not serviced or calibrated within that five day period. The BAIID shall give service or inspection notification to the BAIID permittee upon the occurrence of any of the following events:
 - A) Every instance in which the device registers 3 BrAC readings of .05 or more within a 30 minute period;
 - B) Any attempted tampering or circumvention;
 - C) The time for the BAIID permittee to take the vehicle for the initial monitor report;
 - D) Every 60 days after the initial monitor report;

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In addition, the BAIID shall record and communicate to the BAIID permittee and to the Secretary's office via monitor reports all of the preceding events and all starts of the vehicle, both successful and unsuccessful;

- 8) The device shall be required to have 24 hour lockout anytime the BAIID permittee registers 3 BrAC readings of 0.05 or more within a 30 minute period;
- 9) Approval of a device may be withdrawn by the Secretary, based on a field testing protocol developed by the Secretary to determine the device's ability to operate in a consistently reliable manner and based upon review of field performance results; a review of BAIID usage by BAIID permittees; and BAIID monitor reports;
- 10) Upon the request of the Secretary, the BAIID provider shall, at no cost to the State of Illinois, install not more than three of each model of BAIID for which certification is sought in the vehicles provided by the Secretary for field testing. The Secretary may independently evaluate each device to ensure compliance with the requirements in this Section. The evaluation criteria include, but are not limited to, repeated testing of alcohol-laden samples, filtered samples, circumvention attempts and tampering;
- 11) Upon the request of the Secretary, for each model of BAIID certified under this Section, the BAIID provider shall provide a total of at least 10 hours of training to the Secretary's employees at no cost to the State of Illinois. This training shall be held at the times and locations within the State designated by the Secretary. The training shall be designed to familiarize the Secretary's employees with the installation, operation, service, repair and removal of the BAIIDs and with the training and instructions that the BAIID provider will give to BAIID permittees. The BAIID provider shall also provide the Secretary, upon request, the following materials:
 - A) A detailed description of the device, including complete instructions for installation, operation, service, repair and removal of the BAIID;

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- B) Complete technical specifications describing the BAIID's accuracy, reliability, security, data collection and recording, tamper and circumvention detection, and environmental features;
- 12) Any device ~~that~~which is not approved shall be re-tested at the request of the BAIID provider but not more often than once in a calendar year;
- 13) After August 1, 2003, the Secretary shall not accept for approval any BAIID ~~that~~which uses Taguchi cell technology to determine BrAC. By September 1, 2003, the Secretary shall publish an initial list of BAIIDs that do not utilize Taguchi cell technology and that have been approved for use in Illinois by the Secretary. The devices on this list shall meet all standards set forth in this Section. Between January 1, 2004 and December 31, 2004, approved BAIID service providers shall only install approved devices ~~that~~which do not utilize Taguchi cell technology. Taguchi cell devices installed before January 1, 2004 may remain installed until the end of the contract period or until January 1, 2005, whichever occurs first. Beginning January 1, 2005, no devices using Taguchi cell technology shall be permitted in BAIID permittee vehicles;-
- 14) [After January 1, 2005, new BAIID installations must use, as their anti-circumvention method, one of the following technologies: either a positive>negative>positive air pressure test requirement, or a mid-test hum tone requirement. BAIIDs installed and in use as of January 1, 2005 that do not use one of these anti-circumvention methods must be replaced by March 1, 2005. After January 1, 2005, BAIID providers may submit for approval to the Secretary new anti-circumvention technologies. Upon approval by the Secretary, pursuant to the procedures in this subsection \(e\), these technologies shall be included with the previously mentioned anti-circumvention technologies as acceptable for use by BAIID providers.](#)
- f) BAIID Installers
- 1) All installations of BAIIDs must be performed by installers identified to the Secretary as employees of or contractors of a certified BAIID provider. The provider must inform the Secretary whether installation is being done by its own employees, contractors, or both. All installations shall be performed in a workmanlike manner. BAIID providers shall be responsible for their installer's compliance with this Subpart D. A BAIID

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provider may be decertified by the Secretary for the noncompliance of its installer with the requirements of this Subpart D;

- 2) All BAIID installers shall have all tools, test equipment and manuals needed to install devices and screen motor vehicles for acceptable mechanical and electrical condition prior to installation;
- 3) The installer shall provide adequate security measures to prevent access to the device (tamper seals or installation instructions);
- 4) The installer shall appropriately install devices on motor vehicles taking into account each motor vehicle's mechanical and electrical condition, following accepted trade standards and the device manufacturer's instructions. All connections shall be soldered and covered with tamper seals. It is the BAIID permittee's responsibility to repair the vehicle if any prior condition exists that would prevent the proper functioning of the device. The installer shall inform the BAIID permittee that a problem exists, but shall not be responsible for repairing the vehicle;
- 5) The installer shall not install devices in a manner that could adversely affect the performance of the device or impede the safe operation of the motor vehicle;
- 6) The installer shall verify that a device is functioning properly after it has been installed in the motor vehicle;
- 7) The installer shall restore a motor vehicle to its original condition when a device is removed. All severed wires must be permanently reconnected and insulated with heat shrink tubing or equivalent;
- 8) Where the installer is also providing monitoring and other services for the BAIID after installation, the installer shall perform all of the duties ~~that~~which are associated with service after the installation and ~~that~~which are required by this Section of a BAIID provider. These duties shall include, but are not limited to, completing all monitoring reports, making notification of any evidence of tampering or circumvention, and recalibrating BAIIDs whenever they are brought in for service or monitoring.

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- g) [Disqualification of BAIID Providers](#). The Secretary shall disqualify a BAIID provider from providing BAIID services in Illinois, upon written notification and a 30 day opportunity to come into compliance, in any of the following cases:
- 1) Failure to submit monitor reports in a timely manner as provided in subsections (d)(11) and (d)(12). If the Secretary finds, through investigation, that the BAIID permittee did take the vehicle with the installed device to the BAIID provider, or sent the appropriate portion of the device to the BAIID provider for a monitor report in a timely manner, a warning notification shall be sent to the BAIID provider indicating that a third such occurrence within a 12 month period will result in decertification;
 - 2) Failure to maintain liability insurance as required;
 - 3) Failure to install approved devices within the time requirements of this Subpart D;
 - 4) Failure to comply with all of the duties and obligations contained in this Subpart D;
 - 5) Failure to provide BAIID permittees with correct information regarding the requirements of this Subpart D.
- h) [Notification of Decertification](#). Upon decertification of a BAIID or the decertification of or the cessation of the operation of a BAIID provider, the Secretary shall notify in writing all affected BAIID permittees of the decertification of the BAIID or the decertification of or the cessation of the operation of a BAIID provider.
- i) Designation of Installation Sites
- 1) Each BAIID provider shall be responsible for establishing installation sites within the State to service BAIID permittees;
 - 2) The Secretary shall monitor the location of installation sites throughout Illinois. If the Secretary determines that any place in Illinois is not within 75 miles of an installation site, the Secretary shall randomly select one of the certified BAIID providers and require that BAIID provider to establish an installation site in the unserved area. If a second or subsequent area of

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

(Source: Amended at 28 Ill. Reg. 15804, effective November 19, 2004)

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: AMBER Alert Notification Plan
- 2) Code Citation: 20 Ill. Adm. Code 1292
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1292.10	New Section
1292.20	New Section
1292.30	New Section
1292.40	New Section
1292.50	New Section
- 4) Statutory Authority: Implementing and authorized by Section 2605-480 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-480]
- 5) Effective Date of Rules: November 24, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? No
- 8) A copy of the adopted rules, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 28 Ill. Reg. 11077; August 6, 2004
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version:

In Section 1298.20, in the definition of "Child Safety Coordinator", the sentence which read "The qualifications and experience for the position shall be as outlined in the official position description maintained by the Department." was deleted. The following language was added in its place: "The qualifications and experience for the position shall include the knowledge, skill, and mental development equivalent to completion of four years of college, preferably with courses in business or public administration; at least one year of professional experience in a public or private organization; prior law enforcement experience, preferably in crimes against children; ability to assist with the development and management of a supportive agency program; ability to assist in the interpretation of Department policies and procedures; and the ability to maintain cooperative working relationships."

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- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these rules replace any emergency rules currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: The purpose of this Part is to develop and implement a coordinated program for a statewide emergency alert system to be used when a child is abducted.
- 16) Information and questions regarding these adopted rules shall be directed to:

Mr. Keith Jensen
Chief Legal Counsel
Illinois State Police
124 East Adams Street, Room 102
Post Office Box 19461
Springfield, Illinois 62794-9461

(217) 782-7658

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

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER II: DEPARTMENT OF STATE POLICEPART 1292
AMBER ALERT NOTIFICATION PLAN

Section	
1292.10	Purpose
1292.20	Definitions
1292.30	Requirements
1292.40	Procedures
1292.50	Responsibilities

AUTHORITY: Implementing and authorized by Section 2605-480 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-480].

SOURCE: Adopted at 28 Ill. Reg. 15835, effective November 24, 2004.

Section 1292.10 Purpose

The purpose of this Part is to develop and implement a coordinated program for a statewide emergency alert system to be used when a child is abducted.

Section 1292.20 Definitions

"AMBER Alert Notification Plan" means the system implemented to broadcast critical information to the public when a child is abducted.

"AMBER Plan Task Force" means the group appointed by the Illinois Department of State Police to monitor and review the implementation and operation of the plan, including procedures, budgetary requirements, and response protocols. The Task Force shall also develop additional network resources for use in the system.

"Child" means a minor under the age of 16 or an individual with a proven mental or physical disability, which may be determined on a case-by-case basis.

"Child Safety Coordinator" means the Illinois Department of State Police employee appointed to assist in the establishment of State standards for child safety from kidnap and abduction and to advocate for the achievement of those standards. The qualifications and experience for the position shall include the

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knowledge, skill, and mental development equivalent to completion of four years of college, preferably with courses in business or public administration; at least one year of professional experience in a public or private organization; prior law enforcement experience, preferably in crimes against children; ability to assist with the development and management of a supportive agency program; ability to assist in the interpretation of Department policies and procedures; and the ability to maintain cooperative working relationships.

"Department" means the Illinois Department of State Police.

"Investigative law enforcement agency" means the law enforcement agency leading the investigation in the jurisdiction in which the abduction occurred.

Section 1292.30 Requirements

The following criteria must be met to activate the AMBER Alert Notification Plan:

- a) The investigative law enforcement agency must confirm that a child has been abducted.
- b) The investigative law enforcement agency must confirm that the child meets the definition of child contained within Section 1292.20 of this Part.
- c) Law enforcement officials must believe the child is in danger of serious bodily harm or death.
- d) There must be sufficient descriptive information about the child, abductor, and/or suspect's vehicle to believe an immediate broadcast alert will help locate the child, abductor, and/or suspect's vehicle.

Section 1292.40 Procedures

- a) The investigative law enforcement agency must confirm the situation meets the criteria outlined in Section 1292.30 of this Part and then contact the Illinois Department of State Police Springfield Communications Center to request activation of the AMBER Alert Notification Plan.
- b) The investigative law enforcement agency shall notify all Illinois law enforcement agencies of a child abduction alert through the Law Enforcement Agencies Database System (LEADS) and other state law enforcement agencies through the

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National Law Enforcement Telecommunications System (NLETS).

- c) Critical information relating to the abduction will be sent via the National Weather Service Emergency Alert System to statewide media outlets by the Illinois Department of State Police Springfield Communications Center.
- d) The Illinois Department of State Police Springfield Communications Center will request that the media broadcast details of the abduction in order to obtain the public's assistance in locating the abducted child, abductor, and/or vehicle used in the abduction.
- e) The Illinois Department of State Police Springfield Communications Center will contact the Illinois Department of Transportation in order to post the critical information relating to the abduction on Illinois Department of Transportation and Illinois Tollway electronic message signs on roads and highways and Illinois State websites.

Section 1292.50 Responsibilities

- a) The Department shall establish an AMBER Plan Task Force.
- b) The Department shall appoint a Child Safety Coordinator.
- c) The Department, in coordination with the Illinois Emergency Management Agency, shall develop and implement a community outreach program to promote awareness among the State's parents and children of child abduction prevention and response.
- d) The Department, in coordination with the Illinois State Board of Education, shall develop child abduction prevention instruction for inclusion in elementary and secondary school curricula throughout the State. The Department and State Board of Education shall encourage the inclusion of the child abduction prevention instruction in private elementary and secondary school curricula throughout the State.

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- 1) Heading of the Part: Administrative Complaint Procedures for Violations of Title III of HAVA
- 2) Code Citation: 26 Ill. Adm. Code 150
- 3)

<u>Sections Numbers:</u>	<u>Emergency Action:</u>
Section 150.5	New
Section 150.10	New
Section 150.15	New
Section 150.20	New
Section 150.25	New
Section 150.30	New
Section 150.35	New
Section 150.40	New
Section 150.45	New
Section 150.50	New
Section 150.55	New
Section 150.60	New
Section 150.65	New
Section 150.70	New
Section 150.75	New
Section 150.80	New
Section 150.85	New
Section 150.90	New
Section 150.95	New
Section 150.100	New
Section 150.105	New
Section 150.110	New
Section 150.115	New
Section 150.120	New
Section 150.125	New
Section 150.130	New
Section 150.135	New
Section 150.140	New
Section 150.145	New
- 4) Statutory Authority: Authorized by Title IV Section 402 of the Help America Vote Act [HAVA] codified at 42 USC 15301 to 15545 and Section 100/10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/10-5].

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- 5) Effective Date of Rulemaking: November 24, 2004
- 6) If this emergency rule is to expire before the end of the 150-day period (other than by means of adopting the rule through the general rulemaking process); please specify the date: This emergency rule will expire upon the adoption of the rule through the general rulemaking process.
- 7) Date filed with the Index Department: November 24, 2004
- 8) A copy of the emergency rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection. In addition, a copy of this rule will be issued as a press in the Springfield Office of the State Board of Elections press release from the State Board of Elections and a copy will be sent to all 110 election authorities in Illinois, as well the Illinois Secretary of State; entities that are subject to the provisions of Title III of HAVA.
- 9) Reason for Emergency: HAVA requires all states who receive federal money under the Act to establish administrative complaint procedures. These procedures are to be utilized by persons who file a complaint under Title III of HAVA in connection with the November 2, 2004 General Election and all subsequent Federal Elections. Therefore it is incumbent upon the State Board of Elections to have these procedures in place on or soon after November 2, 2004. In addition, \$98,000,000 in federal money will not be provided to Illinois until these procedures are in place, lending further urgency to this matter.
- 10) A Complete Description of the Subjects and Issues Involved: This emergency rule establishes the procedures to be used by anyone who files a complaint with the State Board of Elections alleging a violation of Title III of HAVA, codified in 42 USC 15301 to 15545. The complaint must be filed within 90 days after the violation or the Federal Election in which the violation occurred; it must be in writing, stating the specific nature of the violation; it must be signed by the complainant and notarized; and it must be well grounded in law and in fact. The complaint must then be served by the complainant upon the Respondent, who is defined as any entity subject to the provisions of Title III of HAVA.

The General Counsel of the State Board of Elections will conduct a preliminary review of the complaint to determine if it alleges a violation of Title III of HAVA and pertains to a Federal Election and to determine whether the complaint alleges sufficient facts to constitute a cause of action. If it is so determined, then the complaint will be assigned to a hearing examiner and proceed to either a public hearing (if requested by the complainant) or a review, both to determine whether the complaint is well grounded in

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fact and law. After the public hearing or review, the hearing examiner will give a written recommendation that shall be given to both parties, the General Counsel and the Board. The matter will then be presented to the Board for final disposition with the granting of the appropriate relief.

If the General Counsel determines that the complaint is not sufficient or does not allege a violation of Title III of HAVA, the complaint will be presented to the Board for either dismissal or referral to the appropriate enforcement agency for further action. With the exception of the preliminary review of the General Counsel, at all times during the course of the proceedings the complainant and respondent will be given an opportunity to be present at any hearing or Board deliberation and to offer evidence and argument.

If the complaint names the Board as a Respondent, the matter will proceed directly to an alternative dispute resolution service unless waived by the complainant.

The complaint must be resolved by the Board within 90 days after the filing of the complaint. If the complaint cannot be resolved within such time and the complainant does not waive the deadline, the matter must be turned over to an alternative dispute resolution service. The matter must then be resolved within 60 days following the transfer of the case.

The emergency rule also establishes general procedures for administrative complaint proceedings that closely track the procedures in place to administer complaints filed under the Campaign Finance Act.

- 11) Are there any other proposed amendments pending on this Part? No
- 12) Statement of Statewide Policy Objectives: This emergency rule does not create or expand a State mandate on local government.
- 13) Information and questions regarding this Emergency Rule shall be directed to:

Steven S. Sandvoss, Deputy General Counsel
Illinois State Board of Elections
1020 S. Spring St.
Springfield IL 62708
217-557-9939
Ssandvoss@elections.state.il.us

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

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TITLE 26: ELECTIONS
CHAPTER I: STATE BOARD OF ELECTIONS

PART 150
ADMINISTRATIVE COMPLAINT PROCEDURES
FOR VIOLATIONS OF TITLE III OF HAVA

Section

150.5 Applicability

EMERGENCY

150.10 Definitions

EMERGENCY

150.15 Filing of a Complaint

EMERGENCY

150.20 Form of Complaint

EMERGENCY

150.25 Service of Complaint

EMERGENCY

150.30 Preliminary Review of Complaint

EMERGENCY

150.35 Documents Pertaining to Hearings

EMERGENCY

150.40 Computation of Time

EMERGENCY

150.45 Appearances

EMERGENCY

150.50 Non-Legal Assistance

EMERGENCY

150.55 Designation of Parties

EMERGENCY

150.60 Answer

EMERGENCY

150.65 Appointment and Qualifications of Hearing Examiner

EMERGENCY

150.70 Authority of Hearing Examiner

EMERGENCY

150.75 Disqualification of Hearing Examiner

EMERGENCY

150.80 Motions

EMERGENCY

150.85 Consolidation and Severance of Claims: Additional Parties

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EMERGENCY

150.90 Amendments

EMERGENCY

150.95 Pre-Hearing Conferences

EMERGENCY

150.100 Settlement Pursuant to Conference

EMERGENCY

150.105 Continuances

EMERGENCY

150.110 Failure of Party to Appear

EMERGENCY

150.115 Evidence

EMERGENCY

150.120 Official Notice

EMERGENCY

150.125 Subpoenas

EMERGENCY

150.130 Scope of Hearing, Procedures and Evidence

EMERGENCY

150.135 Responsibilities of the General Counsel

EMERGENCY

150.140 Board Determination

EMERGENCY

150.145 Alternative Dispute Resolution

EMERGENCY

AUTHORITY: Authorized by Title IV Section 402 of the Help America Vote Act (HAVA) (42 USC 15512) and Section 10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/10-5].

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 15840, effective November 24, 2004, for a maximum of 150 days.

Section 150.5 Applicability**EMERGENCY**

This Part shall apply to the procedures utilized by the State Board of Elections to resolve complaints filed pursuant to Title IV Section 402 of the Help America Vote Act. This Part is authorized by the Act and Section 10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/10-5].

Section 150.10 Definitions**EMERGENCY**

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As used in this Part, the following terms shall have the meanings specified:

"Act" means the Help America Vote Act (Public Law 107-252; 42 USC 15301) and all amendments thereto.

"Board" means the State Board of Elections.

"Code" means the Illinois Election Code [10 ILCS 5].

"Complainant" means a party initiating a proceeding under the Act by the filing of a complaint.

"Election Authority" means the county clerk in all counties that do not have a county board of election commissioners, the county board of election commissioners in those counties that have adopted the provisions of Article 6A of the Election Code and the city board of election commissioners in those cities that have adopted the provisions of Article 6 of the Election Code.

"Federal Election" means any election in which candidates for federal office are scheduled to be elected or nominated. For purposes of this definition, federal offices are President and Vice President of the United States, United States Senator, Representative in the United States Congress, delegates and alternate delegates to the national nominating convention and candidates for the Presidential Preference Primary.

"Hearing" means the closed preliminary hearing held pursuant to Section 150.30(b).

"Respondent" means any named entity subject to the provisions of Title III of HAVA against whom a complaint is filed.

Section 150.15 Filing of a Complaint**EMERGENCY**

Any person who believes that a violation of any provision of Title III of the Act has occurred, is occurring or is about to occur may file a complaint with the State Board of Elections. Such complaint must be filed no later than 90 days following the occurrence of the violation or 90 days following the federal election in connection with which the violation occurred, whichever date is later. Any complaint filed under this Section must allege a violation of Title III of the Act, must state specifically the nature of the violation and must be well grounded in fact and in law.

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In addition, the complaint must state whether or not the complainant desires a hearing on the record before the State Board of Elections.

Section 150.20 Form of Complaint

EMERGENCY

- a) All complaints filed under this Part shall be in writing and signed and sworn to (or affirmed) by the person filing the complaint and shall be notarized. In addition, the complaint shall contain the following:
 - 1) The complaint shall be directed to and state the name of the respondent against whom the complaint is directed;
 - 2) The complaint shall state the provisions of the Act which are alleged to have been violated;
 - 3) The complaint shall state the time, place and nature of the alleged offense; and
 - 4) The complaint shall be verified, dated and signed by the complainant in substantially the following manner:

Verification

"I declare that this complaint (including any accompanying exhibits and statements) has been examined by me and to the best of my knowledge and belief is a true and correct complaint as required by Section 402 of the Help America Vote Act."

Signed and sworn to (or affirmed) by _____
Name of Complainant

before me on this _____ day of _____.

Signature of Notary Public

(SEAL OF NOTARY)

- b) Upon filing of a complaint, the office of the General Counsel shall assign a docket number to the complaint and proceeding, and all documents thereafter filed

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pertaining to that particular complaint or proceeding, shall include the docket number first assigned.

- c) The complaint shall bear the address, telephone number and fax number of the complainant or of his attorney or his authorized representative and the designation of such address or fax number shall be deemed to be consent by the complainant to have a copy of all documents filed or to be filed thereafter served upon the party at such address or fax number.

Section 150.25 Service of Complaint**EMERGENCY**

A copy of the complaint must be served upon the respondent. Service shall be complete when the document is served as provided in the Civil Practice Law [735 ILCS 5/2-203(a)], in person upon the party or his attorney or authorized representative, or deposited for mailing with the United States Postal Service, postage prepaid, registered or certified, addressed to the party.

Section 150.30 Preliminary Review of Complaint**EMERGENCY**

- a) Any complaint naming an election authority as respondent shall proceed under subsections (b) through (e). A complaint naming the Board as respondent shall proceed to the alternative dispute resolution procedures set out in Section 150.145, unless the complainant waives this provision and agrees to proceed under subsections (b) through (e). Any such waiver shall be in writing and signed by the complainant. A complaint naming both the Board and an election authority as respondents shall be separated for jurisdictional purposes with each respondent subject to the procedures set out in the first two sentences of this subsection.
- b) Upon the filing of a complaint naming an election authority as respondent or upon the filing of a complaint naming the Board as a respondent and containing a waiver as provided in subsection (a), the General Counsel shall perform a preliminary review to determine whether or not the complaint meets the following requirements to constitute a valid complaint under the Act.
 - 1) The complaint alleges a violation under Title III of the Act;
 - 2) The complaint pertains to a federal election; and

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- 3) The complaint states sufficient facts as to constitute a cause of action under the Act for which the Board can grant proper relief.

If the General Counsel determines that the complaint meets the above criteria for a valid complaint under the Act, then the complaint shall proceed under subsections (c) and (d). If the General Counsel determines that the complaint has not met the above criteria for a valid complaint under the Act, the complaint shall be presented to the Board for a final determination of its status. In addition, the complainant shall be notified in writing of the General Counsel's determination of the complaint's invalidity and be given an opportunity to appear before the Board to show cause as to why the complaint should not be dismissed. The decision of the Board as to the status of the complaint shall be in the form of a final order subject to appeal under the provisions of Section 9-22 of the Code. As an alternative to summary dismissal of the complaint, the Board may determine that the complaint alleges a violation of the Code and refer it for investigation to the appropriate division of the Board or to the appropriate election authority or law enforcement agency.

- c) After a determination by the General Counsel that the complaint meets the criteria set out in subsection (a), and upon the written request of the complainant, the Board shall appoint a hearing examiner to conduct a closed preliminary hearing. This hearing shall be held to determine whether the complaint is well grounded in fact and law. Such request must be a part of or accompany the complaint when filed. Following the hearing, the hearing examiner shall make a written recommendation as to whether the complaint is well grounded in fact and law and a copy of the recommendation shall be given to the General Counsel for his recommendation and to both parties to the complaint. Upon receipt of the recommendation of the hearing examiner and the General Counsel, the Board shall make a final determination as to the merits of the complaint and shall make a decision as to what, if any, action should be taken as a result of the complaint. The final determination and decision shall be in the form of a final order subject to appeal under the provisions of Section 9-22 of the Code.
- d) Should the complainant fail to request a hearing, the Board shall appoint a hearing examiner to make a recommendation based solely on the complaint, any evidence submitted with the complaint and any response offered by the respondent as to whether the complaint is well grounded in fact and law. The hearing examiner shall allow the respondent an opportunity for a hearing to present evidence supporting any offered defense (both documentary and/or testimonial) prior to the hearing examiner submitting the recommendation to the General Counsel. The

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complainant shall be given notice and an opportunity to be present and participate in the hearing; however, failure of the complainant to appear at such hearing shall not factor into the hearing examiner's recommendation as to whether the complaint is well grounded in fact and law. After considering all evidence presented by the parties, the hearing examiner shall prepare a written recommendation to be given to the General Counsel for his recommendation and to the parties to the complaint. Upon receipt of the recommendation of the hearing examiner and the General Counsel, the Board shall make a final determination as to the merits of the complaint and shall make a decision as to what, if any, action should be taken as a result of the complaint. The final determination and decision shall be in the form of a final order subject to appeal under the provisions of Section 9-22 of the Code.

- e) The proceedings of the hearing shall be recorded either by a certified court reporter or by means of an electronic recording device. Any party may provide for their own recording of the proceedings of the hearing utilizing a court reporter or any other recording device. Any associated costs, however, shall be borne by the party providing for the recording.
- f) The Board shall render a final determination of the matters alleged in the complaint within 90 days of the filing of the complaint. Such time period may be extended by a written waiver of the complainant. If the Board cannot resolve the issues raised in the complaint by the end of the 90 day period and no such waiver is provided by the complainant, then the Board shall order the matter to be resolved by an alternative dispute resolution mechanism described in Section 150.145.

Section 150.35 Documents Pertaining to Hearings**EMERGENCY**

All documents, including but not limited to complaints, notices and motions, shall be filed with the hearing examiner and a copy shall be served upon the adverse party or their attorney or other authorized representative as provided by Section 150.25 or, if agreed to by the parties, facsimile or electronic mail transmission.

Section 150.40 Computation of Time**EMERGENCY**

Computation of the 90 day period of time mandated by sSection 150.30(e) shall begin with the first day following the day on which the complaint is filed and shall run until the end of the 90th

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day, or the next following business day if the 90th day is a Saturday, Sunday or State holiday as defined in Section 1-6 of the Code.

Section 150.45 Appearances**EMERGENCY**

- a) The parties to a complaint filed under this Part may appear as follows:
 - 1) The complainant may appear on his own behalf or by any authorized representative, including an attorney at law licensed and registered to practice in the State of Illinois, or both;
 - 2) The respondent may appear by any bona fide officer, employee, or other authorized representative, including an attorney licensed and registered to practice in the State of Illinois, or both.
- b) Attorneys not licensed and registered to practice in the State of Illinois may appear on motion, subject to approval of the hearing examiner.
- c) Any person appearing in a representative capacity shall file a written notice of appearance with the hearing examiner. Such appearance form may be submitted at the beginning of the hearing, or if no hearing is requested by the complainant, then such appearance shall be submitted within 5 business days following the filing of the complaint.

Section 150.50 Non-Legal Assistance**EMERGENCY**

Any party involved in the complaint proceeding shall have the right to the presence and participation of additional persons in order to provide technical assistance and consultation. To maintain order, the hearing examiner may at his discretion restrict the number of such additional persons who may attend and participate in the proceedings.

Section 150.55 Designation of Parties**EMERGENCY**

If a complete determination of the complaint cannot be had without the presence of other parties, the hearing examiner or the Board may direct them to be brought in. Service of process shall be as provided in Section 150.25 and any subsequent motions and other documents shall be as provided in Section 150.35.

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Section 150.60 Answer**EMERGENCY**

Any respondent may file a written answer to a complaint prior to or at the time of any proceeding or hearing, but shall not be required to file an answer. The failure to file an answer shall not be deemed an admission of any allegation in the complaint nor a consent to any requested relief. The answer shall be filed with the hearing examiner and at least one copy shall be served upon all other parties to the proceeding, in accordance with Section 150.35.

Section 150.65 Appointment and Qualifications of Hearing Examiner**EMERGENCY**

Within 5 business days of the filing of a complaint, the General Counsel shall appoint a hearing examiner to hear the complaint who shall be a licensed attorney in the State of Illinois. Written notice of the appointment of the hearing examiner shall be provided to the parties within 5 business days of their appointment.

Section 150.70 Authority of Hearing Examiner**EMERGENCY**

The hearing examiner has the authority to conduct and preside over the hearing and is empowered to take all necessary action to avoid delay, to maintain order, to ensure compliance with all requirements contained in this Part, and to ensure the development of a clear and complete record and shall have all powers necessary to conduct a fair and impartial hearing.

Section 150.75 Disqualification of Hearing Examiner**EMERGENCY**

Any party to a hearing may file a written request for disqualification of the hearing examiner, setting forth the nature of the personal bias, prejudice, or other grounds for disqualification. Such request shall be made to the General Counsel who will make the decision as to whether the hearing examiner should be disqualified. When a hearing examiner is disqualified, or it becomes impractical for him to continue, another hearing examiner shall be appointed in the same manner as provided for the initial appointment. A hearing examiner may at any time voluntarily disqualify himself. A request for disqualification made by a party shall be considered timely if made within five business days after the dispatch of the notice of the appointment of the hearing examiner and if received at least three business days prior to the commencement of the hearing by the hearing examiner.

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Section 150.80 Motions**EMERGENCY**

Unless otherwise directed by the hearing examiner, motions shall be in writing and submitted to the hearing examiner and the adverse party prior to the hearing. Where the Board is conducting a hearing to determine the final disposition of the complaint, motions shall be received as directed by the Board.

Section 150.85 Consolidation and Severance of Claims: Additional Parties**EMERGENCY**

In the interest of convenience and the expeditious and complete determination of claims, the hearing examiner or the Board may consolidate or sever complaints involving any number of parties and may order additional parties to be brought in pursuant to the provisions of Section 150.60.

Section 150.90 Amendments**EMERGENCY**

Complaints may be amended under any of the following circumstances:

- a) at the request of the General Counsel following the preliminary review referred to in Section 150.30(a);
- b) to correct any technical defects;
- c) to conform to the evidence presented at the hearing;
- d) to conform to new matters that arise at the hearing if it appears from the original and amended complaint that the cause of action asserted in the amended complaint grew out of the same transaction or occurrence.

Section 150.95 Pre-Hearing Conferences**EMERGENCY**

- a) At the request of the hearing examiner or either party and prior to the hearing, the hearing examiner may direct the parties or their attorneys to appear at a specified time and place for a conference, for the purposes listed in this subsection (a). The purposes for such conferences shall include:

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- 1) the simplification of issues;
 - 2) the necessity or desirability of amending the complaint;
 - 3) the possibility of stipulations of fact;
 - 4) the limitation of the number of witnesses;
 - 5) such other matters that may aid in the simplification of the evidence and disposition of the proceeding.
- b) In exercising such discretion, the hearing examiner shall give due consideration to the time requirements of Section 150.30(f).

Section 150.100 Settlement Pursuant to Conference**EMERGENCY**

At any time prior to or during the hearing, an opportunity shall be afforded all parties to dispose of the case by written stipulation, agreed settlement or consent order, unless otherwise precluded by law. Any stipulation, agreed settlement, or consent order shall be submitted in writing to the Board and shall become effective only if approved by the Board.

Section 150.105 Continuances**EMERGENCY**

A hearing may be continued for good cause by the hearing examiner upon his own motion or upon motion of a party to the hearing after due consideration of any time limitations required by law or by this Part. Notice of any postponement or continuance shall be given to all parties at least 3 business days in advance of the previously scheduled hearing date. All parties involved in a hearing shall attempt to avoid undue delay caused by repetitive continuances so that the hearing may be resolved expeditiously.

Section 150.110 Failure of Party to Appear**EMERGENCY**

Failure of the respondent to appear on the date set for a hearing shall not deter the hearing hearing from proceeding unless the hearing examiner shall, for good cause, order a continuance. Failure of the complainant to appear on the date set for hearing without good cause shown shall be grounds for dismissal of the complaint for want of prosecution.

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Section 150.115 Evidence**EMERGENCY**

- a) Except with respect to matters of privilege, the rules of evidence as applied in civil cases in courts of this State shall not be strictly applied to hearings under this Part. Admissibility of evidence shall be liberally interpreted in order to present all matters which are or may be relevant to the issues affecting the parties. Hearsay evidence shall be admissible if deemed to be reliable and trustworthy by the hearing examiner.
- b) The hearing examiner shall exclude immaterial, irrelevant and repetitious evidence.
- c) A party may conduct examinations or cross-examinations without rigid adherence to formal rules of evidence, provided the examination or cross-examination can be shown to be necessary and pertinent to a full and fair disclosure of the subject matters of the hearing.

Section 150.120 Official Notice**EMERGENCY**

Notice may be taken of matters of which the circuit courts of this State may take judicial notice. In addition, notice may be taken of generally recognized technical or scientific facts within the Board's specialized knowledge. The Board's experience, technical competence and specialized knowledge may be utilized in the evaluation of any evidence submitted by the parties.

Section 150.125 Subpoenas**EMERGENCY**

- a) Pursuant to Article 10 of the Illinois Administrative Procedure Act, and upon application to the hearing examiner by any party, or upon the request of the hearing examiner, the Board may authorize the General Counsel to issue a subpoena for attendance at the hearing, which may include a command to produce documents or other tangible things designated therein that are reasonably necessary to resolution of the matter under consideration. The hearing examiner, upon motion, and in any event at or before the time specified in the subpoena for compliance, may quash or modify the subpoena if it is unreasonable or oppressive.

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- b) Every subpoena shall state the title of the action and shall command each person to whom it is directed:
 - 1) to attend and give testimony at the time and place therein specified; and
 - 2) to produce books, papers, documents or tangible things designated therein at the time and place therein specified.
- c) A subpoena duces tecum may be limited to the production of documents and not require personal attendance of the person to whom it is directed.
- d) The party requesting the issuance of a subpoena compelling personal attendance shall tender therewith a check reimbursing the witness for the round trip cost of travel between the witness's place of residence and the place where his presence is requested. Reimbursement shall be equal to that provided by the Governor's Travel Board for reimbursement of State employees traveling on official State business.

Section 150.130 Scope of Hearing, Procedures and Evidence**EMERGENCY**

- a) The hearing is not an adjudication, nor does it need to be adversarial in nature. It is an inquiry to elicit evidence on the question of whether the complaint is well grounded in fact and law.
 - 1) Any person offering evidence, written or oral, shall affirm to the hearing examiner that his or her evidence is true to the best of his or her information and belief;
 - 2) Evidence may be submitted in narrative form;
 - 3) The hearing examiner shall not be bound to follow the rules of evidence used in an Illinois court of law, but may admit and rely upon for his recommendation evidence or information of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs;
 - 4) The complainant will present his case first, except when convenience to the hearing examiner or the respondent requires the respondent to proceed first. The respondent will then present any information or evidence supporting his or her defense; and

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- 5) The hearing examiner may ask the complainant or respondent any questions relevant to the allegations contained in the complaint.
- b) At the close of the hearing, the hearing examiner shall summarize his conclusions concerning the evidence and information presented and draft a recommendation to the Board addressing the question of whether the complaint is well grounded in fact and law. The hearing examiner shall include any documents tendered to him or her during the hearing and submit them with the recommendation to the General Counsel for his consideration. The General Counsel shall then present the recommendation and accompanying documentation to the Board for their final determination.
- c) The official record of a hearing shall consist of the transcript (or tape recording of the proceedings), copies of any motions submitted, documentary evidence, copies of all notices and the recommendation of the hearing examiner.

Section 150.135 Responsibilities of the General Counsel**EMERGENCY**

- a) Upon receipt of a copy of the recommendation of the hearing examiner, the General Counsel shall:
 - 1) Review the recommendation and determine whether the facts support the recommendation and whether any questions of law have been properly applied;
 - 2) Indicate in writing whether or not he concurs with the recommendation of the hearing examiner and, if not, state the reasons therefor; and
 - 3) Transmit his remarks and recommendation to the Board within a reasonable time prior to the meeting at which the matter will be addressed by the Board.
- b) If there is insufficient time between receipt of the hearing examiner's recommendation and the meeting at which the Board will dispose of the complaint, the General Counsel may give his recommendation orally.

Section 150.140 Board Determination**EMERGENCY**

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- a) After the submission of the recommendation of the hearing examiner, the transcript (if requested by the Board), and the recommendation of the General Counsel, the Board shall make a final determination of whether the complaint was well grounded in fact and law. If the Board makes such a determination, and the respondent is unwilling to take the necessary action to correct the matter or is unwilling to cease the conduct alleged in the complaint, the Board shall issue an order granting whatever relief it deems appropriate. If the Board determines that the complaint is not well grounded in fact and law, or is not properly before it as not alleging a violation of Title III of the Act, then the Board shall either dismiss the complaint or refer it to the proper agency or department for their consideration.
- b) The Board may consider and discuss the hearing examiner's recommendation through a conference telephone call begun in open session and continued in executive session in lieu of an in-person meeting and such consideration and discussion shall be deemed part of the hearing process. Any action on the hearing examiner's recommendations must be taken in open session, or if taken as part of the telephonic conference call, that portion of the conference call shall be broadcast over a speaker phone or other similar device at both the permanent and branch offices of the Board and that portion of the broadcast call shall be open to the media and public

Section 150.145 Alternative Dispute Resolution**EMERGENCY**

If the State Board of Elections is not able to resolve the complaint within 90 days of its filing, or if the complainant names the Board as respondent and is not willing to waive the Board's jurisdiction pursuant to Section 150.30, or if the complainant refuses to waive the 90 day deadline, the Board shall refer the matter to a person, company or association providing dispute resolution services. The matter shall be resolved within 60 days of its referral. This time limitation shall be included in any contract for the provision of these services. The Board may accept suggestions from the parties as to whom the matter shall be referred; however, the Board shall have final authority in the selection process. Costs of the service shall be borne by the complainant. The record from any hearings conducted under this Part shall be made available for use by the dispute resolution company chosen by the Board.

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NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.5060 Emergency Action:
New Section
- 4) Statutory Authority: 35 ILCS 5/501(b)
- 5) Effective Date of Emergency Amendment: November 29, 2004
- 6) If this Emergency Amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This amendment will not expire before the end of the 150-day period.
- 7) Date filed with the Index Department: November 29, 2004
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: Public Act 93-0840 (effective July 30, 2004) added Section 501(b) to the Illinois Income Tax Act. Section 501(b) imposes a new disclosure requirement on taxpayers participating in reportable transactions. Disclosure is required to be made at the time for filing the return required under IITA Section 502 for the first taxable year for which a return is due (without regard to extensions) on or after July 30, 2004. In addition, Public Act 93-0840 added Section 1001(b) to the IITA. Section 1001(b) imposes a penalty for failure to comply with the requirements of Section 501(b). Therefore, immediate guidance is necessary.
- 10) A Complete Description of the Subjects and Issues Involved: Section 501(b) of the IITA requires taxpayers to disclose to the Department participation in a reportable transaction. A "reportable transaction" is any transaction that must be disclosed under Treasury Regulations Section 1.6011-4 and includes any listed transaction that is required to be disclosed under Treasury Regulation Section 1.6011-4T or 1.6011-4. In general, disclosure is made by furnishing the Department a copy of the federal disclosure statement. This rulemaking implements the provisions of IITA Section 501(b).
- 11) Are there any proposed amendments to this Part pending? Yes

Section NumbersProposed ActionIllinois Register Citation

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

100.9030	New Section	28 Ill. Reg. 4091, 03/05/04
100.9040	New Section	28 Ill. Reg. 4091, 03/05/04
100.9050	New Section	28 Ill. Reg. 4091, 03/05/04
100.9060	New Section	28 Ill. Reg. 4091, 03/05/04
100.9700	Amendment	28 Ill. Reg. 4509, 03/12/04
100.2196	New Section	28 Ill. Reg. 12778, 09/17/04
100.9900	New Section	28 Ill. Reg. 14090, 10/29/04

- 12) Statement of Statewide Policy Objective: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.
- 13) Information and questions regarding this Emergency Amendment shall be directed to:

Brian Stocker
Staff Attorney - Income Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-7055

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

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

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

SUBPART A: TAX IMPOSED

Section

- 100.2000 Introduction
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section

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

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business

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NOTICE OF EMERGENCY AMENDMENT

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

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

- Section
- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF

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INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section

- 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
- 100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
- 100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section

- 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
- 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section

- 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

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

Section

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

SUBPART J: COMPENSATION

Section

- 100.3100 Compensation (IITA Section 302)
- 100.3110 State (IITA Section 302)

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100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

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

Section

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

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
100.3310 Business Income of Persons Other Than Residents (IITA Section 304) – In General
100.3320 Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)
100.3330 Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
100.3350 Property Factor (IITA Section 304)
100.3360 Payroll Factor (IITA Section 304)
100.3370 Sales Factor (IITA Section 304)
100.3380 Special Rules (IITA Section 304)
100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400 Apportionment of Business Income of Financial Organizations (IITA Section 304(c))
100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART M: ACCOUNTING

Section

100.4500 Carryovers of Tax Attributes (IITA Section 405)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section

100.5000 Time for Filing Returns: Individuals (IITA Section 505)
100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)

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- 100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in
Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years
(IITA Section 506)
100.5040 Innocent Spouses
100.5050 Frivolous Returns
[100.5060 Reportable Transactions](#)
[EMERGENCY](#)

SUBPART O: COMPOSITE RETURNS

- Section
100.5100 Composite Returns: Eligibility
100.5110 Composite Returns: Responsibilities of Authorized Agent
100.5120 Composite Returns: Individual Liability
100.5130 Composite Returns: Required forms and computation of Income
100.5140 Composite Returns: Estimated Payments
100.5150 Composite Returns: Tax, Penalties and Interest
100.5160 Composite Returns: Credits for Resident Individuals
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

SUBPART P: COMBINED RETURNS

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

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

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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 702)
100.7060	Additional Withholding (IITA Section 701)
100.7070	Voluntary Withholding (IITA Section 701)
100.7080	Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090	Reciprocal Agreement (IITA Section 701)
100.7095	Cross References

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

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

SUBPART S: INFORMATION STATEMENT

Section

100.7200	Reports for Employee (IITA Section 703)
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SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section

100.7300	Returns of Income Tax Withheld from Wages (IITA Section 704)
100.7310	Quarterly Returns Filed on Annual Basis (IITA Section 704)
100.7320	Time for Filing Returns (IITA Section 704)
100.7330	Payment of Tax Deducted and Withheld (IITA Section 704)
100.7340	Correction of Underwithholding or Overwithholding (IITA Section 704)

SUBPART U: COLLECTION AUTHORITY

Section

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

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SUBPART V: NOTICE AND DEMAND

Section
100.9100 Notice and Demand (IITA Section 902)

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

SUBPART Y: CREDITS AND REFUNDS

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

SUBPART Z: INVESTIGATIONS AND HEARINGS

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

SUBPART AA: JUDICIAL REVIEW

Section
100.9600 Administrative Review Law (IITA Section 1201)

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SUBPART BB: DEFINITIONS

Section

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

SUBPART CC: LETTER RULING PROCEDURES

Section

100.9800 Letter Ruling Procedures

100.APPENDIX A Business Income Of Persons Other Than Residents

100.TABLE A Example of Unitary Business Apportionment

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

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

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13

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Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days.

SUBPART N: TIME AND PLACE FOR FILING RETURNS

[Section 100.5060 Reportable Transactions](#)

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

EMERGENCY

- a) Requirement to Disclose Participation in Reportable Transactions
- 1) In general. For each taxable year in which a taxpayer is required to make a disclosure statement under Treasury Regulations Section 1.6011-4 with respect to a reportable transaction in which the taxpayer participated in a taxable year for which a return is required under IITA Section 502, the taxpayer shall file a copy of such disclosure with the Department. (IITA Section 501(b)) A copy of such disclosure shall be filed at the time and in the manner provided under subsection (b) of this Section.
- 2) Definitions. For purposes of this Section:
- A) Reportable Transaction. A "reportable transaction" is any transaction that must be disclosed under Treasury Regulations Section 1.6011-4 and shall include any listed transaction that is required to be disclosed under Treasury Regulation Section 1.6011-4T or 1.6011-4 as of the earlier of the date disclosure is required under subsection (b)(1) of this Section or the date the taxpayer files its return to which such disclosure would need to be attached.
- B) Listed Transaction. A "listed transaction" is any transaction entered into after February 28, 2000 that is the same as or substantially similar to one of the types of transactions that the IRS has identified by notice, regulation, or other form of published guidance as a listed transaction and that is required to be disclosed under Treasury Regulation Section 1.6011-4T or 1.6011-4.
- b) Time and Manner for Making Disclosure
- 1) Time for Making Disclosure. Disclosure under this Section must be made by the due date (including extensions) of the return to which the disclosure statement must be attached as provided in this subsection (b), unless the date in which disclosure is required for federal income tax purposes for the same transaction is later, in which case disclosure must be made no later than the date in which disclosure is required for federal income tax purposes.

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

2) General Manner for Making Disclosure

- A) Taxable years ending before December 31, 2004. In the case of a reportable transaction as to which disclosure is required for federal income tax purposes on a return filed for a taxable year ending before December 31, 2004:
- i) In general. A copy of such federal income tax disclosure shall be attached to the return required under IITA Section 502 for the first taxable year for which a return is due (without regard to extensions) on or after July 30, 2004. The taxpayer may elect to attach a copy of such disclosure to the return for an earlier taxable year. In addition, a second copy of the federal income tax disclosure must be sent to the Department at an address designated by the Department for this purpose at the same time that disclosure is filed as required in this Section. In any case where disclosure is attached to a return and such disclosure relates to a transaction disclosed for federal income tax purposes for a taxable year other than the taxable year for which the Illinois return is made, the taxpayer must indicate on such disclosure the taxable year for which such disclosure was made for federal income tax purposes.
- ii) When No Return is Due on or after July 30, 2004. If no return is required to be filed under Section 502 on or after July 30, 2004, the taxpayer shall file a copy of the federal income tax disclosure no later than the due date (including extensions) for the first return it would have been required to file (without regard to extensions) on or after July 30, 2004, had it continued to be required to file returns and continued using the same taxable year it used when it was last required to file an Illinois return. In addition, a second copy of the federal income tax disclosure must be sent to the Department at an address designated by the Department for this purpose at the same time that disclosure is filed as required in this Section.

EXAMPLE: Corporation A was required under Treasury Regulations Section 1.6011-4 to disclose reportable transactions by attaching Form

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8886 and Schedule M-3 to its federal income tax return for its taxable year ending March 31, 2003. Corporation A may elect to attach copies of the Form 8886 and the Schedule M-3 to its Illinois income tax return for its taxable year ending March 31, 2004 and send a second copy of the Form 8886 and Schedule M-3 to the address designated by the Department. If it does not make this election, Corporation A is required to attach copies of the Form 8886 and the Schedule M-3 to its Illinois income tax return for the taxable year ending March 31, 2005, which is the first return for which the unextended due date falls on or after July 30, 2004. At the same time, Corporation A must send a second copy of the Form 8886 and Schedule M-3 to the address designated by the Department. In either case, Corporation A must indicate that the Form 8886 and the Schedule M-3 relate to its March 31, 2003 taxable year.

If Corporation A is not required to file an Illinois income tax return due on or after July 30, 2004, then it must file copies of its Form 8886 and Schedule M-3 with the Department by the due date (including extensions) that its March 31, 2005 return would have been required to be filed. Corporation A should indicate that the Form 8886 and Schedule M-3 relate to its March 31, 2003 taxable year.

B) Taxable years ending on and after December 31, 2004. In the case of a reportable transaction as to which disclosure is required for federal income tax purposes on a return filed for a taxable year ending on and after December 31, 2004, a copy of such disclosure shall be attached to the taxpayer's return required under IITA Section 502 for the same taxable year. In addition, a second copy of the federal income tax disclosure must be sent to the Department at an address designated by the Department for this purpose at the same time that disclosure is filed as required in this Section.

3) Special Rules for Making Disclosure of Certain Listed Transactions

A) If a return is not required under IITA Section 502 for a taxable year in which a disclosure statement is required to be attached to a return pursuant to the special rule for listed transactions under Treasury Regulations Section 1.6011-4(e)(2), the taxpayer must file a copy of such disclosure with the Department if disclosure would have been required under IITA Section 501(b) and this

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Section if the transaction had been listed at the time the taxpayer filed its return reflecting either the tax consequences or a tax strategy described in the published guidance listing the transaction (or a tax benefit derived from tax consequences or a tax strategy described in the published guidance listing the transaction). A copy of such disclosure must be filed no later than the due date (including extensions) for the first return the taxpayer would have been required to file (without regard to extensions) on or after the date the transaction became a listed transaction, had the taxpayer continued to be required to file returns and continued using the same taxable year it used when it was last required to file an Illinois return.

B) If a return is not required under Section 502 for a taxable year in which a disclosure statement is required to be attached to a return pursuant to Treasury Regulations Section 1.6011-4T with respect to a transaction that becomes a listed transaction on or after the date the taxpayer has filed its return for the first taxable year for which the transaction affected the taxpayer's or a partner's or a shareholder's Federal income tax liability, the taxpayer must file a copy of such disclosure with the Department if disclosure would have been required under IITA Section 501(b) and this Section if the transaction had been listed at the time the taxpayer filed its return for a taxable year for which the transaction affected the taxpayer's or a partner's or shareholder's Federal income tax liability. A copy of such disclosure must be filed no later than the due date (including extensions) for the first return the taxpayer would have been required to file (without regard to extensions) on or after the date the transaction became a listed transaction, had the taxpayer continued to be required to file returns and continued using the same taxable year it used when it was last required to file an Illinois return.

4) Making Disclosure of Items Disclosed under Treasury Regulations Section 1.6011-4(f)(1). If the Internal Revenue Service determines that a taxpayer's submission of a request for ruling under Treasury Regulations Section 1.6011-4(f)(1) satisfies the disclosure rules, such submission shall also satisfy the requirements of IITA Section 501(b) if the taxpayer provides the Department with a copy of the Internal Revenue Service

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ruling by the later of the date on which disclosure is otherwise required under this Section or 60 days after the date the ruling is issued.

c) Special Rules for Certain Taxpayers

- 1) Members of a Combined Group. Whenever a disclosure statement is required to be made by any member of a combined group under Treasury Regulations Section 1.6011-4T or Section 1.6011-4 and this Section with respect to any taxable year of such member that is taken into account in computing the group's combined net income for the common taxable year under IITA Section 502(e) and Subpart P of this Part, a copy of such disclosure shall be filed as required under this Section for each such common taxable year. If a member of a combined group is required to file a disclosure statement under subsection (b)(2)(A) or (b)(3) of this Section with respect to a taxable year during which it was not a member of the combined group, a copy of such disclosure shall be filed with the combined return. The designated agent should indicate that such statement relates to a separate return year of the member and indicate the taxable year to which such disclosure relates.
- 2) Members of a Consolidated Group. In the case of a taxpayer that is a member of an affiliated group of corporations filing a consolidated income tax return for the taxable year for federal income tax purposes and that is required to make a disclosure statement under Treasury Regulations Section 1.6011-4T or Section 1.6011-4 and this Section, a copy of such disclosure shall be filed as required under this Section if, taking into account the rule of IITA Section 203(e)(2)(E), the taxpayer would be considered to have participated in the transaction for federal income tax purposes.
- 3) Members of a Unitary Business Group. Regardless of whether or not a disclosure statement is otherwise required of a taxpayer under this Section, any taxpayer that is a member of a unitary business group that includes another member that is required to make a disclosure statement under Treasury Regulations Section 1.6011-4T or Section 1.6011-4, with respect to any taxable year of such other member that is taken into account by the taxpayer in computing its Illinois net income under IITA Sections 202 and 304(e), must file a copy of such disclosure statement with the return for each such taxable year.

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- 4) Composite Returns. If a taxpayer is required to make a disclosure under this Section with respect to a transaction engaged in during the taxable year by a partnership or Subchapter S corporation in which the taxpayer is a partner or shareholder, the taxpayer's obligation to make disclosure with respect to such transaction shall be met if the disclosure is made by the partnership or Subchapter S corporation on a timely composite return that includes the taxpayer.
- d) Exceptions. No disclosure is required with respect to a reportable transaction to the extent provided in this subsection (d).
- 1) A reportable transaction entered into after February 28, 2000 and before January 1, 2005 is not required to be disclosed if, before the time in which disclosure is otherwise required under IITA Section 501(b) and this Section, the taxpayer has filed an amended Illinois income tax return reporting Illinois net income and tax liability computed without the tax benefits of such reportable transaction.
- 2) A reportable transaction entered into after February 28, 2000 and before January 1, 2005 is not required to be disclosed if, as a result of a federal audit, the Internal Revenue Service has made a determination with respect to the tax benefits of such reportable transaction and, before the time in which disclosure is otherwise required under IITA Section 501(b) and this Section, the taxpayer has filed an amended Illinois income tax return reporting Illinois net income and tax liability computed without the tax benefits of such reportable transaction other than the benefits determined to be allowable by the Internal Revenue Service.
- 3) A reportable transaction is not required to be disclosed if, prior to the time in which disclosure is otherwise required under IITA Section 501(b) and this Section, the taxpayer has properly filed an application with the Internal Revenue Service for a change in method of accounting pursuant to a determination by the Internal Revenue Service that such change is necessary to reflect the proper tax treatment of the transaction.
- 4) A reportable transaction is not required to be disclosed under this Section on the basis that the transaction is a listed transaction if, prior to the time in which disclosure is otherwise required under IITA Section 501(b) and this Section, the Internal Revenue Service has removed the identification

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of transactions that are the same as or substantially similar to the transaction as listed transactions.

- 5) A reportable transaction is not required to be disclosed if, before the time in which disclosure is otherwise required under IITA Section 501(b) and this Section, the Department makes a determination by published guidance that a particular transaction or type of transaction is not required to be disclosed, notwithstanding that disclosure is required for the same transaction or type of transaction under Treasury Regulations Section 1.6011-4T or Section 1.6011-4.
- 6) Disclosure is not required under IITA Section 501(b) and this Section with respect to any transaction in which the requirements of Treasury Regulations Section 1.6011-4 are deemed satisfied pursuant to Treasury Regulations Section 1.6011-4(f)(3).
- e) Protective Disclosure. If a taxpayer participates in a reportable transaction with respect to a taxable year in which a return is not filed under IITA Section 502, the taxpayer may disclose the transaction in accordance with the provisions of this Section and indicate on the disclosure statement the taxpayer's position that a return is not required for the taxable year and that disclosure is being made on a protective basis. Disclosure made under this subsection (e) shall be deemed to meet the requirements of Section 501(b).

(Source: Added by emergency rulemaking at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF REVENUE

- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3) Register citation of proposed or adopted rulemaking and other pertinent action: 28 Ill. Adm. Code 15150; 11/19/04
- 4) Explanation: The November 19, 2004 issue of the *Illinois Register* incorrectly stated that the proposed rulemaking cited above was identical to the emergency rulemaking published in the same issue at 28 Ill. Reg. 15266. Therefore, the Notice of Proposed Amendment cross-referenced the emergency rulemaking text, and no text for the proposed rulemaking was published. Both rulemakings create the same new Section, but the texts are not identical. The following is the correct text of the proposed rulemaking.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF REVENUE

Section 150.311 Commercial Distribution Fee Sales Tax Exemptiona) Qualifications for exemption.

Beginning on July 1, 2003 through June 30, 2004, sales of certain motor vehicles are not subject to the tax imposed under this Part if they meet all of the following tests:

- 1) The motor vehicle qualifies as a second division motor vehicle under Section 1-146 of the Illinois Vehicle Code. First division motor vehicles, such as those motor vehicles that are designed for the carrying of not more than 10 persons, do not qualify for the exemption. (See 625 ILCS 5/1-146);
- 2) The motor vehicle has a gross vehicle weight in excess of 8,000 pounds; and
- 3) The motor vehicle is subject to the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code. The motor vehicle must be registered and remain registered in such a manner whereby it is subject to payment of the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code [625 ILCS 5/3-815.1] and such fee is actually paid for any period in which the fee is in effect.

Beginning on July 1, 2004 through June 30, 2005, sales of certain motor vehicles are not subject to the tax imposed under this Part if they meet all of the following tests:

- 1) The motor vehicle is a second division motor vehicle. First division motor vehicles, such as those motor vehicles that are designed for the carrying of not more than 10 persons, do not qualify for the exemption. (See 625 ILCS 5/1-146);
- 2) The motor vehicle must have a gross vehicle weight rating in excess of 8,000 pounds. For purposes of this Section, Gross Vehicle Weight Rating means the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single vehicle. (See 625 ILCS 5/1-124.5);

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- 3) The motor vehicle is subject to the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code. The motor vehicle must be registered and remain registered in such a manner whereby it is subject to payment of the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code [625 ILCS 5/3-815.1] and such fee is actually paid for any period in which the fee is in effect; and
- 4) The motor vehicle is used primarily for commercial purposes. For purposes of this Section, a motor vehicle used for commercial purposes means any motor vehicle used to transport persons or property in the furtherance of any commercial or industrial enterprise, whether for-hire or not-for-hire.

Commercial Purpose Example: A motor vehicle that is used for transportation to work, school, or recreational activities would not be used for commercial purposes.

- b) Documentation of exemption. To properly document the exemption, the seller must obtain a written certificate from the purchaser stating the following:
 - 1) the name, address, and telephone number of purchaser;
 - 2) the description and Vehicle Identification Number of the motor vehicle or motor vehicles being purchased;
 - 3) the name and address of seller;
 - 4) the date of purchase;
 - 5) a statement that the motor vehicle will be used primarily for commercial purposes and will be registered under Section 3-815(a) or 3-818(a) of the Illinois Vehicle Code or in such other manner whereby the registration of that motor vehicle will require the payment of the Commercial Distribution Fee imposed under Section 3-815.1 of the Illinois Vehicle Code and that such vehicle will remain validly registered in such a manner for subsequent registration years;

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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- 6) the commercial purpose for which the vehicle will be used along with the purchaser's Illinois Business Tax (IBT) number or other business registration number; and
- 7) the signature of purchaser.
- c) Liability for tax. If a purchaser claims the exemption provided in this Section and the vehicle is not considered subject to the Commercial Distribution Fee as described in subsection (a)(3) of this Section or otherwise does not qualify for this exemption, the purchaser will be liable for the tax based upon the purchase price of that vehicle and any applicable penalties and interest from the date of purchase.
- d) Repair and replacement parts. The exemption provided in this Section may not be claimed for any repair part, replacement part, or other item attached or incorporated into the motor vehicle after the purchase of the motor vehicle. Such items may qualify for exemption from sales tax if the motor vehicle or trailer is used in a manner that qualifies for the rolling stock exemption. See Section 130.340 of this Part.
- e) Trailers. For purposes of this Section, a trailer that is subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code will qualify as a second division motor vehicle under subpart (a)(1) of this Section. The term "trailer" includes a trailer as defined in Section 1-209 of the Illinois Vehicle Code, a semitrailer as defined in Section 1-187 of the Illinois Vehicle Code, and a pole trailer as defined in Section 1-161 of the Illinois Vehicle Code.

(Source: Added at 29 Ill. Reg. _____, effective _____)

STATE BOARD OF ELECTIONS

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: The Campaign Financing Act
- 2) Code Citation: 26 Ill. Adm. Code 100
- 3) The Notice of Proposed Amendments being corrected appeared at 28 Ill. Reg. 14891, dated November 19, 2004.
- 4) The information being corrected is as follows: In item 5 of the Notice Page, the summary of the amendment to Section 100.140 should have said "This section is deleted pending replacement text to conform with Public Act 93-615, which amended section 9-8.15 of the Election Code."

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF AGENCY RESPONSE TO RECOMMENDATION BY THE JOINT
COMMITTEE ON ADMINISTRATIVE RULES ON EMERGENCY RULEMAKING

- 1) Heading of the Part: Illinois Veteran Grant (IVG) Program
- 2) Code Citation: 23 Ill. Adm. Code 2733
- 3) Section Number: 2733.20
- 4) Date Originally Published in the Illinois Register: September 17, 2004 (28 Ill. Reg. 12932)
- 5) JCAR Statement of Recommendation on Emergency Rulemaking Published in the Illinois Register: October 29, 2004 (28 Ill. Reg. 14292)
- 6) Summary of Action Taken: At its meeting on October 12, 2004, the Joint Committee on Administrative Rules recommended that ISAC amend its companion proposed rules titled Illinois Veteran Grant (IVG) Program (23 Ill. Adm. Code 2733; 28 Ill. Reg. 12816) for clarity and, specifically, to define key terms, more clearly state eligibility standards, and use updated, specific and statutorily consistent terminology. JCAR further recommended that ISAC similarly work with the General Assembly to update and clarify the underlying statute for the Illinois Veteran Grant [110 ILCS 947/40].

ISAC has made extensive changes to the companion proposed rules amendments to more clearly state the eligibility standards for this program and to reduce confusion associated with previously-used terminology. The agency has also drafted amendatory language to achieve similar goals for the enabling statute and will seek action on this during the spring 2005 legislative session.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

DECEMBER AGENDA

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

JAMES R. THOMPSON CENTER

ROOM 16-503

CHICAGO, ILLINOIS

10:30 A.M.

DECEMBER 14, 2004

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

Joint Committee on Administrative Rules

700 Stratton Office Building

Springfield, Illinois 62706

Email: jcar@legis.state.il.us

Phone: 217/785-2254

RULEMAKINGS CURRENTLY BEFORE JCAR**PROPOSED RULEMAKINGS**Agriculture

1. Motor Fuel Standards Act (8 Ill. Adm. Code 850)
 - First Notice Published: 28 Ill. Reg. 8817 – 6/25/04
 - Expiration of Second Notice: 1/2/05

Capital Development Board

2. Hearing Procedures (71 Ill. Adm. Code 100)
 - First Notice Published: 28 Ill. Reg. 13138 – 10/1/04
 - Expiration of Second Notice: 12/30/04

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3. Capital Development Board Energy Code (71 Ill. Adm. Code 600)
 - First Notice Published: 28 Ill. Reg. 10857 – 8/6/04
 - Expiration of Second Notice: 12/29/04

Central Management Services

4. Pay Plan (80 Ill. Adm. Code 310)
 - First Notice Published: 28 Ill. Reg. 11532 – 8/13/04
 - Expiration of Second Notice: 12/15/04

Commerce and Economic Opportunity

5. Economic Development for a Growing Economy Program (EDGE) (14 Ill. Adm. Code 527)
 - First Notice Published: 28 Ill. Reg. 12259 – 9/3/04
 - Expiration of Second Notice: 12/18/04
6. Administration of the Coal Grant Provisions of the Illinois Resource Development and Energy Security Act (32 Ill. Adm. Code 120)
 - First Notice Published: 28 Ill. Reg. 12516 – 9/10/04
 - Expiration of Second Notice: 12/19/04

Education

7. Certification (23 Ill. Adm. Code 25)
 - First Notice Published: 28 Ill. Reg. 12268 – 9/3/04
 - Expiration of Second Notice: 1/2/05

Human Rights

8. Americans with Disabilities Act Grievance Procedure (4 Ill. Adm. Code 1150)
 - First Notice Published: 28 Ill. Reg. 13309 – 10/8/04
 - Expiration of Second Notice: 1/7/05
9. Procedures of the Department of Human Rights (56 Ill. Adm. Code 2520)
 - First Notice Published: 28 Ill. Reg. 13316 – 10/8/04
 - Expiration of Second Notice: 1/7/05

Human Services

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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10. Child Care (89 Ill. Adm. Code 50)
 - First Notice Published: 28 Ill. Reg. 9816 – 7/16/04
 - Expiration of Second Notice: 12/23/04
11. Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)
 - First Notice Published: 28 Ill. Reg. 10885 – 8/6/04
 - Expiration of Second Notice: 12/23/04
12. Food Stamps (89 Ill. Adm. Code 121)
 - First Notice Published: 28 Ill. Reg. 9818 – 7/16/04
 - Expiration of Second Notice: 12/23/04
13. Early Intervention Program (89 Ill. Adm. Code 500)
 - First Notice Published: 28 Ill. Reg. 9821 – 7/16/04
 - Expiration of Second Notice: 12/23/04

Natural Resources

14. North Point Marina (17 Ill. Adm. Code 220)
 - First Notice Published: 28 Ill. Reg. 12957 – 9/24/04
 - Expiration of Second Notice: 12/30/04
15. North Point Marina Vendors (17 Ill. Adm. Code 230)
 - First Notice Published: 28 Ill. Reg. 12973 – 9/24/04
 - Expiration of Second Notice: 12/30/04
16. General Hunting and Trapping on Department-Owned or –Managed Sites (17 Ill. Adm. Code 510)
 - First Notice Published: 28 Ill. Reg. 12548 – 9/10/04
 - Expiration of Second Notice: 12/15/04

Public Aid

17. Medical Assistance Programs (89 Ill. Adm. Code 120)
 - First Notice Published: 28 Ill. Reg. 12776 – 9/17/04
 - Expiration of Second Notice: 1/6/05
18. Medical Payment (89 Ill. Adm. Code 140)
 - First Notice Published: 28 Ill. Reg. 12066 – 8/27/04

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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-Expiration of Second Notice: 1/6/05

19. Specialized Health Care Delivery Systems (89 Ill. Adm. Code 146)
 - First Notice Published: 28 Ill. Reg. 12069 – 8/27/04
 - Expiration of Second Notice: 1/6/05
20. Hospital Services (89 Ill. Adm. Code 148)
 - Notice Published: 28 Ill. Reg. 13324 – 10/8/04
 - Expiration of Second Notice: 1/6/05

Public Health

21. Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)
 - First Notice Published: 27 Ill. Reg. 19115 – 12/26/03
 - Expiration of Second Notice: 12/27/04

Secretary of State

22. Literacy Grant Program (23 Ill. Adm. Code 3040)
 - First Notice Published: 28 Ill. Reg. 12979 – 9/24/04
 - Expiration of Second Notice: 12/29/04
23. Issuances of Licenses (92 Ill. Adm. Code 1030)
 - First Notice Published: 28 Ill. Reg. 12792 – 9/17/04
 - Expiration of Second Notice: 1/6/05

Sex Offender Management Board

24. Sex Offender Management Board Standards and Guidelines for the Evaluation, Treatment and Monitoring of Adult Sex Offenders (20 Ill. Adm. Code 1900)
 - First Notice Published: 28 Ill. Reg. 7898 – 6/11/04
 - Expiration of Second Notice: 1/6/05
25. Interim Sex Offender Evaluations and Treatment (20 Ill. Adm. Code 1905)
 - First Notice Published: 28 Ill. Reg. 7900 – 6/11/04
 - Expiration of Second Notice: 12/15/04

Transportation

26. Rulemaking Procedures (Repealer) (92 Ill. Adm. Code 102)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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- First Notice Published: 28 Ill. Reg. 13339 – 10/8/04
- Expiration of Second Notice: 1/6/05
- 27. Procedures (92 Ill. Adm. Code 107)
 - First Notice Published: 28 Ill. Reg. 13151 -10/4/04
 - Expiration of Second Notice: 12/30/04
- 28. Hazardous Materials Transportation: General Information, Regulations and Definitions (92 Ill. Adm. Code 171)
 - First Notice Published: 28 Ill. Reg. 13163 – 10/1/04
 - Expiration of Second Notice: 12/30/04
- 29. Hazardous Materials Table and Hazardous Materials Communications (92 Ill. Adm. Code 172)
 - First Notice Published: 28 Ill. Reg. 13173 – 10/1/04
 - Expiration of Second Notice: 12/30/04
- 30. Shippers General Requirements for Shipments and Packagings (92 Ill. Adm. Code 173)
 - First Notice Published: 28 Ill. Reg. 13178 – 10/1/04
 - Expiration of Second Notice: 12/30/04
- 31. Carriage by Public Highway (92 Ill. Adm. Code 177)
 - First Notice Published: 28 Ill. Reg. 13184 – 10/1/04
 - Expiration of Second Notice: 12/30/04
- 32. Specifications for Packagings (92 Ill. Adm. Code 178)
 - First Notice Published: 28 Ill. Reg. 13189 – 10/1/04
 - Expiration of Second Notice: 12/30/04
- 33. Specifications for Tank Cars (92 Ill. Adm. Code 179)
 - First Notice Published: 28 Ill. Reg. 13345 – 10/8/04
 - Expiration of Second Notice: 1/6/05
- 34. Specifications for Tank Cars (92 Ill. Adm. Code 179)
 - First Notice Published: 28 Ill. Reg. 13201 – 10/1/04
 - Expiration of Second Notice: 12/30/04
- 35. Continuing Qualification and Maintenance of Packaging (92 Ill. Adm. Code 180)
 - First Notice Published: 28 Ill. Reg. 13207 – 10/1/04
 - Expiration of Second Notice: 12/30/04

JOINT COMMITTEE ON ADMINISTRATIVE RULES

DECEMBER AGENDA

EMERGENCY RULEMAKINGSHuman Services

36. Food Stamps (89 Ill. Adm. Code 121)
-Notice Published: 28 Ill. Reg. 15323 – 11/29/04
37. Determination of Need (DON) and Resulting Service Cost Maximums (SCMs) (89 Ill. Adm. Code 679)
-Notice Published: 28 Ill. Reg. 15178 – 11/19/04
38. Eligibility (89 Ill. Adm. Code 682)
-Notice Published: 28 Ill. Reg. 15183 – 11/19/04
39. Service Planning and Provision (89 Ill. Adm. Code 684)
-Notice Published: 28 Ill. Reg. 15188 – 11/19/04

Natural Resources

40. General Hunting and Trapping on Department-Owned or -Managed Sites (17 Ill. Adm. Code 510)
-Notice Published: 28 Ill. Reg. 13809 – 10/15/04

Revenue

41. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
-Notice Published: 28 Ill. Reg. 15193 – 11/19/04
42. Service Occupation Tax (86 Ill. Adm. Code 140)
-Notice Published: 28 Ill. Reg. 15257 – 11/19/04
43. Use Tax (86 Ill. Adm. Code 150)
-Notice Published: 28 Ill. Reg. 15266 – 11/19/04
44. Service Use Tax (86 Ill. Adm. Code 160)
-Notice Published: 28 Ill. Reg. 15275 – 11/19/04

PEREMPTORY RULEMAKINGS

JOINT COMMITTEE ON ADMINISTRATIVE RULES

DECEMBER AGENDA

Central Management Services

- 45. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 28 Ill. Reg. 14689 – 11/5/04
- 46. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 28 Ill. Reg. 15336 – 11/29/04

AGENCY RESPONSES

Children and Family Services

- 47. Department Advisory Groups (89 Ill. Adm. Code 428; 27 Ill. Reg. 18290)

Labor

- 48. Prevailing Wage Hearing Procedures (56 Ill. Adm. Code 100; 28 Ill. Reg. 14204)
(Emergency)
- 49. Minimum Wage Law (56 Ill. Adm. Code 210) (Existing Rule)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICE RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of November 23, 2004 through November 29, 2004 and have been scheduled for review by the Committee at its December 14, 2004 meeting in Chicago or the January 11, 2005 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
1/6/05	<u>Department of Public Aid</u> , Medical Payment (89 Ill. Adm. Code 140)	8/27/04 28 Ill. Reg. 12066	12/14/04
1/6/05	<u>Department of Public Aid</u> , Specialized Health Care Delivery Systems (89 Ill. Adm. Code 146)	8/27/04 28 Ill. Reg. 12069	12/14/04
1/6/05	<u>Department of Public Aid</u> , Hospital Services (89 Ill. Adm. Code 148)	10/8/04 28 Ill. Reg. 13324	12/14/04
1/6/05	<u>Secretary of State</u> , Issuance of Licenses (92 Ill. Adm. Code 1030)	9/17/04 28 Ill. Reg. 12792	12/14/04
1/6/05	<u>Department of Transportation</u> , Rulemaking Procedures (Repealer) (92 Ill. Adm. Code 102)	10/8/04 28 Ill. Reg. 13339	12/14/04
1/6/05	<u>Department of Transportation</u> , Specifications for Tank Cars (92 Ill. Adm. Code 179)	10/8/04 28 Ill. Reg. 13345	12/14/04
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ILLINOIS GENERAL ASSEMBLY

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PROCLAMATIONS

2004-333**WORLD AIDS DAY 2004**

WHEREAS, the AIDS epidemic continues to pervade our world, affecting both men and women of all ages and ethnicities; and

WHEREAS, since the AIDS epidemic first surfaced in the United States, an estimated 886,575 AIDS cases have been reported, and approximately 501,669, or 57 percent, of those individuals have lost their lives as a result of the disease; and

WHEREAS, of those 886,575 reported cases, nearly 30,000 were from the State of Illinois. In 2002, there were 1,976 individuals diagnosed with AIDS in Illinois. While national trends indicate that there are fewer AIDS diagnoses and fewer deaths attributed to the disease each year, the Illinois numbers from 2002 reflect an increase from the previous year; and

WHEREAS, the city of Chicago accounts for approximately 70 percent of all reported AIDS cases in Illinois. Since 1981, at least 20,480 persons in Chicago have been diagnosed with AIDS, and at least 11,550 of those individuals have died; and

WHEREAS, since the beginning of my administration in 2003, we have introduced new programs that seek to raise greater awareness of AIDS, support cutting-edge research and treatment, and provide counseling and testing services to the citizens of this State. These initiatives include: funding increases that specifically address HIV/AIDS in minority communities, and grants that provide housing and support services to low-income persons living with HIV/AIDS in the communities of Chicago, Belleville and Rock Island; and

WHEREAS, the State of Illinois proudly joins the City of Chicago in the continuing fight against AIDS. On December 1, 2004, the Chicago Department of Public Health, in conjunction with numerous AIDS coalitions and faith-based organizations throughout the city, is sponsoring World AIDS Day 2004, which is a globally recognized event each year; and

WHEREAS, World AIDS Day is an opportunity to educate citizens about AIDS, to pay tribute to the many lives it has taken, and to express support for the ongoing efforts to one day find a cure for this devastating epidemic:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim December 1, 2004 as WORLD AIDS DAY 2004 in Illinois, and urge all citizens to join in this very meaningful and poignant observance.

Issued by the Governor November 22, 2004.

Filed by the Secretary of State November 23, 2004.

2004-334**25th Anniversary of the National Menorah Day**

WHEREAS, Chanukah is the largest and most celebrated of all the Jewish holidays. Also known as the Festival of Lights, Chanukah celebrates the victory of the Maccabees over their Assyrian oppressors many centuries ago, liberating Jews and allowing them to freely and peacefully practice their religion; and

PROCLAMATIONS

WHEREAS, when the Maccabees returned to Jerusalem following their triumph, they constructed a menorah to praise God for delivering them from persecution. Although a small amount of oil was found to light the menorah, it was only enough to keep it lit for one day. Through a miracle, that oil lasted for eight full nights; and

WHEREAS, today, Chanukah is celebrated by Jewish people all throughout the world. As tradition states, the celebration lasts for eight nights, and each night, a new menorah candle is lit to represent the eight-night miracle that occurred so many years ago; and

WHEREAS, this year marks the 25th anniversary of the lighting of the National Menorah in Washington, D.C. Begun in 1979 by President Jimmy Carter, the tradition has become a longstanding and joyous American celebration; and

WHEREAS, the annual lighting of the National Menorah is the most visible celebration of Chanukah anywhere in the world, and is attended by numerous people, both Jewish and non-Jewish, from all across this great land:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim December 7, 2004 as the 25th ANNIVERSARY OF THE NATIONAL MENORAH DAY in Illinois, and encourage all citizens to join in this rich and spirited celebration.

Issued by the Governor November 24, 2004.

Filed by the Secretary of State November 24, 2004.

ILLINOIS ADMINISTRATIVE CODE Issue Index - With Effective Dates

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