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March 2, 2012 Volume 36, Issue 9

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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2012

| <u>Issue #</u> | <u>Rules Due Date</u> | <u>Date of Issue</u> |
|----------------|-----------------------|----------------------|
| 1 | December 27, 2011 | January 6, 2012 |
| 2 | January 3, 2012 | January 13, 2012 |
| 3 | January 9, 2012 | January 20, 2012 |
| 4 | January 17, 2012 | January 27, 2012 |
| 5 | January 23, 2012 | February 3, 2012 |
| 6 | January 30, 2012 | February 10, 2012 |
| 7 | February 6, 2012 | February 17, 2012 |
| 8 | February 14, 2012 | February 24, 2012 |
| 9 | February 21, 2012 | March 2, 2012 |
| 10 | February 27, 2012 | March 9, 2012 |
| 11 | March 5, 2012 | March 16, 2012 |
| 12 | March 12, 2012 | March 23, 2012 |
| 13 | March 19, 2012 | March 30, 2012 |
| 14 | March 26, 2012 | April 6, 2012 |
| 15 | April 2, 2012 | April 13, 2012 |
| 16 | April 9, 2012 | April 20, 2012 |
| 17 | April 16, 2012 | April 27, 2012 |
| 18 | April 23, 2012 | May 4, 2012 |
| 19 | April 30, 2012 | May 11, 2012 |
| 20 | May 7, 2012 | May 18, 2012 |
| 21 | May 14, 2012 | May 25, 2012 |
| 22 | May 21, 2012 | June 1, 2012 |
| 23 | May 29, 2012 | June 8, 2012 |

| | | |
|----|--------------------|--------------------|
| 24 | June 4, 2012 | June 15, 2012 |
| 25 | June 11, 2012 | June 22, 2012 |
| 26 | June 18, 2012 | June 29, 2012 |
| 27 | June 25, 2012 | July 6, 2012 |
| 28 | July 2, 2012 | July 13, 2012 |
| 29 | July 9, 2012 | July 20, 2012 |
| 30 | July 16, 2012 | July 27, 2012 |
| 31 | July 23, 2012 | August 3, 2012 |
| 32 | July 30, 2012 | August 10, 2012 |
| 33 | August 6, 2012 | August 17, 2012 |
| 34 | August 13, 2012 | August 24, 2012 |
| 35 | August 20, 2012 | August 31, 2012 |
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| 37 | September 4, 2012 | September 14, 2012 |
| 38 | September 10, 2012 | September 21, 2012 |
| 39 | September 17, 2012 | September 28, 2012 |
| 40 | September 24, 2012 | October 5, 2012 |
| 41 | October 1, 2012 | October 12, 2012 |
| 42 | October 9, 2012 | October 19, 2012 |
| 43 | October 15, 2012 | October 26, 2012 |
| 44 | October 22, 2012 | November 2, 2012 |
| 45 | October 29, 2012 | November 9, 2012 |
| 46 | November 5, 2012 | November 16, 2012 |
| 47 | November 13, 2012 | November 26, 2012 |
| 48 | November 19, 2012 | November 30, 2012 |
| 49 | November 26, 2012 | December 7, 2012 |
| 50 | December 3, 2012 | December 14, 2012 |
| 51 | December 10, 2012 | December 21, 2012 |
| 52 | December 17, 2012 | December 28, 2012 |

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Conditions of Employment
- 2) Code Citation: 80 Ill. Adm. Code 303
- 3)

| | |
|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
| 303.165 | New Section |
| 303.166 | New Section |
| 303.175 | Amendment |
- 4) Statutory Authority: Implementing and authorized by the Personnel Code [20 ILCS 415], the Organ Donor Leave Act [5 ILCS 327], the Family Military Leave Act [820 ILCS 151] and the Civil Air Patrol Leave Act [820 ILCS 148]
- 5) A Complete Description of the Subjects and Issues Involved: Section 303.165 will create rules, bringing us into compliance with the Family Military Leave Act. Section 303.166 will create rules for Civil Air Patrol Leave, bringing us into compliance with P.A. 95-763. Section 303.175 involves a change to allow Disaster Service Leave with Pay to a certified disaster service volunteer following the declaration of a disaster by proclamation of the Governor pursuant to PA 97-345.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any State mandate on units of local government, school districts or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

Mary Matheny
Department of Central Management Services
720 Stratton Office Building
Springfield, Illinois 62706

Phone: 217/557-5404
Fax: 217/558-2697
Email: mary.matheny@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None beyond those already in place at CMS.
 - C) Types of professional skills necessary for compliance: None beyond those already in place at CMS.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2012

The full text of the Proposed Amendment appears on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICESPART 303
CONDITIONS OF EMPLOYMENT

SUBPART A: GRIEVANCE PROCEDURE

| Section | |
|---------|---------------------------|
| 303.10 | Definition of a Grievance |
| 303.20 | Procedure |
| 303.30 | Grievance Committee |
| 303.45 | Representation |

SUBPART B: LEAVE OF ABSENCE

| Section | |
|---------|---|
| 303.90 | Sick Leave |
| 303.100 | Accumulation of Sick Leave |
| 303.102 | Payment in Lieu of Sick Leave |
| 303.105 | Reinstatement of Sick Leave |
| 303.110 | Advancement of Sick Leave |
| 303.112 | Sick Leave Bank |
| 303.115 | Veterans Hospital Leave |
| 303.120 | Furlough Program |
| 303.125 | Leave for Personal Business |
| 303.130 | Maternity/Paternity and Adoption Leave |
| 303.131 | Leave in the Event of a Stillborn Child |
| 303.135 | On-The-Job Injury – Industrial Disease |
| 303.140 | Leaves of Absence Without Pay |
| 303.142 | Leave to Attend Union Conventions |
| 303.145 | Disability Leave |
| 303.148 | Family Responsibility Leave |
| 303.149 | Organ Donor Leave |
| 303.150 | Employee Rights After Leave |
| 303.153 | Failure to Return |
| 303.155 | Leave to Take Exempt Position |

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

| | |
|----------------|--|
| 303.160 | Military and Peace Corps Leave |
| <u>303.165</u> | <u>Family Military Leave</u> |
| <u>303.166</u> | <u>Civil Air Patrol Leave</u> |
| 303.170 | Military Reserve Training and Emergency Call-Up |
| 303.171 | Leave for Military Physical Examinations |
| 303.175 | Disaster Service Leave With Pay |
| 303.176 | Disaster Service Leave With Pay – Terrorist Attack |
| 303.180 | Attendance in Court |
| 303.190 | Authorized Holidays |
| 303.200 | Holiday Observance |
| 303.215 | Payment for Holidays |
| 303.220 | Holiday During Vacation |
| 303.225 | Eligibility for Holiday Pay |
| 303.250 | Vacation Eligibility |
| 303.260 | Prorated Vacation for Part-Time Employees |
| 303.270 | Vacation Schedule and Loss of Earned Vacation |
| 303.290 | Payment in Lieu of Vacation |
| 303.295 | Vacation Benefits on Death of Employee |

SUBPART C: WORK HOURS AND SCHEDULES

| | |
|---------|------------------------------|
| Section | |
| 303.300 | Work Schedules |
| 303.310 | Emergency Shut-Down |
| 303.320 | Overtime |
| 303.330 | Overtime Payable Upon Death |
| 303.340 | Attendance Records |
| 303.350 | Notification of Absence |
| 303.355 | Review of Attendance Records |

SUBPART D: UNDATED OR INCOMPLETE FORMS

| | |
|---------|------------------|
| Section | |
| 303.360 | Undated Forms |
| 303.370 | Incomplete Forms |

SUBPART E: EMPLOYEE SEPARATIONS

Section

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

303.380 Reason for Separation
303.385 Repayment of Benefit Time

SUBPART F: TUITION REIMBURSEMENT

Section
303.390 Tuition Reimbursement

AUTHORITY: Implementing and authorized by the Personnel Code [20 ILCS 415] and the Organ Donor Leave Act [5 ILCS 327].

SOURCE: Filed May 29, 1975; amended at 3 Ill. Reg. 22, p. 78, effective June 1, 1979; amended at 3 Ill. Reg. 26, p. 199, effective July 1, 1979; emergency amendment at 3 Ill. Reg. 48, p. 188, effective January 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 11, p. 70, effective March 1, 1980; amended at 4 Ill. Reg. 15, p. 216, effective March 31, 1980; amended at 4 Ill. Reg. 22, p. 227, effective June 1, 1980; amended at 5 Ill. Reg. 8029, effective August 1, 1981; codified at 7 Ill. Reg. 13209; emergency amendment at 8 Ill. Reg. 329, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7788, effective May 23, 1984; amended at 14 Ill. Reg. 3433, effective February 27, 1990; emergency amendment at 15 Ill. Reg. 5076, effective March 20, 1991, for a maximum of 150 days; emergency expired August 17, 1991; amended at 15 Ill. Reg. 5214, effective April 2, 1991; amended at 15 Ill. Reg. 14067, effective September 12, 1991; amended at 16 Ill. Reg. 8368, effective May 21, 1992; amended at 17 Ill. Reg. 5587, effective March 29, 1993; amended at 19 Ill. Reg. 8130, effective June 7, 1995; amended at 19 Ill. Reg. 11775, effective August 7, 1995; emergency amendment at 21 Ill. Reg. 11291, effective July 22, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 15454, effective November 24, 1997; amended at 23 Ill. Reg. 13815, effective November 4, 1999; emergency amendment at 24 Ill. Reg. 16694, effective October 27, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 4847, effective March 19, 2001; emergency amendment at 25 Ill. Reg. 12429, effective September 14, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1138, effective January 18, 2002; amended at 27 Ill. Reg. 9008, effective May 23, 2003; emergency amendment at 28 Ill. Reg. 9677, effective July 1, 2004, for a maximum of 150 days; emergency expired November 27, 2004; emergency amendment at 28 Ill. Reg. 13795, effective October 1, 2004, for a maximum of 150 days; emergency expired February 27, 2005; amended at 28 Ill. Reg. 16308, effective December 3, 2004; amended at 30 Ill. Reg. 329, effective December 30, 2005; amended at 30 Ill. Reg. 13857, effective August 2, 2006; emergency amendment at 32 Ill. Reg. 19944, effective December 9, 2008, for a maximum of 150 days; amended at 33 Ill. Reg. 6503, effective April 23, 2009; emergency amendment at 33 Ill. Reg. 12032, effective August 7, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 16801, effective November 24, 2009; emergency amendment at 34 Ill. Reg. 12985, effective August 20, 2010, for a

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

maximum of 150 days; amended at 35 Ill. Reg. 1587, effective January 14, 2011; amended at 36 Ill. Reg. _____, effective _____.

SUBPART B: LEAVE OF ABSENCE

Section 303.165 Family Military Leave

- _____ a) An employee who is the current spouse, civil union partner or parent of a person called to military service lasting longer than 30 days with a state or the United States, pursuant to the order of the Governor or the President, who wishes to be absent from work in order to meet or fulfill responsibilities arising from the employee's role in his or her family or as head of the household, is eligible to request up to 30 days of unpaid Family Military Leave (FML) during the time the State or federal deployment orders are in effect.
- _____ b) The leave shall be granted to an employee who has been employed for at least 12 months and has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.
- _____ c) Any request for FML shall be in writing by the employee submitted not less than 14 calendar days in advance of the intended date the FML will commence if the leave will consist of 5 or more consecutive workdays. Employees requesting FML for less than 5 consecutive workdays shall give as much advance notice as is practicable. The employee shall consult with the employer to schedule the leave so as not to unduly disrupt the operations of the employer.
- _____ d) Except in cases of emergency, FML shall be taken in full day increments only. The employee will be required to document the reason for the emergency nature of the need for leave in writing within two days after the employee's return to work.
- _____ e) The employee shall provide certification from the proper military authority to verify eligibility for the FML requested.
- _____ f) An employee shall not be eligible to take FML unless he or she has exhausted all accrued vacation leave, personal leave, compensatory leave, equivalent earned time, maternity/paternity leave, and any other time away from work with pay. Exceptions to this exhaustion requirement are sick leave,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

disability leave and unpaid leave under the Family Military Leave Act [820 ILCS 151].

g) Upon expiration of the FML, the employee is entitled to be restored to the position held by the employee when the leave commenced or to an equivalent position. These restoration rights do not apply if the employer establishes that the restoration is denied due to conditions unrelated to the employee's exercise of rights under the Family Military Leave Act.

h) An intermittent employee shall be nonscheduled for the duration of the required leave.

i) This leave will not extend to any type of appointment that is 6 months or less in duration.

j) Time utilized under the Family Military Leave Act is not deducted from an employee's creditable service, continuous service, vacation accrual or seniority date.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 303.166 Civil Air Patrol Leave

a) An employee is eligible to request up to 30 days of unpaid Civil Air Patrol Leave (CAPL) to perform a civil air patrol mission.

b) CAPL shall be granted to an employee who has been employed for at least 12 months and has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

c) Any request for CAPL shall be in writing by the employee and submitted not less than 14 calendar days in advance of the intended date the CAPL will commence if the leave will consist of 5 or more consecutive workdays. Employees requesting CAPL for less than 5 consecutive workdays shall give as much advance notice as is practicable. The employee shall consult with the employer to schedule the leave so as not to unduly disrupt the operations of the employer.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- d) The employee shall provide certification from the Civil Air Patrol authority to verify eligibility for the CAPL requested.
- e) An employee eligible to take CAPL shall not be required to have exhausted all accrued vacation leave, personal leave, compensatory leave, equivalent earned time, maternity/paternity leave, sick leave, disability leave, and any other time away from work with pay.
- f) Upon expiration of the leave, the employee is entitled to be restored to the position held by the employee when the leave commenced or to an equivalent position. These restoration rights do not apply if the employer establishes that the restoration is denied due to conditions unrelated to the employee's exercise of rights under the Civil Air Patrol Leave Act [820 ILCS 148].
- g) During any CAPL, an employee shall be allowed to continue his or her benefits at his or her own expense, unless previously negotiated with the employer.
- h) An intermittent employee shall be nonscheduled for the duration of the required leave.
- i) This leave will not extend to any type of appointment that is 6 months or less in duration.
- j) Time utilized under the Civil Air Patrol Leave Act is not deducted from an employee's creditable service, continuous service, vacation accrual or seniority date.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 303.175 Disaster Service Leave With Pay

- a) Any employee, except those in temporary, emergency or per diem status, who is a certified disaster service volunteer of the American Red Cross or volunteers for assignment to the Illinois Emergency Management Agency in accordance with the Illinois Emergency Management Agency Act [20 ILCS 3305] or the Emergency Management Assistance Compact Act [45 ILCS 151] may be granted leave with pay for up to 20 working days in any 12-month period for disasters within the United States or its territories. The leave may be granted upon request of the

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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American Red Cross or the Illinois Emergency Management Agency for employees to participate in specialized disaster relief services for the American Red Cross or for the Illinois Emergency Management Agency. Leaves under this Section are subject to approval of the employee's agency considering operating needs.

- b) Disasters must be either:
- 1) *disasters designated at a Level III and above in the American National Red Cross Regulations and Procedures; or*
 - 2) *any disaster declared by proclamation of the Governor under Section 7 of the Illinois Emergency Management Agency Act [5 ILCS 335/2].*
- c) The American Red Cross and the Illinois Emergency Management Agency shall coordinate requests for services outside of Illinois through the Illinois State Emergency Operations Center.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medication
- 2) Code Citation: 11 Ill. Adm. Code 603
- 3)

| <u>Section Numbers</u> : | <u>Proposed Action</u> : |
|--------------------------|--------------------------|
| 603.60 | Amend |
| 603.75 | Amend |
| 603.160 | Amend |
- 4) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments update the cites referencing the most recent version of the RCI Drug Classification Guidelines of Foreign Substances (December 2011, version 3.00).
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

312/814-5017

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Board did not anticipate the need for this rulemaking at the time the agendas were published.

The full text of the Proposed Amendments is identical to the Emergency Amendments for this Part and can be found in this issue of the *Illinois Register* on page 3290.

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Miscellaneous
- 2) Code Citation: 50 Ill. Adm. Code 7110
- 3)

| | |
|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
| 7110.60 | Amendment |
| 7110.90 | Amendment |
- 4) Statutory Authority: Section 16 and Section 8.2 of the Workers' Compensation Act [820 ILCS 305/16; 820 ILCS 305/8.2]
- 5) A Complete Description of the Subjects and Issues Involved: Public Act 97-18, effective June 28, 2011, made several changes to Section 8.2 of the Workers' Compensation Act that sets forth the basis for the Medical Fee Schedule. The Medical Fee Schedule is composed of the reimbursement rate for medical services provided for a compensable workplace injury. The proposed amendment implements the changes of Public Act 97-18 that include a 30% reduction to the Medical Fee Schedule effective September 1, 2011; a new reimbursement provision for medical implants as 25% above the net manufacturer's invoice price less rebates, plus actual and reasonable customary shipping prices; and a new provision for the reimbursement of out-of-state medical services.

The proposed amendment also includes accredited Ambulatory Surgical Treatment Facilities (ASTFs) in the Medical Fee Schedule and specifies the organizations providing accreditation. The proposed amendment also makes a change to the outlier formula trigger within the Hospital Inpatient: Standard and Trauma and the Hospital Outpatient Surgical Facility fee schedules that reflects the 30% fee schedule reduction effective September 1, 2011.

Section 7110.60 proposed amendment corrects the Section title.

- 6) Any published studies or reports, along with sources of underlying data, that were used compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No

ILLINOIS WORKERS' COMPENSATION COMMISSION

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- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The proposed amendments do not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:
- Kimberly B. Janas
Secretary of the Commission
Illinois Workers' Compensation Commission
100 W. Randolph Street Suite 8-200
Chicago, IL 60601
- Phone: 312/814.6559
kimberly.janas@illinois.gov
Fax: 312/814.3520
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: The 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] who pay for medical services for work-related injuries under the Medical Fee Schedule. These entities may submit comments in writing to the Secretary of the Commission 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 a small business, small municipality, or not for profit corporation as part of any written comments they submit to the Secretary of the Commission.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2012

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER II: ILLINOIS WORKERS' COMPENSATION COMMISSION

PART 7110
MISCELLANEOUS

| | |
|---------|--|
| Section | |
| 7110.5 | Definitions |
| 7110.10 | Vocational Rehabilitation |
| 7110.20 | Petitions under Sections 19(h), 8(a), and 7(a) of the Act |
| 7110.30 | Commission Meetings: Minutes |
| 7110.40 | Petition to Suspend Compensation for Failure to Submit to Proper Medical Treatment |
| 7110.50 | Petitions under Section 19(o) of the Act |
| 7110.60 | Distribution of Commission Handbook |
| 7110.70 | Explanation of Basis of Non-Payment, Termination or Suspension of Temporary Total Compensation or Denial of Liability or Further Responsibility for Medical Care |
| 7110.80 | Rate Adjustment Fund and Second Injury Fund Contributions: Compliance |
| 7110.90 | Illinois Workers' Compensation Commission Medical Fee Schedule |

AUTHORITY: Implementing and authorized by the Workers' Compensation Act [820 ILCS 305].

SOURCE: Filed and effective March 1, 1977; amended at 5 Ill. Reg. 5533, effective May 12, 1981; amended at 6 Ill. Reg. 8040, effective July 1, 1982; codified at 7 Ill. Reg. 2352; emergency amendment at 14 Ill. Reg. 4929, effective March 9, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13161, effective August 1, 1990; emergency amendment at 30 Ill. Reg. 1912, effective February 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 11743, effective June 22, 2006; amended at 33 Ill. Reg. 2850, effective February 1, 2009; emergency amendment at 34 Ill. Reg. 10222, effective July 6, 2010, for a maximum of 150 days; emergency rule repealed by emergency amendment at 34 Ill. Reg. 17471, effective October 28, 2010, for the remainder of the 150 days; amended at 36 Ill. Reg. _____, effective _____.

Section 7110.60 Distribution of ~~Industrial~~ Commission Handbook

An employer, upon receiving notice of an accident reportable pursuant to Section 6(b) of the Act, shall deliver the Commission Handbook to the injured employee, or determine that the employee has the handbook. An employer, individually or by his or her agent, service company or

ILLINOIS WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

insurance carrier shall indicate, upon filing a first report of injury as provided in Section 6(b) of the Act, that a copy of the handbook has been delivered to the injured employee.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 7110.90 Illinois Workers' Compensation Commission Medical Fee Schedule

- a) In accordance with Sections 8(a), 8.2 and 16 of the Workers' Compensation Act [820 ILCS 305/8(a), 8.2 and 16] (the Act), the Illinois Workers' Compensation Commission Medical Fee Schedule, including payment rates, instructions, guidelines, and payment guides and policies regarding application of the schedule, is adopted as a fee schedule to be used in setting the maximum allowable payment for procedures, treatment, products, services or supplies for hospital inpatient, hospital outpatient, emergency room, ambulatory surgical treatment centers, accredited ambulatory surgical treatment facilities, prescriptions filled and dispensed outside of a licensed pharmacy, dental services and professional services~~a medical procedure, treatment or service~~ covered under the Act. The fee schedule is published on the Internet at no charge to the user via a link from the Commission's website at www.iwcc.il.gov. The fee schedule may be examined at any of the offices of the Illinois Workers' Compensation Commission.
- b) The payment rates for procedures, services or treatments in the fee schedule were established in accordance with Section 8.2 of the Act by determining 90% of the 80th percentile of charges utilizing health care provider and hospital charges from August 1, 2002 through August 1, 2004. The charges were adjusted by the Consumer Price Index-U for the period August 1, 2004 through September 30, 2005. For procedures, treatments, services or supplies covered under the Act and rendered or to be rendered on or after September 1, 2011, the maximum allowable payment shall be 70% of the fee schedule amounts, which shall be adjusted yearly by the Consumer Price Index-U. The payment rates in the fee schedule are designated by geozip (geographic area in which all zip codes have the same first 3 digits). Starting January 1, 2012, the payment rates in the fee schedule shall be grouped into geographic regions pursuant to Section 8.2 of the Act.
- c) The fee schedule applies to any medical procedure, treatment or service covered by the Act and rendered on or after February 1, 2006, regardless of the date of injury.

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- d) Under the fee schedule, the employer pays the lesser of the rate set forth in the schedule or the provider's actual charge. If an employer or insurance carrier contracts with a provider for the purpose of providing services under the Act, the rate negotiated in the contract shall prevail.
- e) Reimbursement Not Covered by Fee Schedule
- 1) Prior to September 1, 2011, whenever~~Whenever~~ the fee schedule does not set a specific fee for a procedure, treatment or service in the schedule, the amount of reimbursement shall be at 76% of actual charge, except where this Section provides that revenue codes (codes that identify a specific accommodation or ancillary charge on a UB-04/CMS 1450 uniform billing form used by hospitals) are to be deducted from the charge and reimbursed at 65% of charge billed at the provider's normal rates under its standard chargemaster. A standard chargemaster is the provider's list of charges for procedures, services and supplies used to bill payers in a consistent manner. If the provider cannot use the chargemaster to demonstrate the charge is the provider's normal rate, the provider shall provide evidence that the charge is billed at the provider's normal rate.
- 2) On and after September 1, 2011, whenever the fee schedule does not set a specific fee for a procedure, treatment or service in the schedule, the amount of reimbursement shall be at 53.2% of actual charge, except where this Section provides that revenue codes (codes that identify a specific accommodation or ancillary charge on a UB-04/CMS 1450 uniform billing form used by hospitals) are to be deducted from the charge and reimbursed at 65% of charge billed at the provider's normal rates under its standard chargemaster. A standard chargemaster is the provider's list of charges for procedures, services and supplies used to bill payers in a consistent manner. If the provider cannot use the chargemaster to demonstrate the charge is the provider's normal rate, the provider shall provide evidence that the charge is billed at the provider's normal rate.
- f) Reimbursement under the fee schedule for a procedure, treatment or service, as designated by the geozip or region where the treatment occurred, shall be based on the place of service.
- g) Out-of-State Treatment

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1) Procedure Codes

A) Prior to June 28, 2011, if the procedure, treatment or service is rendered outside the State of Illinois, the amount of reimbursement shall be the greater of 76% of actual charge or the amount set forth in a workers' compensation medical fee schedule adopted by the state in which the procedure, treatment or service is rendered, if such a schedule has been adopted. Charges for a procedure, treatment or service outside the State shall be subject to the instructions, guidelines, and payment guides and policies in this fee schedule.

B) On and after June 28, 2011, providers of out-of-state procedures, treatments, services, products, or supplies shall be reimbursed at the lesser of that state's fee schedule amount or the fee schedule amount for the region in which the employee resides. If no fee schedule exists in that state, the provider shall be reimbursed at the lesser of the actual charge or the fee schedule amount for the region in which the employee resides. If the employee does not reside in this State, providers of out-of-state treatments, services, products or supplies shall be reimbursed at the lesser of the actual charge or the fee schedule amount for the location of the hearing site.

2) Implants

A) Prior to September 1, 2011, whenWhere the charges are for facility fees (ambulatory surgical treatment center, hospital inpatient (standard and trauma), and hospital outpatient services), the following revenue codes are pass-through charges to be deducted from the charge and reimbursed at 65% of actual charge: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens implant); 0278 (implants); 0540 and 0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding). Charges billed under these revenue codes shall be billed at the provider's normal rates under its standard chargemaster. If the provider cannot use the chargemaster to demonstrate the charge is the provider's normal rate, the provider shall provide evidence that the charge is billed at the provider's normal rate.

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B) On and after September 1, 2011, implants, which include revenue codes 0276 (lens implant) and 0278 (implants) or any other substantially similar updated code as determined by the Commission, shall be reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges whether or not the implant charge is submitted by a provider in conjunction with a bill for all other services associated with the implant, submitted by a provider on a separate claim form, submitted by a distributor, or submitted by the manufacturer of the implant. The following revenue codes shall be paid at 65% of actual charge, which is the provider's normal rates under its standard chargemaster: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0540 and 0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding). A standard chargemaster is the provider's list of charges for procedures, treatments, products, supplies or services used to bill payers in a consistent manner. If the provider cannot use the chargemaster to demonstrate the charge is the provider's normal rate, the provider shall provide evidence that the charge is billed at the provider's normal rate.

h) The fee schedule includes the following service categories:

1) Ambulatory Surgical Treatment Center (ASTC) and Accredited Ambulatory Surgical Treatment Facility (ASTF)

A) This schedule applies to licensed ambulatory surgical treatment centers as defined by the Illinois Department of Public Health (77 Ill. Adm. Code 205.110) and accredited ambulatory surgical treatment facilities accredited by one of the following organizations: American Association for the Accreditation of Ambulatory Surgical Facilities (AAAASF), The Joint Commission (formerly JCAHO), or Accreditation Association for Ambulatory Health Care (AAAHc).

B) The use of this schedule is in accordance with the Current Procedural Terminology, American Medical Association, 515

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North State Street, Chicago, Illinois 60610, (2006), no later dates or editions.

- C) This schedule provides the maximum fee schedule amount for surgical services administered in an ASTC or ASTF setting for codes 10021 through 69990. The schedule is a partial global reimbursement schedule in that all charges rendered during the operative session are subject to a single fee schedule amount, except as provided in subsections (h)(1)(D) and (h)(1)(F).
- D) Implants
- i) Prior to September 1, 2011, the The following revenue codes are pass-through charges to be deducted from the charge and reimbursed at 65% of actual charge: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens implant); 0278 (implants); 0540 and 0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding). Charges billed under these revenue codes shall be billed at the provider's normal rates under its standard chargemaster. If the provider cannot use the chargemaster to demonstrate the charge is the provider's normal rate, the provider shall provide evidence that the charge is billed at the provider's normal rate.
- ii) On and after September 1, 2011, implants, which include revenue codes 0276 (lens implant) and 0278 (implants) or any other substantially similar updated code as determined by the Commission, shall be reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges whether or not the implant charge is submitted by a provider in conjunction with a bill for all other services associated with the implant, submitted by a provider on a separate claim form, submitted by a distributor, or submitted by the manufacturer of the implant. The following revenue codes shall be paid at 65% of actual charge, which is the provider's normal rates under its standard chargemaster: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0540 and

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0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding). A standard chargemaster is the provider's list of charges for procedures, treatments, products, supplies or services used to bill payers in a consistent manner. If the provider cannot use the chargemaster to demonstrate the charge is the provider's normal rate, the provider shall provide evidence that the charge is billed at the provider's normal rate.

- E) All professional services performed in an ASTC or ASTF setting are subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8).
 - F) This schedule does not apply to the professional or technical components of radiology and pathology and laboratory services performed in an ASTC or ASTF setting. Charges for these services must be submitted on a separate claim form and shall be subject to the professional services schedule in subsection (h)(8).
 - G) Surgery services under this schedule shall be reimbursed in accordance with the Multiple Procedure and Bilateral Surgery provisions of the Payment Guide in Section 8B of the instructions and guidelines in the fee schedule and the applicable modifiers in Section 8F of the instructions and guidelines in the fee schedule.
- 2) Anesthesia
- A) The use of this schedule is in accordance with the Current Procedural Terminology, American Medical Association, 515 North State Street, Chicago, Illinois 60610; (2006), no later dates or editions, and the Relative Value Guide, American Society of Anesthesiologists, 520 North Northwest Highway, Park Ridge, Illinois 60068-2573; (2006), no later dates or editions.
 - B) This schedule was established utilizing health care provider charges from August 1, 2002 through August 1, 2004 from which a conversion factor was established. The maximum fee schedule reimbursement amount is determined by multiplying the conversion factor set forth in the schedule by the sum of all units

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according to guidelines set forth in the Relative Value Guide as follows:

i) $\text{Base Value} + \text{Time Units} + \text{Modifying Units} = \text{Total Units}$

$$\text{Total Units} \times \text{Conversion Factor} = \text{Total Fee}$$

ii) Physical status modifying units may be added to the basic value and time units and, in addition, units may be added for qualifying circumstances (extraordinary circumstances) in accordance with the Relative Value Guide.

C) Special coding situations, such as those involving multiple procedures, additional procedures, unusual monitoring, prolonged physician services, postoperative pain management, monitored (stand-by) anesthesia, invasive anesthesia and chronic pain management services, require application of the fee schedule in a manner consistent with the Relative Value Guide.

D) Anesthesia time begins when an anesthesiologist or certified registered nurse anesthetist (CRNA) physically starts to prepare the patient for the induction of anesthesia in the operating room (or its equivalent) and ends when the anesthesiologist is no longer in constant attendance (when the patient is safely put under postoperative supervision).

3) Dental

Prior to September 1, 2011, all AH procedures, treatments and services are reimbursed at 76% of actual charge unless services are billed under the HCPCS Level II schedule in subsection (h)(5) or professional fee schedule in subsection (h)(8). On and after September 1, 2011 and until the Commission posts a fee schedule for dental bills, all dental bills shall be paid at 53.2% of actual charge unless the services are billed under the HCPCS Level II schedule in subsection (h)(5) or professional fee schedule in subsection (h)(8).

4) Emergency Room

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- A) This schedule applies to any department or facility of a hospital licensed by the Illinois Department of Public Health pursuant to the Hospital Licensing Act [210 ILCS 85] that:
- i) operates as an emergency room or emergency department, whether situated on or off the main hospital campus; and
 - ii) is held out to the public as providing care for emergency medical conditions without requiring an appointment, or has provided at least one-third of all its outpatient visits for the treatment of emergency medical conditions on an urgent basis during the previous calendar year.
- B) All procedures, treatments and services subject to this schedule are reimbursed at 76% of actual charge. Procedures, treatments and services subject to this schedule rendered on or after September 1, 2011 are reimbursed at 53.2% of actual charge.
- C) Radiology, pathology and laboratory and physical medicine and rehabilitation services performed in an emergency room shall be reimbursed in accordance with the radiology schedule in subsection (h)(7)(C), the pathology and laboratory schedule in subsection (h)(7)(D) and the physical medicine and rehabilitation schedule in subsection (h)(7)(E).
- D) Emergency room facility charges, and professional services delivered in an emergency room facility billed by the facility using the facility's tax identification number, shall be subject to the emergency room facility schedule and are not subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8). Health care professionals who perform services in an emergency room facility and bill for services using their own tax identification number on a separate claim form shall be subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8) and are not covered under the emergency room facility schedule.
- 5) HCPCS (Healthcare Common Procedure Coding System) Level II

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The use of this schedule is in accordance with the HCPCS Level II, U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244; (2006), no later dates or editions. Level II of the HCPCS is a standardized coding system used to identify products and services not included in the Current Procedural Terminology codes.

- 6) Hospital Inpatient: Standard and Trauma
 - A) The use of these schedules is in accordance with the Diagnosis-Related Group (DRG) classification system established by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 42 CFR 405 (2005), no later dates or editions. A DRG is a diagnosis-related group code that groups patients into homogeneous classifications that demonstrate similar length-of-stay patterns and use of hospital resources. The DRG determines the maximum fee schedule amount for an inpatient hospital stay, except as provided in subsections (h)(6)(F) and (h)(6)(G).
 - B) No later than June 30, 2009, the use of these schedules will be in accordance with the Medicare Severity Diagnosis Related Group (MS-DRG) classification system established by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 42 CFR 411 (2007), no later dates or editions. An MS-DRG is a diagnosis related group code that groups patients based on the severity of a patient's condition and resource consumption. The MS-DRG determines the maximum fee schedule amount for an inpatient hospital stay, except as provided in subsections (h)(6)(F) and (h)(6)(G).
 - C) Inpatient care shall be defined as when a patient is admitted to a hospital where services include, but are not limited to, bed and board, nursing services, diagnostic or therapeutic services, and medical or surgical services.
 - D) Inpatient hospital bills are subject to the hospital inpatient standard schedule. Inpatient hospital bills from trauma centers designated as Level I and Level II trauma centers by the Illinois Department

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of Public Health pursuant to 77 Ill. Adm. Code 515.2030 and 515.2040 and that contain an admission type of "5" on a UB-04/CMS 1450 FL 14 (uniform billing form used by hospitals; FL 14 is the form locator number that indicates where the codes are to be listed on the UB-04/CMS 1450 form) are subject to the hospital inpatient trauma schedule.

- E) Hospital providers must identify the DRG code on each bill (UB-04/CMS 1450 claim form). The DRG assignment should be made in a manner consistent with the grouping practices used by the hospital when billing both government and private carriers.
- F) Implants
- i) Prior to September 1, 2011, the The following revenue codes/pass-through charges are deducted from the DRG charge and reimbursed at 65% of actual charge: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens implant); 0278 (implants); 0540 and 0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding). If the maximum amount of payment for an inpatient hospital stay is 76% of actual charge or 53.2% of actual charge for services rendered on or after September 1, 2011, the DRG charge is determined after the pass-through charges are removed. Charges billed under these revenue codes shall be billed at the provider's normal rates under its standard chargemaster. If the provider cannot use the chargemaster to demonstrate the charge is the provider's normal rate, the provider shall provide evidence that the charge is billed at the provider's normal rate.
- ii) On and after September 1, 2011, implants, which include revenue codes 0276 (lens implant) and 0278 (implants) or any other substantially similar updated code as determined by the Commission, shall be reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges whether or not the implant charge is submitted by a provider in conjunction with a bill for all other services associated with

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the implant, submitted by a provider on a separate claim form, submitted by a distributor, or submitted by the manufacturer of the implant. The following revenue codes shall be paid at 65% of actual charge, which is the provider's normal rates under its standard chargemaster: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0540 and 0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding). A standard chargemaster is the provider's list of charges for procedures, treatments, products, supplies or services used to bill payers in a consistent manner. If the provider cannot use the chargemaster to demonstrate the charge is the provider's normal rate, the provider shall provide evidence that the charge is billed at the provider's normal rate.

G) Cost Outliers

- i) In the case of cost outliers (extraordinary treatment in which the bill for an inpatient stay is at least two times the fee schedule amount for the assigned DRG after pass-through revenue code charges referred to in subsection (h)(6)(F) have been deducted), the maximum reimbursement amount will be the assigned DRG fee schedule amount plus 76% of the charges that exceed that DRG amount. The pass-through revenue code charges are reimbursed at 65% of actual charge and shall be billed at the provider's normal rates under its standard chargemaster.
- ii) On and after September 1, 2011, for cost outliers (extraordinary treatment in which the bill for an inpatient stay is at least 2.857 times the fee schedule amount for the assigned DRG after pass-through revenue code charges referred to in subsection (h)(6)(F) have been deducted), the maximum reimbursement amount will be the assigned DRG fee schedule amount plus 53.2% of the charges that exceed that DRG amount. The pass-through revenue code charges are reimbursed at 65% of actual charge and shall be billed at the provider's normal rates under its standard chargemaster. Implants shall be reimbursed at 25% above

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the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges.

- H) Charges for professional services performed in conjunction with charges for other services associated with the hospitalization and billed by a hospital on a UB-04/CMS 1450 or a 1500 claim form (billing form established by Centers for Medicare and Medicaid Services for use by physicians) using the hospital's own tax identification number shall be reimbursed at 76% of actual charge or 53.2% of actual charge for services rendered on or after September 1, 2011 in addition to the amount listed in this schedule for the assigned code. Health care professionals who perform services and bill for services using their own tax identification number on a separate claim form shall be subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8).
- 7) Hospital Outpatient
- A) The use of this schedule is in accordance with the Current Procedural Terminology, American Medical Association, 515 North State Street, Chicago, Illinois 60610, ~~(2006)~~, no later dates or editions.
- B) This schedule includes radiology, pathology and laboratory, and physical medicine and rehabilitation as well as surgical services performed in a hospital outpatient setting that were not performed during an emergency room encounter or inpatient hospital admission. The radiology, pathology and laboratory, and physical medicine and rehabilitation schedules shall be applied to the number of units billed on the UB-04.
- C) Radiology
- i) This schedule provides the maximum fee schedule amount for radiology services performed in a hospital outpatient setting for codes 70010 through 79999. The schedule applies to the technical component of radiology services

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that are billed in conjunction with revenue codes 320 through 359, 400 through 409 and 610 through 619.

- ii) This schedule does not apply when the bill type requires the application of the hospital inpatient schedule in subsection (h)(6) or the hospital outpatient surgical facility schedule in subsection (h)(7)(F).
- iii) Professional radiology services billed by a hospital using the hospital's tax identification number are reimbursed at 76% of actual charge or 53.2% of actual charge for services rendered on or after September 1, 2011. Radiologists or radiology groups who perform services using their own tax identification number shall be subject to the HCPCS Level II in subsection (h)(5) or the professional services schedule in subsection (h)(8) even though the technical component is performed in a hospital setting.

D) Pathology and Laboratory

- i) This schedule provides the maximum fee schedule amount for pathology and laboratory services performed in a hospital outpatient setting for codes 80048 through 89356. This schedule applies to the technical component of pathology and laboratory services that are billed in conjunction with revenue codes 300 through 319.
- ii) This schedule does not apply when the bill type requires the application of the hospital inpatient schedule in subsection (h)(6) or the hospital outpatient surgical facility schedule in subsection (h)(7)(F).
- iii) Professional pathology and laboratory services billed by a hospital using the hospital's tax identification number are reimbursed at 76% of actual charge or 53.2% of actual charge for services rendered on or after September 1, 2011. Pathologists who perform services using their own tax identification number shall be subject to the HCPCS Level II in subsection (h)(5) or the professional services schedule

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in subsection (h)(8) even though the technical component is performed in a hospital setting.

E) Physical Medicine and Rehabilitation

- i) This schedule provides the maximum fee schedule amount for physical therapy services performed in a hospital outpatient setting for codes 97001 through 97799. This schedule applies to all physical and occupational therapy services that are billed in conjunction with revenue codes 420 through 439.
- ii) This schedule does not apply when the bill type requires the application of the hospital inpatient schedule in subsection (h)(6) or the hospital outpatient surgical facility schedule in subsection (h)(7)(F).
- iii) All physical medicine and rehabilitation services provided in a hospital outpatient setting are subject to this schedule.

F) Hospital Outpatient Surgical Facility (HOSF)

- i) This schedule provides a global maximum fee schedule amount for surgical services performed in a hospital outpatient setting for codes 10021 through 69990. All services performed in an operative session shall be reimbursed at a single fee schedule amount, except as provided in subsection (h)(7)(F)(ii). The single fee schedule amount shall represent the maximum amount payable for the total charges on a claim form that represents the total charges derived from all line items/revenue codes contained in the form. Except for the carve-out revenue codes listed in subsection (h)(7)(F)(ii), this fee schedule shall not be applied on a line item basis.
- ii) Implants
 - Prior to September 1, 2011, the following revenue codes are pass-through charges to be

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deducted from the charge and reimbursed at 65% of actual charge: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens implant); 0278 (implants); 0540 and 0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding). Charges billed under these revenue codes shall be billed at the provider's normal rates under its standard chargemaster. If the provider cannot use the chargemaster to demonstrate the charge is the provider's normal rate, the provider shall provide evidence that the charge is billed at the provider's normal rate.

- On and after September 1, 2011, implants, which include revenue codes 0276 (lens implant) and 0278 (implants) or any other substantially similar updated code as determined by the Commission, shall be reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges whether or not the implant charge is submitted by a provider in conjunction with a bill for all other services associated with the implant, submitted by a provider on a separate claim form, submitted by a distributor, or submitted by the manufacturer of the implant. The following revenue codes shall be paid at 65% of actual charge, which is the provider's normal rates under its standard chargemaster: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0540 and 0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding). A standard chargemaster is the provider's list of charges for procedures, treatments, products, supplies or services used to bill payers in a consistent manner. If the provider cannot use the chargemaster to demonstrate the charge is the provider's normal rate, the provider shall provide evidence that the charge is billed at the provider's normal rate.

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- iii) Surgery services under this schedule shall be reimbursed in accordance with the Multiple Procedure and Bilateral Surgery provisions of the Payment Guide in Section 8B of the instructions and guidelines in the fee schedule and the applicable modifiers in Section 8F of the instructions and guidelines in the fee schedule.
- iv) Cost Outliers
- Prior to September 1, 2011, in~~in~~ the case of cost outliers (extraordinary treatment in which the bill for hospital outpatient facility surgical charges is at least two times the fee schedule amount for the assigned code after pass-through revenue code charges referred to in subsection (h)(7)(F)(ii) have been deducted) the maximum reimbursement amount will be the assigned code fee schedule amount plus 76% of the charges that exceed the code amount. The pass-through revenue charges are reimbursed at 65% of actual charge and shall be billed at the provider's normal rates under its standard chargemaster.
 - On and after September 1, 2011, for cost outliers (extraordinary treatment in which the bill for an inpatient stay is at least 2.857 times the fee schedule amount for the assigned DRG after pass-through revenue code charges referred to in subsection (h)(7)(F)(ii) have been deducted), the maximum reimbursement amount will be the assigned code fee schedule amount plus 53.2% of the charges that exceed that code amount. The pass-through revenue code charges are reimbursed at 65% of actual charge and shall be billed at the provider's normal rates under its standard chargemaster. Implants shall be reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges.

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- v) Surgical services performed in the emergency room (revenue codes 450 through 459) are not subject to this schedule and shall be subject to the emergency room facility schedule in subsection (h)(4).
 - vi) Charges for professional services performed in conjunction with charges for other services associated with the surgery and billed by a hospital on a UB-04/CMS 1450 or a 1500 claim form (billing form established by Centers for Medicare and Medicaid Services for use by physicians) using the hospital's own tax identification number shall be reimbursed at 76% of actual charge or 53.2% of actual charge for services rendered on or after September 1, 2011 in addition to the amount listed in this schedule for the assigned surgical code. Health care professionals who perform services and bill for services using their own tax identification number on a separate claim form shall be subject to the HCPCS Level II schedule in subsection (h)(5) or the professional services schedule in subsection (h)(8).
- 8) Professional Services
- A) The use of this schedule is in accordance with the Current Procedural Terminology, American Medical Association, 515 North State Street, Chicago, Illinois 60610; ~~(2006)~~, no later dates or editions.
 - B) Services in this schedule include evaluation and management, surgery, physician, medicine, radiology, pathology and laboratory, chiropractic, physical therapy, and any other services covered under the Current Procedural Terminology.
 - C) Reimbursement for services under this schedule shall be in accordance with the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.

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- D) Surgery services under this schedule shall be reimbursed in accordance with the Payment Guide to Global Days, Multiple Procedures, Bilateral Surgeries, Assistant Surgeons, Co-Surgeons, and Team Surgery in Section 8B of the instructions and guidelines in the fee schedule and the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.
 - E) Medicine services under this schedule shall be reimbursed in accordance with the professional, technical and total component categories outlined in Section 8E of the instructions and guidelines in the fee schedule and the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.
 - F) Pathology and laboratory services under this schedule shall be reimbursed in accordance with the professional, technical and total component categories outlined in Section 8D of the instructions and guidelines in the fee schedule and the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.
 - G) Radiology services under this schedule shall be reimbursed in accordance with the professional, technical and total component categories outlined in Section 8C of the instructions and guidelines in the fee schedule and the modifiers table in Section 8F of the instructions and guidelines in the fee schedule.
- 9) Rehabilitation Hospitals
- A) This schedule applies to inpatient rehabilitation hospitals that are freestanding.
 - B) This schedule reimburses a rehabilitation hospital one per diem rate per day, on the basis of the assigned primary diagnosis code. The single per diem rate shall reimburse the rehabilitation hospital for all services provided in the course of a day.
 - C) The use of this schedule is in accordance with The International Classification of Diseases, Ninth Revision, Clinical Modification, (ICD-9-CM), Volume 2, U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 7500

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Security Boulevard, Baltimore, Maryland 21244, ~~(2007)~~, no later dates or editions.

- i) The fee schedule requires that services be reported with the HCPCS Level II or Current Procedural Terminology codes that most comprehensively describe the services performed. Proprietary bundling edits more restrictive than the National Correct Coding Policy Manual in Comprehensive Code Sequence for Part B Medicare Carriers, Version 12.0, U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, ~~(2006)~~, no later dates or editions, are prohibited. Bundling edits is the process of reporting codes so that they most comprehensively describe the services performed.
- j) An allied health care professional, such as a certified registered nurse anesthetist (CRNA), physician assistant (PA) or nurse practitioner (NP), is to be reimbursed at the same rate as other health care professionals when the allied health care professional is performing, coding and billing for the same services as other health care professionals.
- k) Charges of an independently operated diagnostic testing facility shall be subject to the professional services and HCPCS Level II fee schedules where applicable. An independent diagnostic testing facility is an entity independent of a hospital or physician's office, whether a fixed location, a mobile entity, or an individual nonphysician practitioner, in which diagnostic tests are performed by licensed or certified nonphysician personnel under appropriate physician supervision.
- l) No later than September 30, 2006 and each year thereafter, the Commission shall make an automatic adjustment to the maximum payment for a procedure, treatment or service in effect in January of that year. The Commission shall increase or decrease the maximum payment by the percentage change of increase or decrease in the Consumer Price Index-U for the 12-month period ending August 31 of that year. The change shall be effective January 1 of the following year. *The Consumer Price Index-U means the index published by the Bureau of Labor Statistics of the U.S. Department of Labor that measures the average change in prices of all goods and services purchased by all urban consumers, U.S. city average, all items, 1982-84=100.* (Section 8.2 of the Act)

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Administrative Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances
- 2) Code Citation: 41 Ill. Adm. Code 176
- 3)

| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
|--------------------------|-------------------------|
| 176.430 | Amendment |
| 176.600 | New |
| 176.605 | New |
| 176.610 | New |
| 176.615 | New |
| 176.620 | New |
| 176.625 | New |
| 176.630 | New |
| 176.635 | New |
| 176.640 | New |
| 176.645 | New |
| 176.650 | New |
| 176.655 | New |
| 176.660 | New |
- 4) Statutory Authority: Implementing and authorized by the Gasoline Storage Act [430 ILCS 15]
- 5) Effective Date of Adopted Amendments: February 15, 2012
- 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 matter incorporated by reference, is on file in the principal office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, Illinois, and is available for public inspection at that location.
- 9) Notice of Proposed Amendments published in the Illinois Register: September 9, 2011; 35 Ill. Reg. 14895.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No

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11) Differences between proposal and final versions:

In Section 176.635(d), changed "per-slide" to "topic".

In Section 176.645(a)(1)(A), immediately after "the name,", added "date each assumed duties".

In Section 176.645(a)(2), immediately after "testing certificates", added "showing the name of the trainee, date trained, and operator class", and immediately after "Class A, B and C Operators.", added the following sentence: "These certificates shall also be signed by the trainer and include the company name, address, phone, and for computer-based programs, the name of the training program and web address where internet-based.".

In Section 176.645(a)(4), changed "monthly inspection checklists" to "quarterly inspection checklists".

In the lead-in to Section 176.655(b), deleted "Monthly" from the subsection lead-in so it reads as follows: "Inspections and Operations Maintenance Plan." and changed "monthly inspection of each" to "quarterly inspection of each".

In Section 176.655(b)(1), changed "monthly inspections" to "quarterly inspections".

Changed Section 176.655(b)(1)(G) to read as follows: "G) That any impressed current cathodic protection system being utilized is operational, checking and recording that the power is on and that the voltage, amps and hour meter have the appropriate readings required under Section 175.510(f).".

In Section 176.655(d), changed "monthly inspection checklist" to "quarterly inspection checklist" and at the end of the second sentence in that subsection, immediately after "operator", inserted "and a description of the actions taken to correct an issue".

In Section 176.655(e), deleted "e) No Class B Operator may be assigned to more than 50 facilities at the same time.", and then renumbered the next subsection accordingly.

In Section 176.660, immediately after the first sentence, inserted the following: "Trained Operators may be assigned to more than one facility at a time as long as the requirements of this Subpart F are met, including requirements under Section 176.655(a) that a Class A, B or C Operator be on site at all times at manned (attended) facilities.".

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- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending to this part? No
- 15) Summary and purpose of Amendments: This rulemaking implements a federal requirement, pursuant to the federal Energy Policy Act of 2005, that states underground storage tank (UST) system regulatory programs receiving federal funding require and implement operator training programs for personnel at underground storage tank facilities. Under the federal requirements, three classes of operators must be trained in specified areas, and retraining required not less than once every two years and when a notice of noncompliance with UST technical requirements is issued. Under the federal requirements, unmanned facilities must also designate class A, B, and C operators, although one person properly trained can fulfill multiple roles. Records of training completion and emergency response plans and phone numbers must be kept at the facility.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Shelly Bradley, Manager
Division of Petroleum and Chemical Safety
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

217/557-3131
Facsimile: 217/524-9284

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

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TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

PART 176

ADMINISTRATIVE REQUIREMENTS FOR UNDERGROUND STORAGE TANKS AND
THE STORAGE, TRANSPORTATION, SALE AND USE OF PETROLEUM
AND OTHER REGULATED SUBSTANCES

SUBPART A: DEFINITIONS

Section
176.100 Definitions

SUBPART B: FINANCIAL ASSURANCE

Section
176.200 Definitions
176.205 Applicability
176.210 Amount
176.215 Mechanisms of Financial Responsibility
176.220 Proof of Financial Responsibility
176.225 Substitution of Financial Responsibility Mechanisms by an Owner or Operator
176.230 Cancellation or Non-Renewal by a Provider of Financial Assurance
176.235 Reporting by Owner or Operator
176.240 Recordkeeping
176.245 Release from the Requirements
176.250 Bankruptcy or Other Incapacity of Owner, Operator or Provider of Financial Assurance

SUBPART C: RELEASE REPORTING AND SITE ASSESSMENT

Section
176.300 Reporting of Suspected Releases
176.310 Release Investigation Reporting and Site Assessment
176.320 Initial Response and Reporting of Confirmed Releases
176.330 Procedures for Site Assessments
176.340 Reporting and Cleanup of Spills and Overfills
176.350 Initial Release Abatement Measures
176.360 Assessing the Site at Removal of, Previously Removed, or Change-in-Service of

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USTs

SUBPART D: GENERAL TECHNICAL REQUIREMENTS,
INCLUDING REPORTING, RECORDKEEPING AND NOTIFICATION

Section

| | |
|---------|--|
| 176.400 | Delegation of Authority to Enforce UST Rules and Regulations |
| 176.410 | General Requirement to Maintain All Equipment |
| 176.420 | Requirement that UST Components Be Third Party Listed |
| 176.430 | Reporting and Recordkeeping |
| 176.440 | Notification Requirements for Purposes of UST Registration |
| 176.450 | UST Registration Fees |
| 176.460 | Pre-'74 and Heating Oil USTs |
| 176.470 | Requirements for Conducting Precision Testing of Tanks and Piping, Cathodic Protection Testing, and Testing of Other UST Equipment |

SUBPART E: HEARINGS AND ENFORCEMENT PROCEDURES

Section

| | |
|---------|---|
| 176.500 | Definitions |
| 176.505 | Enforcement Action |
| 176.510 | Grounds and Time for Appeal |
| 176.515 | Notice of Hearing |
| 176.520 | Continuances |
| 176.525 | Appearances |
| 176.530 | Service of Papers and Computation of Time |
| 176.535 | Stipulations |
| 176.540 | Evidence |
| 176.545 | Official Notice |
| 176.550 | Authority of Hearing Officer |
| 176.555 | Default |
| 176.560 | Post-Hearing Submissions |
| 176.565 | Transcripts |
| 176.570 | Final Order |
| 176.575 | License Suspension or Revocation and Assessment of Fines Against a Contractor |
| 176.580 | Assessment of Penalties |
| 176.585 | Subpoena – Fees and Mileage of Witnesses |
| 176.590 | Paper Hearings |

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SUBPART F: OPERATOR TRAININGSection

| | |
|----------------|--|
| <u>176.600</u> | <u>Purpose</u> |
| <u>176.605</u> | <u>Scope</u> |
| <u>176.610</u> | <u>Definitions</u> |
| <u>176.615</u> | <u>Class A, B and C Operator Classifications</u> |
| <u>176.620</u> | <u>Training</u> |
| <u>176.625</u> | <u>Minimum Training Requirements</u> |
| <u>176.630</u> | <u>Examination Frequency</u> |
| <u>176.635</u> | <u>Approval of Required Training and Examination Location</u> |
| <u>176.640</u> | <u>Examination Fees</u> |
| <u>176.645</u> | <u>Recordkeeping</u> |
| <u>176.650</u> | <u>Out-of-Compliance Retraining</u> |
| <u>176.655</u> | <u>Written Facility Operations and Maintenance Plan and Class A, B and C Operator Responsibilities</u> |
| <u>176.660</u> | <u>Violations</u> |

176.APPENDIX A Derivation Table

AUTHORITY: Implementing the Gasoline Storage Act and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15].

SOURCE: Adopted at 34 Ill. Reg. 13485, effective September 2, 2010; amended at 36 Ill. Reg. 3187, effective February 15, 2012.

SUBPART D: GENERAL TECHNICAL REQUIREMENTS,
INCLUDING REPORTING, RECORDKEEPING AND NOTIFICATION

Section 176.430 Reporting and Recordkeeping

- a) Reporting. Owners and operators must submit the following information to OSFM:
- 1) Notification for all USTs (Section 176.440);
 - 2) Certification of installation for USTs (Section 176.430(f));

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- 3) Reports of all releases, including suspected releases (Section 176.300), spills and overfills (Section 176.340), and confirmed releases (Section 176.320);
 - 4) Initial response, including leak abatement, site characterization, and fire and explosion mitigation (40 CFR 280, subpart F, incorporated by reference in 41 Ill. Adm. Code 174.210) when requested by OSFM;
 - 5) A notification related to removal or change-in-service (41 Ill. Adm. Code 175.820(d) and 175.830(a)(19));
 - 6) A pass/fail determination and notification (Section 176.330(c)) (to be submitted to OSFM within 45 days after the receipt of laboratory data in connection with a site assessment); and
 - 7) Proof of financial responsibility on an annual basis (Section 176.220).
- b) Recordkeeping. Owners and operators must maintain the following information for the life of the UST (unless a shorter or longer period is provided in this subsection (b) or by the applicable Section cited or by other OSFM rule):
- 1) Documentation of operation of corrosion protection equipment and methods (41 Ill. Adm. Code 175.500 and 175.510).
 - 2) Documentation of UST repairs (41 Ill. Adm. Code 175.700 and 175.710).
 - 3) All records required to show compliance with release detection requirements (41 Ill. Adm. Code 175.600 through 175.650), with all tank and piping precision test results kept for 2 years or at least until the next precision test, whichever is longer.
 - 4) All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer.
 - 5) Written documentation of all calibration, maintenance and repair of release detection equipment permanently located on site, including schedules of required calibration and maintenance provided by the release detection equipment manufacturer.

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- 6) The results of any sampling, testing or monitoring not specified in subsections (a), (b), (f) and (g) of this Section.
- 7) Results of the site assessment conducted at removal or change-in-service (41 Ill. Adm. Code 175.800) and copies of the results of any other site assessment conducted pursuant to OSFM rules with all pass/fail determinations and notifications submitted to OSFM pursuant to Section 176.330.
- 8) Proof of financial responsibility submitted under Section 176.220.
- 9) Copies of all records submitted to OSFM under subsections (a), (f) and (g) of this Section.

| 10) [Copies of the records required by Sections 176.645 and 176.655.](#)

- c) Availability and Maintenance of Records. Owners or operators shall keep the records required in subsection (b) at the UST site or available to the OSFM inspector within 30 minutes or before OSFM completes its inspection, whichever is later, via fax, email or other transfer of information. Financial responsibility records may be maintained at the owner or operator's principal place of business and shall be produced within 10 days after OSFM request.
- d) Owners or operators of unmanned sites will be given prior notification of inspection/audit of those sites.
- e) Failure to maintain or produce the records required under this Section may result in OSFM's issuance of a red tag or revocation of a facility operating permit (green decal) for the tank or tanks or facility at issue (see 41 Ill. Adm. Code 177), prohibiting any further operation of the facility or further deposit of regulated substances into a tank subject to a red tag.
- f) Certification of UST Installation or Upgrade and Related Documentation
 - 1) Contractors shall certify, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf, that:

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- A) The installer has been certified or licensed by OSFM. If applicable, the contractor shall also certify that the installer has been certified by the tank and piping manufacturers.
 - B) The installation and/or upgrade has been performed in accordance with 41 Ill. Adm. Code 172 through 176.
 - C) All work listed in the manufacturer's installation checklist has been completed and submitted in accordance with this subsection (f), 41 Ill. Adm. Code 175.400 and 175.465, Section 176.420 (or compliance with applicable third-party standards or codes cited in OSFM rules as of the date of installation), and Section 176.440(f), if applicable.
- 2) Contractors shall complete the manufacturer's installation checklist for USTs, which shall be available at the time of final inspection. The owner and operator shall maintain a copy of the checklist on-site for the life of the UST.
 - 3) In lieu of the contractor's certification, an owner or operator may provide OSFM with a certification from a licensed professional engineer with education and experience in UST installation stating that the UST installation or upgrade was inspected by that engineer and that the UST installation or upgrade was properly installed in accordance with manufacturer's recommendations and OSFM rules.
 - 4) OSFM shall not issue a green decal pursuant to 41 Ill. Adm. Code 177.115 for the UST until OSFM has received the completed certification of UST installation or upgrade by the licensed contractor or the certification of proper installation or upgrade from a licensed professional engineer.
- g) Results from precision tank and piping testing, cathodic protection testing, and interior lining testing shall be handled as follows:
 - 1) All test results are to be issued to the facility and owner.
 - 2) Test results that fail must be reported to OSFM within 3 working days.

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- 3) All test results required due to Notice of Violation must be reported to OSFM within 3 working days.
- 4) All test results required to be submitted to OSFM must be submitted with a form provided by OSFM at www.state.il/OSFM/PetroChemSaf/home.htm, under "downloadable applications".

(Source: Amended at 36 Ill. Reg. 3187, effective February 15, 2012)

SUBPART F: OPERATOR TRAININGSection 176.600 Purpose

The purpose of this Subpart is to set forth procedures for underground storage tank operator training and inspections and to determine when the training and inspections are required.

(Source: Added at 36 Ill. Reg. 3187, effective February 15, 2012)

Section 176.605 Scope

UST operator training is a requirement that applies to all underground storage tank systems regulated under 41 Ill. Adm. Code 174, 175, 176 and 177 and 42 USC 82, subchapter IX, except those excluded from the definition of an underground storage tank system and thereby excluded from regulation by 41 Ill. Adm. Code 174.100.

(Source: Added at 36 Ill. Reg. 3187, effective February 15, 2012)

Section 176.610 Definitions

"Certified Operator" means a Class A, B or C Operator who has completed all the training required under this Subpart for his or her particular operator training classification.

"Class A Operator" is someone who has primary responsibility to operate and maintain a UST. The Class A Operator's responsibilities often include managing resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements.

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"Class B Operator" is someone who implements applicable UST regulatory requirements and standards in the field, including the day-to-day aspects of UST operation, maintenance and recordkeeping at one or more UST facilities.

"Class C Operator" is an employee who is responsible for responding to alarms or other indications of emergencies caused by spills or releases from USTs. Not all employees of a UST facility are necessarily Class C Operators.

"Manned Facility" means a UST facility that has a responsible attendant present during all hours of operation.

"Notice of Violation" or "NOV" means a document issued by OSFM that is the first step in the OSFM enforcement process.

"Operator Training" means the training required under this Subpart.

"OSFM" means the Office of the State Fire Marshal.

"Third Party Provider" means an entity that provides online or other approved training and examinations for Class A, B and C Operators and issues the certificate of completion when the candidates taking the examinations have completed the training and passed the examination.

"Two-Year Anniversary Date" or "2-Year Anniversary Date" means the 2-year deadline for completion of repeat training in ordinary course, including continuing education, training and a general examination. This deadline is the later of:

2 years after the completion of initial or repeat training (see Section 176.615), as shown by the most recent valid completion certificate; or

2 years after the completion of out-of-compliance retraining (see Section 176.650), as shown by the most recent valid completion certificate.

"Unmanned Facility" means a UST facility that does not have a responsible attendant present during all hours of operation.

"UST" means underground storage tank system.

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(Source: Added at 36 Ill. Reg. 3187, effective February 15, 2012)

Section 176.615 Class A, B and C Operator Classifications

The owner of each UST or group of USTs at a facility must have a Class A, Class B and Class C Operator designated and shall ensure that each is trained in accordance with this Subpart. Separate individuals may be designated for one or more classes of operators, and each facility must designate one or more individuals for each operator class.

(Source: Added at 36 Ill. Reg. 3187, effective February 15, 2012)

Section 176.620 Training

A Class A, Class B or Class C Operator satisfies the training requirements of this Subpart by completing both training and an examination as determined to be appropriate by OSFM. This may be internet, computer software, live or equivalent training and examination so long as the training and examination is approved by OSFM in advance under Section 176.635. All Class A, B and C Operators shall also complete continuing education and training requirements and a general examination once every 2 years, with the deadline for the completion of the training and examination to be no later than the 2-year anniversary date or the last retraining in response to an NOV, whichever is later. The first retraining deadline shall be August 8, 2014, or the 2-year date from the last retraining triggered by receipt of an NOV, whichever is later. Class A or Class B Operators may retrain Class C Operators so long as the training and examination administered to the Class C Operators has been approved in advance by OSFM and otherwise meets the requirements of Section 176.635 and this Part.

(Source: Added at 36 Ill. Reg. 3187, effective February 15, 2012)

Section 176.625 Minimum Training Requirements

OSFM will approve an online training mechanism for Class A, Class B and Class C Operators to be implemented by OSFM approved third party providers. Training and related examinations under this Subpart shall cover and test for appropriate knowledge of Illinois UST regulations. Generally, Class A, B and C Operators will be trained in the following:

- a) For Class A Operators, subject matter shall include, but not be limited to, financial responsibility documentation requirements, notification requirements, release and suspected release reporting, temporary and permanent closure requirements, operator training requirements, and a general knowledge of USTs

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requirements, including regulations relating to spill prevention, overfill prevention, release detection, corrosion protection, emergency response and product compatibility;

- b) For Class B Operators, subject matter shall include, but not be limited to, components of UST systems, materials of UST components, methods of release detection and release prevention applied to UST components, reporting and recordkeeping requirements, operator training requirements, and the operation and maintenance requirements of USTs that relate to spill prevention, overfill prevention, release detection, corrosion protection, emergency response and product compatibility; and
- c) For Class C Operators, subject matter shall include, but not be limited to, recommended responses to emergencies (such as, situations posing an immediate danger or threat to the public or to the environment requiring immediate action) spill alarms, releases from a UST, the locations and proper operation of emergency shutoff systems and the use of other emergency equipment.

(Source: Added at 36 Ill. Reg. 3187, effective February 15, 2012)

Section 176.630 Examination Frequency

The owner of a facility must ensure that Class A and Class B Operators are trained within 30 days after assuming operation and maintenance responsibilities for a UST and that Class C Operators are trained before assuming responsibility involving emergency response. At no time may a UST operate without a validly-trained Class A Operator, Class B Operator and Class C Operator. Continuing education, training and a general examination regarding operator-specific subject matter shall take place once every 2 years, and evidence of completed retraining shall be available at the facility in accordance with Sections 176.645, 176.650 and 176.655. OSFM may also require retraining pursuant to Section 176.650.

(Source: Added at 36 Ill. Reg. 3187, effective February 15, 2012)

Section 176.635 Approval of Required Training and Examination Location

All training programs used to meet the operator training requirements must have prior written approval by OSFM. These programs must at least meet the criteria of this Subpart in order to be approved. These programs shall appropriately test the person being trained for knowledge of the relevant UST technical requirements, including those found at 41 Ill. Adm. Code 174, 175, 176

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and 177. The provider must also demonstrate its ability to maintain and track test scores and maintain appropriate security. Upon approval, the training can be conducted multiple times at multiple locations. The approved training can include in-class, online, or hands-on training. Submission of an incomplete application may result in the denial of the application. If OSFM has denied a training provider's application 3 times, the applicant shall not re-submit an application for a period of one year from the date of receipt of the third denial.

- a) Course approvals shall be valid for a period of 5 years. Applications must be submitted at least 120 days prior to the first scheduled date of training and at least 120 days prior to the expiration of the course approval. Applications for approval of training courses shall be on OSFM forms on 8½ by 11 sheets of paper or via electronic submission and contain:
- 1) a complete course outline, including:
- A) a detailed description of subject matter, order of presentation, and amount of time scheduled for the course presentation, with a breakdown of time spent on each specific area of instruction;
- B) a description of all training aids, devices and handouts;
- C) a description of the test to be given at the conclusion of each training course, including:
- i) procedures for conducting and grading the test (including a description of the hands-on practical demonstration of knowledge at the UST site, if applicable);
- ii) the passing score for the training exam and any procedure for review of failing areas and retesting for any Class A, B or C Operator who fails to achieve an initial passing grade;
- iii) the number of questions per topic identified in Section 176.625; and
- iv) examples or a sampling of test questions;
- D) one set of proposed training materials;

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- E) sample certificates;
 - F) the methodology for verifying participation and completion;
 - G) the anticipated number and locations for any classroom, hands-on or webinar course to be offered;
 - H) the name, address and phone number of the training provider and of the contact person;
 - I) the credentials of any classroom, hands-on or webinar instructors, including title, affiliation and summary of professional background (i.e., a curriculum vitae); and
 - J) a certification that the technology or methods to be presented in the training program will satisfy Illinois and federal laws.
- b) The minimum required passing score set by the training provider shall be at least 75%. The training provider must supply those individuals who successfully complete a training program with a certificate of training documenting the level of training received. Upon request, the training provider must submit individual test results and documents verifying training completion to OSFM. This information shall include student rosters, student information, test results and other information as may be requested by OSFM.
- c) Training providers will be required to apply for and receive written approval from OSFM for any modifications to approved training programs prior to their implementation. All training must reflect the existing State of Illinois requirements for the operation and maintenance of USTs and must be updated for any Illinois statute or rule changes affecting operation and maintenance requirements. OSFM may review and propose revision to the entire training program at the time of any requested modification.
- d) Online and software courses shall possess reasonable topic and total course minimum time requirements to insure that trainees read the online materials.
- e) OSFM may periodically audit or review any training class, and the trainer shall allow a maximum of 2 OSFM employees to attend any training class on request without charge and without certification.

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(Source: Added at 36 Ill. Reg. 3187, effective February 15, 2012)

Section 176.640 Examination Fees

The UST facility owner or operator shall pay the approved provider a reasonable fee for online or other approved training and testing for Class A, Class B and Class C Operators.

(Source: Added at 36 Ill. Reg. 3187, effective February 15, 2012)

Section 176.645 Recordkeeping

- a) The following records shall be maintained and readily available at each UST facility:
- 1) A list of the designated current Class A, Class B and Class C Operators for the UST facility (identified by facility number and address), including:
 - A) For each Class A, B and C Operator, records detailing the name, date each assumed duties, training classification (Class A, B or C or a combination), and date current completion certificate will expire; and
 - B) For Class A and Class B Operators who are not permanently onsite or who are assigned to more than one facility, telephone numbers to contact the Class A and B Operators;
 - 2) A copy of the current testing certificates showing the name of the trainee, date trained and operator class for all current Class A, B and C Operators. These certificates shall also be signed by the trainer and include the company name, address, phone and, for computer-based programs, the name of the training program and web address where internet-based;
 - 3) A copy of the current Class C Operator instructions or procedures required by subsection (b); and
 - 4) A copy of the written UST facility operation and maintenance plan and all quarterly inspection checklists used by the certified operators for the past 2 years pursuant to Section 176.655.

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- b) The UST owner shall provide all Class C Operators with written instructions that include all of the following:
- 1) Emergency response procedures, including:
 - A) procedures for overfill protection during delivery of regulated substances;
 - B) operation of emergency shut-off systems;
 - C) appropriate responses to all alarms;
 - D) reporting of leaks, spills and releases; and
 - E) site-specific emergency procedures, if any.
 - 2) The name and other information needed for contacting appropriate parties if a leak, spill, release or alarm occurs.
- c) For unmanned facilities, the records identified in subsections (a) and (b) shall be maintained at the UST facility or available to the OSFM inspector within 30 minutes or before OSFM completes its inspection, whichever is later, via facsimile, e-mail, hand delivery or other transfer of information.

(Source: Added at 36 Ill. Reg. 3187, effective February 15, 2012)

Section 176.650 Out-of-Compliance Retraining

- a) Appropriate retraining, including both training and testing, is required for both Class A and Class B Operators of USTs determined by OSFM to be out of compliance by issuing an NOV pertaining to release detection, corrosion protection, spill and overfill, financial responsibility, or failure to complete training and testing as required by this Subpart.
- b) Retraining required under this Section shall be completed within 60 days after issuance of the NOV indicating noncompliance.

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- c) Evidence of competed retraining shall be at the UST facility and available for inspection within 60 days after issuance of the NOV indicating noncompliance. When the NOV pertains to a failure to complete the training and testing required by this Subpart, the owner must have evidence of completed training and testing at the facility and available for inspection within 30 calendar days after receipt of the NOV.

(Source: Added at 36 Ill. Reg. 3187, effective February 15, 2012)

Section 176.655 Written Facility Operations and Maintenance Plan and Class A, B and C Operator Responsibilities

- a) At a manned facility, a Class A, Class B or Class C Operator must be onsite at all times. For unmanned facilities, emergency contact information for Class A, B and C Operators, including names and telephone numbers, shall be conspicuously posted at the facility unless a toll-free number for 24 hour dispatch to the facility has been prominently displayed at the facility. At both manned and unmanned facilities, the Class C Operator is responsible for responding to alarms or other indications of emergencies caused by spills or releases from USTs and shall be familiar with the written emergency response instructions and procedures for the facility.
- b) Inspections and Operations and Maintenance Plan. Each Class A or Class B Operator shall perform a quarterly inspection of each storage tank system for which he or she is designated and shall record the results of each inspection on a checklist to be maintained with the facility records.
- 1) At a minimum, quarterly inspections shall be conducted and recorded on a checklist that details the inspection of the following:
- A) Release detection methods, including monitoring systems and all associated sensors, checking that they are fully operational, for potential releases, for all required records, and whether UST facility staff and Class C Operators appropriately responded to all alarms and any conditions that might have indicated a release of a regulated substance;
- B) The overall status of the UST, for alarms and unusual operating conditions that may indicate a release, and investigating and

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- documenting same if it has not been reported as a suspected release under Subpart C;
- C) Integrity of spill and overflow prevention and spill containment equipment and manholes (for cracks, holes or bulges), and for the presence of regulated substances, water or debris in the spill prevention equipment;
- D) Dispensers, hoses, breakaways, hardware, visible product piping and dispenser sumps for the presence of regulated substances, water and debris;
- E) All containment sumps, including those at the submersible junction sumps, remote fills, single-wall piping sumps, and at secondary containments, for visual damage to the sump, for the presence of regulated substances or any indication that a release may have occurred, and that these sumps are free of water, product and debris;
- F) If an alarm condition has occurred since the last monthly inspection on any double-wall system, whether UST staff and Class C Operators appropriately responded, and, if necessary, whether the appropriate sumps were opened, inspected and cleaned, with the sensors placed back into operational position or status in such a manner as to detect a leak at the earliest possible time;
- G) That any impressed current cathodic protection system being utilized is operational, checking and recording that the power is on and that the voltage, amps and hour meter have the appropriate readings required under Section 175.510(f);
- H) All UST equipment including emergency shutoffs, for the presence or absence of visible damage to any UST component;
- I) All required signs are fully visible and all communication systems in place and operational; and

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- J) All other daily, monthly and annual inspections, testing, reporting and records as required under 41 Ill. Adm. Code 174, 175 and 176.
- 2) UST facility owners and operators shall, in conjunction with their designated Class A and B Operators, adopt and implement a written operations and maintenance plan signed by both the owner and either a Class A or Class B Operator designated for the UST facility. The plan shall be kept at the facility for the life of the UST and shall be updated to reflect changes in the UST facility equipment and operations as they occur. The operations and maintenance plan shall be as specific as possible for each facility. At a minimum, the operations and maintenance plan shall include the following:
- A) A detailed plan showing what inspections, operations, testing, maintenance and recordkeeping shall be done on a daily, monthly, quarterly and annual basis in accordance with OSFM rules.
- B) A description of the manner in which UST facility owners and operators properly dispose of regulated substances spilled at the facility, including any water or soil removed from any part of the UST when there is any indication it might be or has been contaminated with a regulated substance.
- C) The emergency procedures and instructions required under Section 176.645.
- c) The certified operators shall ensure that all inspections and testing, as outlined in the operations and maintenance plan and required by [this Subpart](#), are properly performed. They shall also ensure that [the work](#) is performed by licensed contractors [if](#) required by 41 Ill. Adm. Code 174, 175 or 176.
- d) The certified operators shall provide the UST facility owner and operator with a copy of each inspection checklist and alert the owner and operator to any condition that requires follow-up actions. The certified operator doing this shall date and initial the quarterly inspection checklist, indicating that this information has been provided to the UST facility owner and operator and a description of the actions taken to correct an issue.

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- e) A Class A, B or C Operator shall not represent himself or herself as certified unless the person has a current valid certificate of training from an approved trainer.

(Source: Added at 36 Ill. Reg. 3187, effective February 15, 2012)

Section 176.660 Violations

A facility may not operate after August 8, 2012 unless Class A, B and C Operators have been designated and trained for each UST that is being operated at each facility. Trained Operators may be assigned to more than one facility at a time as long as the requirements of this Subpart F are met, including requirements under Section 176.655(a) that a Class A, B or C Operator be on site at all times at manned (attended) facilities. Failure to comply with this Subpart shall be sufficient reason for the summary revocation of the OSFM-issued green tag providing authority to operate an underground storage tank facility whose Class A, B and C Operators have not been designated and trained. Failure to remain in compliance with UST rules may also result in OSFM's issuance of a red tag for the tanks or facility at issue, prohibiting any further operation of the facility or further deposit of regulated substances into any tank subject to a red tag. An approved training and testing program may be decertified by OSFM in the event of provider fraud, misrepresentation, negligence or noncompliance with OSFM rules, or with an OSFM audit recommendation, in conducting the training or testing.

(Source: Added at 36 Ill. Reg. 3187, effective February 15, 2012)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Emergency Medical Services and Trauma Center Code
- 2) Code Citation: 77 Ill. Adm. Code 515
- 3) Section Number: 515.620 Adopted Action:
Amend
- 4) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]
- 5) Effective Date of Rulemaking: February 15, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendments Published in Illinois Register: November 14, 2011; 35 Ill. Reg. 18565
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: No changes were made in response to comments received during the First Notice or public comment period. No changes were made during the Second Notice Period.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The rules in Part 515 set forth requirements for Emergency Medical Services Systems, including licensing requirements for emergency medical technicians. Section 515.620 was added to the rules in 2011 to implement Public Act 96-1469, which amended the Emergency Medical Services (EMS) Systems Act to authorize the Department to suspend, revoke or refuse to issue or renew the license of any

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licensee who has been convicted of a Class X, Class 1, or Class 2 felony in Illinois or has been convicted of an equivalent offense in another state. Section 515.620 adds that failure to disclose felony convictions on an application is grounds for license denial or revocation. The amendment also states that the Department will have the authority to require that the applicant sign authorization permitting the Department to obtain a criminal history report from the Illinois State Police or other law enforcement agency at the applicant's cost.

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

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, 5th Floor
Springfield, Illinois 62761

217/785-9128
e-mail: dph.rules@illinois.gov

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETYPART 515
EMERGENCY MEDICAL SERVICES AND TRAUMA CENTER CODE

SUBPART A: GENERAL

| | |
|---------|---|
| Section | |
| 515.100 | Definitions |
| 515.125 | Incorporated and Referenced Materials |
| 515.150 | Waiver Provisions |
| 515.160 | Facility, System and Equipment Violations, Hearings and Fines |
| 515.170 | Employer Responsibility |

SUBPART B: EMS REGIONS

| | |
|---------|---|
| Section | |
| 515.200 | Emergency Medical Services Regions |
| 515.210 | EMS Regional Plan Development |
| 515.220 | EMS Regional Plan Content |
| 515.230 | Resolution of Disputes Concerning the EMS Regional Plan |
| 515.240 | Bioterrorism Grants |

SUBPART C: EMS SYSTEMS

| | |
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| Section | |
| 515.300 | Approval of New EMS Systems |
| 515.310 | Approval and Renewal of EMS Systems |
| 515.315 | Bypass Status Review |
| 515.320 | Scope of EMS Service |
| 515.330 | EMS System Program Plan |
| 515.340 | EMS Medical Director's Course |
| 515.350 | Data Collection and Submission |
| 515.360 | Approval of Additional Drugs and Equipment |
| 515.370 | Automated Defibrillation (Repealed) |
| 515.380 | Do Not Resuscitate (DNR) Policy |
| 515.390 | Minimum Standards for Continuing Operation |
| 515.400 | General Communications |

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| 515.410 | EMS System Communications |
| 515.420 | System Participation Suspensions |
| 515.430 | Suspension, Revocation and Denial of Licensure of EMTs |
| 515.440 | State Emergency Medical Services Disciplinary Review Board |
| 515.445 | Pediatric Care |
| 515.450 | Complaints |
| 515.455 | Intra- and Inter-system Dispute Resolution |
| 515.460 | Fees |
| 515.470 | Participation by Veterans Health Administration Facilities |

SUBPART D: EMERGENCY MEDICAL TECHNICIANS

| | |
|---------|---|
| Section | |
| 515.500 | Emergency Medical Technician-Basic Training |
| 515.510 | Emergency Medical Technician-Intermediate Training |
| 515.520 | Emergency Medical Technician-Paramedic Training |
| 515.530 | EMT Testing |
| 515.540 | EMT Licensure |
| 515.550 | Scope of Practice – Licensed EMT |
| 515.560 | EMT-B Continuing Education |
| 515.570 | EMT-I Continuing Education |
| 515.580 | EMT-P Continuing Education |
| 515.590 | EMT License Renewals |
| 515.600 | EMT Inactive Status |
| 515.610 | EMT Reciprocity |
| 515.620 | Felony Convictions |
| 515.630 | Evaluation and Recognition of Military Experience and Education |
| 515.640 | Reinstatement |

SUBPART E: EMS LEAD INSTRUCTOR, EMERGENCY MEDICAL DISPATCHER, FIRST RESPONDER, PRE-HOSPITAL REGISTERED NURSE, EMERGENCY COMMUNICATIONS REGISTERED NURSE, AND TRAUMA NURSE SPECIALIST

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| Section | |
| 515.700 | EMS Lead Instructor |
| 515.710 | Emergency Medical Dispatcher |
| 515.720 | First Responder |
| 515.725 | First Responder – AED |
| 515.730 | Pre-Hospital Registered Nurse |

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| 515.740 | Emergency Communications Registered Nurse |
| 515.750 | Trauma Nurse Specialist |
| 515.760 | Trauma Nurse Specialist Program Plan |

SUBPART F: VEHICLE SERVICE PROVIDERS

| | |
|---------|---|
| Section | |
| 515.800 | Vehicle Service Provider Licensure |
| 515.810 | EMS Vehicle System Participation |
| 515.820 | Denial, Nonrenewal, Suspension and Revocation of a Vehicle Service Provider License |
| 515.825 | Alternate Response Vehicle |
| 515.830 | Ambulance Licensing Requirements |
| 515.835 | Stretcher Van Provider Licensing Requirements |
| 515.840 | Stretcher Van Requirements |
| 515.845 | Operation of Stretcher Vans |
| 515.850 | Reserve Ambulances |
| 515.860 | Critical Care Transport |

SUBPART G: LICENSURE OF SPECIALIZED EMERGENCY
MEDICAL SERVICES VEHICLE (SEMSV) PROGRAMS

| | |
|---------|---|
| Section | |
| 515.900 | Licensure of SEMSV Programs – General |
| 515.910 | Denial, Nonrenewal, Suspension or Revocation of SEMSV Licensure |
| 515.920 | SEMSV Program Licensure Requirements for All Vehicles |
| 515.930 | Helicopter and Fixed-Wing Aircraft Requirements |
| 515.935 | EMS Pilot Specifications |
| 515.940 | Aeromedical Crew Member Training Requirements |
| 515.945 | Aircraft Vehicle Specifications and Operation |
| 515.950 | Aircraft Medical Equipment and Drugs |
| 515.955 | Vehicle Maintenance for Helicopter and Fixed-wing Aircraft Programs |
| 515.960 | Aircraft Communications and Dispatch Center |
| 515.965 | Watercraft Requirements |
| 515.970 | Watercraft Vehicle Specifications and Operation |
| 515.975 | Watercraft Medical Equipment and Drugs |
| 515.980 | Watercraft Communications and Dispatch Center |
| 515.985 | Off-Road SEMSV Requirements |
| 515.990 | Off-Road Vehicle Specifications and Operation |

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- 515.995 Off-Road Medical Equipment and Drugs
515.1000 Off-Road Communications and Dispatch Center

SUBPART H: TRAUMA CENTERS

Section

- 515.2000 Trauma Center Designation
515.2010 Denial of Application for Designation or Request for Renewal
515.2020 Inspection and Revocation of Designation
515.2030 Level I Trauma Center Designation Criteria
515.2035 Level I Pediatric Trauma Center
515.2040 Level II Trauma Center Designation Criteria
515.2045 Level II Pediatric Trauma Center
515.2050 Trauma Center Uniform Reporting Requirements
515.2060 Trauma Patient Evaluation and Transfer
515.2070 Trauma Center Designation Delegation to Local Health Departments
515.2080 Trauma Center Confidentiality and Immunity
515.2090 Trauma Center Fund
515.2100 Pediatric Care (Renumbered)
515.2200 Suspension Policy for Trauma Nurse Specialist Certification

SUBPART I: EMS ASSISTANCE FUND

Section

- 515.3000 EMS Assistance Fund Administration

SUBPART J: EMERGENCY MEDICAL SERVICES FOR CHILDREN

Section

- 515.3090 Pediatric Recognition of Hospital Emergency Departments and Inpatient Critical Care Services
515.4000 Facility Recognition Criteria for the Emergency Department Approved for Pediatrics (EDAP)
515.4010 Facility Recognition Criteria for the Standby Emergency Department Approved for Pediatrics (SEDP)
515.4020 Facility Recognition Criteria for the Pediatric Critical Care Center (PCCC)
515.APPENDIX A A Request for Designation (RFD) Trauma Center
515.APPENDIX B A Request for Renewal of Trauma Center Designation

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| 515.APPENDIX C | Minimum Trauma Field Triage Criteria |
| 515.APPENDIX D | Standing Medical Orders |
| 515.APPENDIX E | Minimum Prescribed Data Elements |
| 515.APPENDIX F | Template for In-House Triage for Trauma Centers |
| 515.APPENDIX G | Credentials of General/Trauma Surgeons Level I and Level II |
| 515.APPENDIX H | Credentials of Emergency Department Physicians Level I and Level II |
| 515.APPENDIX I | Credentials of General/Trauma Surgeons Level I and Level II Pediatric Trauma Centers |
| 515.APPENDIX J | Credentials of Emergency Department Physicians Level I and Level II Pediatric Trauma Centers |
| 515.APPENDIX K | Application for Facility Recognition for Emergency Department with Pediatrics Capabilities |
| 515.APPENDIX L | Pediatric Equipment Recommendations for Emergency Departments |
| 515.APPENDIX M | Inter-facility Pediatric Trauma and Critical Care Consultation and/or Transfer Guideline |
| 515.APPENDIX N | Pediatric Critical Care Center (PCCC)/Emergency Department Approved for Pediatrics (EDAP) Recognition Application |
| 515.APPENDIX O | Pediatric Critical Care Center Plan |
| 515.APPENDIX P | Pediatric Critical Care Center (PCCC) Pediatric Equipment/Supplies/Medications Requirements |

AUTHORITY: Implementing and authorized by the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

SOURCE: Emergency Rule adopted at 19 Ill. Reg. 13084, effective September 1, 1995 for a maximum of 150 days; emergency expired January 28, 1996; adopted at 20 Ill. Reg. 3203, effective February 9, 1996; emergency amendment at 21 Ill. Reg. 2437, effective January 31, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 5170, effective April 15, 1997; amended at 22 Ill. Reg. 11835, effective June 25, 1998; amended at 22 Ill. Reg. 16543, effective September 8, 1998; amended at 24 Ill. Reg. 8585, effective June 10, 2000; amended at 24 Ill. Reg. 9006, effective June 15, 2000; amended at 24 Ill. Reg. 19218, effective December 15, 2000; amended at 25 Ill. Reg. 16386, effective December 20, 2001; amended at 26 Ill. Reg. 18367, effective December 20, 2002; amended at 27 Ill. Reg. 1277, effective January 10, 2003; amended at 27 Ill. Reg. 6352, effective April 15, 2003; amended at 27 Ill. Reg. 7302, effective April 25, 2003; amended at 27 Ill. Reg. 13507, effective July 25, 2003; emergency amendment at 29 Ill. Reg. 12640, effective July 29, 2005, for a maximum of 150 days; emergency expired December 25, 2005; amended at 30 Ill. Reg. 8658, effective April 21, 2006; amended at 32 Ill. Reg. 16255, effective September 18, 2008; amended at 35 Ill. Reg. 6195, effective March 22, 2011; amended at 35 Ill. Reg. 15278, effective August 30, 2011; amended at 35 Ill. Reg. 16697, effective

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September 29, 2011; amended at 35 Ill. Reg. 18331, effective October 21, 2011; amended at 35 Ill. Reg. 20609, effective December 9, 2011; amended at 36 Ill. Reg. 880, effective January 6, 2012; amended at 36 Ill. Reg. 2296, effective January 25, 2012; amended at 36 Ill. Reg. 3208, effective February 15, 2012.

SUBPART D: EMERGENCY MEDICAL TECHNICIANS

Section 515.620 Felony Convictions

- a) Applicants and licensees convicted of an Illinois *Class X, Class 1 or Class 2 felony or an out-of-state equivalent offense* shall be subject to adverse licensure actions under Section 3.50(d)(8) of the Act. In determining whether an applicant or licensee has been convicted of an *out-of-state equivalent offense* under Section 3.50(d)(8)(H) of the Act, the Department shall look to the essential elements of the out-of-state offense to determine whether that conviction is substantially equivalent to an Illinois Class X, Class 1 or Class 2 felony. The fact that the out-of-state offense may be named or classified differently by another state, territory or country shall not be considered in determining whether the out-of-state offense is equivalent. The controlling factor shall be whether the essential elements of the out-of-state offense are substantially equivalent to the essential elements of an Illinois Class X, Class 1 or Class 2 felony (Section 3.50(d) of the Act).
- b) All applicants for any license, permit or certification under the Act shall fully disclose any and all felony convictions in writing to the Department at the time of initial application or renewal. Failure to disclose all felony convictions on an application submitted to the Department shall be grounds for license denial or revocation (see Section 515.430).
- c) All Beginning June 1, 2011, all licensees and certificate and permit holders under the Act shall report all new felony convictions to the Department within seven days after conviction. Convictions shall be reported by means of a letter to the Department.
- d) For applicants with a Class X, Class 1 or Class 2 felony or an out-of-state equivalent offense (Section 3.50(d) of the Act), the Department shall have the authority to require that the applicant sign an authorization permitting the Department to obtain a criminal history report from the Illinois State Police or other law enforcement agency at the applicant's cost. The failure or refusal of any felony applicant to provide the authorization and fee required by the applicable

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law enforcement agency shall be grounds for denial of licensure, including renewal.

- e) In deciding whether to issue any license to a person with a felony conviction under Section 3.50(d) of the Act, the Department shall consider the degree to which the applicant's criminal history suggests that the applicant may present a risk to patients. Factors to be considered shall include, but not be limited to:
- 1) The length of time since the conviction and the severity of the penalty imposed;
 - 2) Whether the conviction involved theft, deception or infliction of intentional, unjustified harm to others;
 - 3) Whether there are repeat or multiple convictions or whether the convictions suggest a particular pattern of overall disregard for the safety or property of others;
 - 4) Whether the conviction suggests a propensity that may pose a threat to the public in stressful situations commonly confronted by EMS providers and First Responders;
 - 5) The degree to which the applicant provided full, complete and accurate information upon written request of the Department; and
 - 6) Other unusual facts and circumstances that strongly suggest that the applicant should not be granted a license.
- f) The Department may request and the applicant shall provide all additional information relevant to the applicant's history and the factors listed in subsection (e). The Department shall deny any application when the applicant fails or refuses to provide additional relevant information requested by the Department, including, but not limited to, providing the written authorization and fee for a police criminal background check.

(Source: Amended at 36 Ill. Reg. 3208, effective February 15, 2012)

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- 1) Heading of the Part: Illinois State Library, Library Operations Division
- 2) Code Citation: 23 Ill. Adm. Code 3010
- 3)

| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
|-------------------------|-------------------------|
| 3010.10 | Amend |
| 3010.40 | Amend |
| 3010.60 | Amend |
| 3010.110 | Amend |
| 3010.120 | Amend |
| 3010.130 | Amend |
| 3010.140 | Amend |
| 3010.160 | Amend |
| 3010.210 | Amend |
| 3010.310 | Amend |
| 3010.EXHIBIT A | Amend |
| 3010.EXHIBIT B | Amend |
| 3010.EXHIBIT C | Amend |
| 3010.EXHIBIT D | Amend |
| 3010.EXHIBIT E | New |
- 4) Statutory Authority: Implementing and authorized by the State Library Act [15 ILCS 320]
- 5) Effective Date: February 16, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Section 3010.160(f) refers to "The Interlibrary Loan Code of the United States. Revised 2008" published by the American Library Association, 50 E. Huron, Chicago, IL 60611.
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file and available at the Illinois State Library, Gwendolyn Brooks Building, 300 South Second Street, Springfield IL 62701-1796.
- 9) Notice of Proposal Published in the Illinois Register: Sept. 23, 2011; 35 Ill. Reg. 15424
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No

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11) Difference between proposal and final version:

In Section 3010.160 (f), the date of the Interlibrary Loan Code of the United States was changed from "2001" to "2008".

In Section 3010.Exhibit A (11), a semicolon replaces the comma after the word "exits".

In Section 3010. Exhibit E – IV-9, "authorized fees" was changed to "fees authorized by VII (Fees)".

In Section 3010. Exhibit E – V-7, after "bills" add "to the requesting library".

In Section 3010. Exhibit E – VI-3, the word "or" replaces the slash between the words "Rush" and "Urgent".

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter from JCAR? Yes13) Will this rulemaking replace any emergency rulemaking currently in effect? No14) Are there any other amendments pending on this Part? No15) A Complete Description of the Subjects and Issues Involved: This rulemaking changes the name of the title of the Part from "Illinois State Library, Library Services Division" to "Illinois State Library, Library Operations Division". These amendments clarify procedures for access to the stacks by library users; registration for a temporary stack pass and a library card; loan periods; fees for computer printouts; use of the public service area; and interlibrary loan procedures governed by the Illinois Interlibrary Code enumerated in 3010.Exhibit E.16) Information and questions regarding this rulemaking shall be directed to:

Joseph Natale
Rules Coordinator
Illinois State Library
Gwendolyn Brooks Building
Springfield, IL 62701-1796

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217/558-4185; jnatale@ilsos.net

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

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TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE B: CULTURAL RESOURCES
CHAPTER I: SECRETARY OF STATE

PART 3010

ILLINOIS STATE LIBRARY, LIBRARY ~~OPERATIONS~~~~SERVICES~~ DIVISION

SUBPART A: USE OF THE ILLINOIS STATE LIBRARY

- Section
- 3010.10 Definitions
- 3010.20 Service Populations
- 3010.30 Hours of Service
- 3010.40 Library ~~Stacks~~~~Stack~~ Area
- 3010.50 Use by the General Public
- 3010.60 Copies ~~and~~ ~~Printouts~~

SUBPART B: COLLECTION ACCESS SECTION (CIRCULATION)

- Section
- 3010.110 Circulation of Materials
- 3010.120 Materials for Loan
- 3010.130 Loan Periods
- 3010.140 Holds, ~~Recalls~~ and Renewals
- 3010.150 Return of Materials
- 3010.160 Replacement of Lost and/or Damaged Materials
- 3010.170 Theft of Materials
- 3010.180 Photocopies (Repealed)

SUBPART C: ~~REFERENCE~~~~PUBLIC~~ SERVICES SECTION

- Section
- 3010.210 Reference Service

SUBPART D: RESOURCE SHARING SECTION
(INTERLIBRARY LOAN)

- Section
- 3010.310 Interlibrary Loan

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3010.320 Resource Sharing Agreements

Section

- | 3010.EXHIBIT A ~~Stacks~~~~Temporary Stack~~ Pass Application
- | 3010.EXHIBIT B Use of the Public Services Areas of the Illinois State Library: General Policies and Guidelines
- | 3010.EXHIBIT C Illinois State Library Card Application Form: Courtesy Card
- | 3010.EXHIBIT D Illinois State Library Card Application Form: Regular Card
- | 3010.EXHIBIT E ILLINET Interlibrary Loan Code

AUTHORITY: Implementing and authorized by the State Library Act [15 ILCS 320].

SOURCE: Amended July 18, 1973; rules repealed, new rules adopted and codified at 7 Ill. Reg. 13679, effective October 4, 1983; amended at 25 Ill. Reg. 5412, effective April 1, 2001; amended at 30 Ill. Reg. 16324, effective October 2, 2006; amended at 36 Ill. Reg. 3217, effective February 16, 2012.

SUBPART A: USE OF THE ILLINOIS STATE LIBRARY

Section 3010.10 Definitions

| The following definitions ~~in alphabetical order~~ apply to this Part:

| "Bibliographic Instruction" means the ~~on-site~~ education of patrons in the use of the State Library's collections, resources and equipment.

"Copies" means facsimile reproductions of information from any medium into the same or different medium.

"General public" means persons other than the employees of the State of Illinois.

"ILLINET" means the Illinois Library and Information Network.

"Interlibrary loan" means a cooperative arrangement among libraries by which one library may borrow and lend material through established library channels using standard procedures.

"Officials and employees of State government" means all persons employed by the State of Illinois or elected or appointed to State office.

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"Patron" means any person using the services of a library.

"Ready-Reference Service" means the provision of information that is readily available, brief in nature and/or easily verified.

"Research Service" means the provision of information that requires research and time to collect, verify and/or find.

(Source: Amended at 36 Ill. Reg. 3217, effective February 16, 2012)

Section 3010.40 Library ~~Stacks~~ Area

The ~~book stacks~~ area of the State Library is closed except to the following persons:

- a) State Library employees.
- b) Maintenance personnel.
- c) Patrons who have ~~registered for a stacks pass~~ ~~pre-registered~~ with a Library ~~Operations~~ ~~Services~~ manager ~~or reference librarian~~. ~~Registration is through completion of~~ ~~The pre-registration shall be by means of a letter stating the patron's specific need for access to the stacks or by completing~~ a form for ~~temporary~~ access ~~available at the circulation desk~~. (See Exhibit A.) Applications for privileges will be reviewed and authorized by a Library ~~Operations~~ ~~Services~~ manager ~~or reference librarian~~. In granting ~~stacks~~ ~~stack~~ access privileges, ~~consideration will include the manager will consider~~ whether the collection will meet the needs of the patron. Patrons must be in good standing with the State Library to receive ~~stacks~~ ~~stack~~ privileges. No briefcases or other containers are allowed in the ~~book stacks areas~~ ~~book stack area~~. No food or drink is permitted in the ~~stacks~~ ~~stack~~ areas.
- d) All ~~stacks~~ ~~stack~~ access privileges shall have appropriate expiration dates assigned ~~(maximum of three years)~~. ~~The~~ ~~Such~~ privileges may be revoked at any time for violation of the State Library's rules or operating procedures.

(Source: Amended at 36 Ill. Reg. 3217, effective February 16, 2012)

Section 3010.60 Copies ~~and Printouts~~

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a) The State Library shall provide copies and printouts in answer to reference requests and interlibrary loan within the guidelines of the U.S. Copyright Law (17 USC 1 et seq.). The format and number of copies provided will depend upon the size and condition of the item to be copied. The format and number of copies also depend on staff availability and scheduling. Copies, including scanning, will be made only from materials in the library's collection.

b) State employees who are~~Regular borrowers~~, not engaged in work-related inquiries, and the general public shall be charged for copies and printouts at the following rates:

| | |
|---|--|
| Black and white photocopies <u>and printouts</u> | \$.25 per square foot or fraction thereof. <u>No charge for Illinois libraries up to \$10.</u> |
|---|--|

| | |
|--|---|
| Color photocopies <u>and printouts</u> | \$1.00 per square foot or fraction thereof. <u>No charge for Illinois libraries up to \$10.</u> |
|--|---|

| | |
|---|--|
| <u>Scanning</u> Color scanning to library-provided storage disc or other electronic storage device, aerial photos and other digital images user-provided disc | \$1.00 per square foot or fraction thereof <u>based on the size of the original area to be scanned. There will be a one-time \$10 set up fee per order if there is no pre-existing digital image of any of the items included in the order. No charge for Illinois libraries up to \$20 for the total order.</u> |
|---|--|

| | |
|--|--|
| <u>Digital copy of digital aerial photo or other digital image</u> | <u>\$4 per image. No charge for Illinois libraries up to \$12.</u> |
|--|--|

(Source: Amended at 36 Ill. Reg. 3217, effective February 16, 2012)

SUBPART B: COLLECTION ACCESS SECTION (CIRCULATION)

Section 3010.110 Circulation of Materials

a) Direct borrowers

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- 1) Regular borrower's card. Officials and employees of State government may borrow directly from the State Library's circulating system by means of a regular borrower's card. Eligible patrons must present their State identification badge/card in order to register for a regular borrower's card. When no identification is provided, State Library staff will verify the patron's State employment. The library card application is included as Exhibit D.
 - 2) Courtesy (general public or retired officials and employees of State government) borrower's card. Members of the general public or retired officials and employees of State government are eligible to borrow materials directly from the State Library's circulating collection. Patrons must present a valid Illinois public library card; valid current Illinois, non-resident library card; or proof of State of Illinois retirement status. Patrons must then complete the form (see Exhibit C) provided by State Library staff.
 - 3) Special borrower's card. Any individual needing to borrow materials directly from the State Library's circulating collections for work related purposes may apply for a special borrower's card. The Library Operations Services manager or designee will base her/his decision to grant a card on whether the collection can reasonably meet the research needs of the applicant.
 - 4) Consortial agreements. The State Librarian or his/her designee may enter into mutually beneficial consortial agreements with other libraries for the purpose of resource sharing. Patrons of a consortial library are eligible to borrow materials directly from the State Library's circulating collection. Borrowers must present a currently valid institutional identification card bearing their name and identification number.
- b) Indirect borrowers
The State Library's circulating collection is available to patrons of other libraries~~State residents~~ through the resource sharing provisions of ILLINET. This~~Such~~ borrowing shall be conducted by means of established interlibrary loan procedures.

(Source: Amended at 36 Ill. Reg. 3217, effective February 16, 2012)

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Section 3010.120 Materials for Loan

All State Library materials are available for loan except those ~~which are~~ designated for in-library use only (such as archival copies of Illinois documents). A patron may borrow whatever number of books or materials are needed to answer his/her request.

(Source: Amended at 36 Ill. Reg. 3217, effective February 16, 2012)

Section 3010.130 Loan Periods

Circulating materials are loaned for a period ranging from overnight to four weeks. ~~Circulation periods for all materials are available upon request at the Illinois State Library Circulation desk.~~

(Source: Amended at 36 Ill. Reg. 3217, effective February 16, 2012)

Section 3010.140 Holds, ~~Recalls~~ and Renewals

Materials borrowed for four weeks may subsequently be renewed for a period of four weeks if the materials requested are not requested by another patron.

- a) ~~Holds may be placed on all materials in circulation.~~
- b) ~~Materials may be renewed for a period of four weeks if the materials requested are not on hold.~~

(Source: Amended at 36 Ill. Reg. 3217, effective February 16, 2012)

Section 3010.160 Replacement of Lost and/or Damaged Materials

- a) Direct and indirect borrowers who fail to return an item or damage an item beyond the point of usability will be billed for the current replacement cost of each item. The "replacement cost" is determined by the State Librarian or his/her designee and is equal to the cost to replace the item exactly in all physical aspects such as (but not limited to) edition, condition, preservation processes, binding type, paper quality, format, and author inscription.
- b) The borrower will be billed a processing fee in addition to the replacement cost. The processing fee shall be determined by the State Librarian or his/her designee

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in accord with current statewide or national averages for library materials processing.

- c) Borrowers who are billed for a lost or damaged item may replace the item with a replica that is exact in every way within 30 days ~~after~~ the invoice date. The replacement must be exact in all qualities such as, ~~(but not limited to,)~~ edition, condition, preservation processes, binding type, paper quality, format, and author inscription. Replacements must be approved by the State Librarian or his/her designee. Extensions to the 30-day period for replacement may be granted by the State Librarian or his/her designee. Replacements that are not exact will be accepted pending approval by the State Librarian or his/her designee. ~~The processing fee will be waived in the case of an accepted replacement.~~ Replacements will be submitted by the borrower directly to the State Librarian or his/her designee.
- d) Direct borrowers who fail to pay for items they have lost or damaged shall have State Library privileges suspended until payment is made or replacement is received.
- e) Payment for materials lost or damaged as a result of interlibrary loans through ILLINET is governed by the ILLINET Interlibrary Loan Code ~~(see Exhibit E). Copies of the Code are available from the Office of the Secretary of State, Illinois State Library, 4th floor, 300 S. Second Street, Springfield, IL 62701-1796. The material incorporated by reference includes no later amendments or editions.~~
- f) Payment for materials lost or damaged as a result of interlibrary loan to non-ILLINET libraries is governed by ~~"The Interlibrary Loan Code of the United States. Revised 2008" published by the American Library Association, 50 E. Huron, Chicago IL 60611. No later amendments to this document are incorporated in this Section~~ the most recent version of the National Interlibrary Loan Code.

(Source: Amended at 36 Ill. Reg. 3217, effective February 16, 2012)

SUBPART C: ~~REFERENCE~~PUBLIC SERVICES SECTION**Section 3010.210 Reference Service**

- a) Bibliographic instruction is available to any ~~on-site~~ patron.

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- b) Ready-Reference Service is provided to all patrons.
- c) Research Service is provided to officials and employees of State government for work-related assignments.
- d) Officials and employees of State government conducting non-work related inquiries and members of the general public who are in need of in-depth reference services will be referred to their local public, academic, or institutional libraries. Individuals engaged in ~~thesesuch~~ inquiries may avail themselves of the resources of the State Library for independent study and may request ~~such~~ bibliographic instruction as may be necessary to utilize the State Library's resources and collections. State Library staff will provide guidance and suggestions on specific resources and libraries that may be of use to the patron.

(Source: Amended at 36 Ill. Reg. 3217, effective February 16, 2012)

SUBPART D: RESOURCE SHARING SECTION
(INTERLIBRARY LOAN)

Section 3010.310 Interlibrary Loan

- a) Borrowing
 - 1) Patrons holding a regular borrower's card are eligible for interlibrary loan service for work-related materials.
 - 2) Patrons are responsible for adhering to all conditions placed on the interlibrary loan by the lending library.
 - 3) Patrons are responsible for the safe return of interlibrary loan material to the State Library and are liable for fees associated with lost or damaged materials as determined by the lending library. Patrons who fail to pay for items they have lost or damaged shall have all State Library privileges suspended until payment is made.
- b) Lending
 - 1) Material from the State Library's circulating collection may be requested

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by any public, special, academic or school library on behalf of the library's patrons. Individuals may receive these materials through a library from which they are eligible to borrow.

- 2) Loan of materials to ILLINET libraries are made in accordance with the provisions of the ILLINET Interlibrary Loan Code ([see Exhibit E](#)). ~~Copies of the Code are available from the Office of the Secretary of State, Illinois State Library, 4th floor, 300 S. Second Street, Springfield, IL 62701-1796. The material incorporated by reference includes no later amendments or editions.~~ Loans of materials to non-ILLINET libraries are made in accordance with the provisions of "The Interlibrary Loan Code of the United States" ~~most recent version of the National Interlibrary Loan Code (1994, American Library Association, 50 E. Huron St., Chicago, IL 60611).~~

(Source: Amended at 36 Ill. Reg. 3217, effective February 16, 2012)

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Section 3010. EXHIBIT A ~~Stacks Temporary Stack~~ Pass Application

~~STACKS~~ TEMPORARY ~~STACK~~ PASS APPLICATION

NAME ~~ADDRESS~~ _____

~~ADDRESS~~ _____

~~DRIVER'S LICENSE # OR STATE ID #~~ _____

TELEPHONE _____

~~E-MAIL ADDRESS~~ _____

DATE _____

~~EMPLOYER (IF APPLICABLE)~~ _____

COLLECTION NEEDS/~~REASON FOR STACKS PASS~~ (describe):

Applicant Signature _____

Approved by _____ Date _____

Name of Library ~~Operations Manager or Reference Librarian~~
Services Manager

Expiration Date _____ (maximum of three years)

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ILLINOIS STATE LIBRARY

INTRODUCTION TO THE STACKS FOR PATRONS WITH STACK PRIVILEGES

1. Food or drink are not allowed in the ~~stacks~~ area at any time.
2. Sign in and out at the Circulation Desk and wear the ~~stacks~~ pass at all times. Return the pass to the desk when you sign out. Any patron not wearing the ~~stacks~~ pass will be asked to vacate the stacks immediately. Secretary of State ~~Security~~ will be notified if the patron fails to comply with this request.
3. Report problems with the compact shelving to stacks staff, if available. If not, report to the Circulation Desk. Patrons are not to ratchet the shelving units.
4. If the alarm sounds, you must leave the building through the emergency exits you were shown during your orientation.
5. Stacks staff who are retrieving materials have priority use of the modules. You are encouraged to take materials to the back counter where you may sit and use them. Please do not stand in the aisles while using materials.
6. When you are finished with the materials, please place them on the counter next to the elevator. The stacks staff will ~~re-shelve~~ them for you.
7. Patrons are not allowed to use the Translogic booklift. It is for staff use only. If you wish to transport a large number of items to the Reference Room, etc., please contact the stacks staff or someone at the Circulation Desk to assist you.
8. The map storage rooms and Folio Room are not available to stacks pass users.

~~STACK PASSES~~~~To Apply for Stack Pass:~~

1. ~~Requester must send a letter on agency letterhead to: Library Services Division, c/o Illinois State Library, stating the reason for requesting a stack pass or complete the Temporary Stack Pass Application.~~

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- ~~2.~~ Requester will be notified of approval and added to the list of persons with stack access.
- ~~9.3.~~ No one is allowed in the stacks without stacksstaek access approval – unless accompanied by a reference librarian.
- ~~10.4.~~ Persons wishing to accompany someone with stacksstaek access must also have stacksstaek access approval.
- ~~11.5.~~ Each person with stacksstaek access will be given a short orientation. Orientation includes review of written information in the sign-in book; information on running the compact shelving; location of emergencyfire exits; etc. ~~Copies of the written information in the sign-in book are given to patron for future reference.~~
- ~~12.6.~~ Library OperationsService Division managers, reference librarians and stacks staff are authorized to give orientation.
- ~~7.~~ ~~Library Service Division managers can authorize stack access, daily and/or permanent.~~

(Source: Amended at 36 Ill. Reg. 3217, effective February 16, 2012)

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**Section 3010.EXHIBIT B Use of the Public Services Areas of the Illinois State Library:
General Policies and Guidelines**Use of the Public Services Areas of the Illinois State Library:
General Policies and Guidelines**Library Patrons' Responsibilities**

Patrons are expected to observe the rights of other patrons and staff members and to use the library for its intended purposes.

The following will not be allowed in the library:

- any behavior that endangers the safety or health of others
- harassment of library patrons or staff
- violation while in the library of any local, State, or federal law
- vandalism, theft, or deliberate destruction of library materials or property
- deliberate disruption of library procedures or violation of Secretary of State policies
- use of abusive language
- behavior or decorum that disturbs or could disturb other patrons
- beverages containing alcohol or in an uncovered container or smoking, eating or drinking except in designated areas
- any action, activity or condition that obviously causes a public health threat.

Patrons' belongings must be kept with them at all times.

Any patron (~~including any minor~~) who is behaving in an inappropriate manner will be ~~ordered~~asked to leave the library.

A patron who repeatedly violates these policies and guidelines~~rules~~ may be permanently prohibited from entering the State Library and will be subject to the suspension of library

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privileges by authority of library security and/or library management.

The police will be summoned in cases in which a patron poses a danger to himself/herself or others, deliberately violates the law, or refuses to leave the library after being orderedasked to do so.

Use of Computer Equipment

~~Except for State employees conducting State business, individual sessions are limited to one hour.~~

Public access workstations are available only for patrons doing library research and State employees conducting State business. Only one person per computer is allowed unless the staff makes an exception.

Library staff ~~members are~~is solely responsible for the maintenance of computer equipment. Patrons may not tamper with equipment. ~~PrinterReport printer~~ supply needs, jams, and other problems shall be reported to the designated public servicereference desk staff.

The use of personal software is prohibited.

Printing:

- ~~= State employees, not engaged in work related inquiries, and the general public shall be given a maximum of 20 sheets for printing.~~
- Patrons may not supply their own paper.
- Patrons may only print on one side of a sheet of paper.

Downloading files:

- ~~- Files may be downloaded to floppy disks only (drive A).—~~Downloading to the hard drive (C) is prohibited.
- ~~= Disks are available at the reference desk for State employees conducting work related research.~~
- USB portable storage devices~~Personal disks~~ must be virus-checked by library staff prior

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to use.

Electronic Networks: Guidelines for Use

The Illinois State Library requires that library patrons using electronic information networks such as the Internet do so within the guidelines of acceptable use. The following activities are unacceptable and may result in loss of library privileges:

- use of electronic information networks for any purpose that results in the harassment of other users or the promotion of violence
- violation of system security; destruction of, damage to, or unauthorized alteration of:
 - 1) the library's computer equipment software
 - 2) network security procedures
- use of electronic information networks in any way that violates federal or State law
- use of electronic information networks in any way that violates licensing and payment agreements between the Illinois State Library and network/database providers
- unauthorized duplication of copy protected software or violation of software license agreements
- behaving in a manner that is disruptive to other users, including, but not limited to, overuse of computer equipment that serves to deny access to other users
- sendingsending, receiving, or displaying text or graphics that may be reasonably construed as obscene.

WIFI

The Illinois State Library provides wireless connectivity in the facility as a public service and offers no guarantees or representations that any use of the wireless connection is in any way secure, or that any privacy can be protected when using this wireless connection. Use of this wireless connection is entirely at the risk of the user, and the Library is not responsible for any loss of information that may arise from the use of the wireless connection, nor is the Library responsible for any loss, injury, or damage resulting from the use of the wireless connection.

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The Illinois State Library also assumes no responsibility for damage, theft, or loss of any kind to the user's equipment, software, data files or other personal property brought into and used at the Library's facilities.

About Children and the State Library

Internet access at the Illinois State Library is unfiltered, although social networking sites may be blocked on some public workstations. The Illinois State Library supports the right of all library users to have access to information and will not deny access to electronic information networks based solely on age. However, library staff members are unable to monitor children's use. The Additionally, the Illinois State Library cannot act as a censor or substitute parent.

Children ages 17 and over may use the library without adult supervision.

Children ages 12-16 must either:

- be accompanied and supervised at all times by an adult OR
- file with the Illinois State Library a completed copy of the "Permission for Library Use" form.

Children ages 11 and under are not permitted to use the resources of the Illinois State Library without adult supervision.

Teachers, docents, or guardians of tour groups of children are responsible for their groups' actions, including Internet use. Internet use is available if the child is using the library for library research.

The Illinois State Library recognizes that electronic information networks such as the Internet may contain material that is inappropriate for children. Parents are expected to monitor and supervise their children's use of the Internet. Parents are encouraged to discuss with their children issues of appropriate use and electronic information network safety. It is the parents'/guardians' responsibility to ensure that their children's use of the Internet is appropriate and safe. The Illinois State Library recommends the website <http://www.netsmartz411.org/pamphlet> "Child Safety on the Information Highway" from the National Center for Missing and Exploited Children (<http://www.nemec.org>). Copies are available at the reference desk.

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AGENCY NOTE: Use of the Public Services Areas of the Illinois State Library: General Policies and Guidelines has been developed in accordance with the following Sections of the Illinois Compiled Statutes, the United States Code, and the Illinois Administrative Code:

15 ILCS 320/2 (State Librarian)

720 ILCS 5/11-20.1(b)(~~12~~) (Child pornography/affirmative defense)

720 ILCS 5/16B-2 (Library theft)

720 ILCS 5/16B-2.1 (Criminal mutilation or vandalism of library materials)

720 ILCS 5/Art. 16D (Computer Crime)

720 ILCS 5/26-1(a)(1) (Disorderly conduct)

17 USC 106 (Exclusive rights in copyrighted works)

17 USC 117 (Limitations on exclusive rights: computer programs)

~~23 IAC 3010.170 (Theft of materials)~~

(Source: Amended at 36 Ill. Reg. 3217, effective February 16, 2012)

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Section 3010.EXHIBIT C Illinois State Library Card Application Form: Courtesy Card

ILLINOIS STATE LIBRARY
CIRCULATION
300 S. SECOND ST.
SPRINGFIELD IL 62701-1796

ILLINOIS STATE LIBRARY CARD APPLICATION FORM – COURTESY CARD

DATE _____ NAME _____
(last) (first) (m.i.)

HOME INFORMATION

STREET

CITY

ZIP

PHONE

WORK INFORMATION

BUSINESS

STREET

CITY

ZIP

PHONE

E-MAIL

PUBLIC LIBRARY CARD INFORMATION

LIBRARY

CARD #

EXPIRATION

STAFF USE ONLY

Library Card Expiration Date:

I HEREBY PROMISE TO ASSUME FULL RESPONSIBILITY FOR ANY LIBRARY MATERIALS BORROWED ON THIS CARD. I WILL RETURN THE MATERIALS ON OR BEFORE THE DATE DUE, PAY RETURN POSTAGE OR EXPRESS, AND PAY FOR ANY LOSSES OR DAMAGES. ALL PATRON RECORDS ARE KEPT STRICTLY CONFIDENTIAL.

SIGNATURE _____

SIGNATURE OF RESPONSIBLE PARTY FOR CHILDREN UNDER 13: _____

STAFF USE ONLY

| | | | |
|---------|--|----------------|--|
| Barcode | | Staff Initials | |
|---------|--|----------------|--|

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This application is subject to review by the Illinois State Library Circulation Staff. Applicant will be contacted for further information if necessary.

(Source: Amended at 36 Ill. Reg. 3217, effective February 16, 2012)

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Section 3010.EXHIBIT D Illinois State Library Card Application Form: Regular Card

| | | | |
|--|--|---|---------|
| <p>ILLINOIS STATE LIBRARY CIRCULATION 300 S. SECOND ST. SPRINGFIELD IL 62701-1796</p> <p>ILLINOIS STATE LIBRARY CARD APPLICATION FORM – REGULAR CARD</p> | | | |
| DATE _____ | | NAME _____ | |
| | | (last) | (first) |
| | | | (m.i.) |
| AGENCY INFORMATION | | HOME ADDRESS INFORMATION | |
| AGENCY _____ | | STREET _____ | |
| DIV. _____ | | CITY _____ | |
| ROOM # _____ | | STATE _____ | |
| STREET _____ | | ZIP _____ | |
| CITY _____ | | PHONE _____ | |
| ZIP _____ | | PLEASE CHECK TYPE OF EMPLOYMENT: | |
| PHONE _____ | | <input type="checkbox"/> Full time | |
| FAX _____ | | <input type="checkbox"/> Contractual Ending Date _____ | |
| EMAIL _____ | | <input type="checkbox"/> Temporary Ending Date _____ | |
| STAFF USE ONLY: GOVERNMENT AFFILIATION | | <input type="checkbox"/> Intermittent Ending Date _____ | |
| 1. <input type="checkbox"/> GS | | <input type="checkbox"/> Other Ending Date _____ | |
| 2. <input type="checkbox"/> GV | | STAFF USE ONLY | |
| 3. <input type="checkbox"/> LS | | Library Card Expiration Date: _____ | |
| <p>I HEREBY PROMISE TO ASSUME FULL RESPONSIBILITY FOR ANY LIBRARY MATERIALS BORROWED ON THIS CARD. I WILL RETURN THE MATERIALS ON OR BEFORE THE DATE DUE, PAY RETURN POSTAGE OR EXPRESS, AND PAY FOR ANY LOSSES OR DAMAGES. ALL PATRON RECORDS ARE KEPT STRICTLY CONFIDENTIAL.</p> | | | |
| SIGNATURE _____ | | <input type="checkbox"/> Check this box in lieu of signature to submit application electronically | |
| STAFF USE ONLY | | | |
| Barcode | | Staff Initials | |

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This application is subject to review by the Illinois State Library Circulation Staff. Applicant will be contacted for further information if necessary.

(Source: Amended at 36 Ill. Reg. 3217, effective February 16, 2012)

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Section 3010.EXHIBIT E ILLINET Interlibrary Loan Code**PREFACE TO THE ILLINET INTERLIBRARY LOAN CODE**

As partners in the Illinois Library and Information Network (ILLINET), more than 5,000 multi-type (academic, public, school and special) member libraries contribute to the ongoing enrichment of the State's library resources. Dating from 1975, ILLINET relies on resource sharing to fill the information, recreation and research needs of library users. Individual libraries challenged to meet the requests of their users can do so through statewide cooperative collection management agreements and with a high level of local commitment to interlibrary loan (ILL).

The leadership and collegiality of the Illinois State Library, the 10 regional library systems and the member libraries ensure the future of resource sharing in Illinois. Through automation and document delivery, the Illinois library community is assured of continued, even increased, access to information throughout the 21st Century.

Note: The first Illinois Interlibrary Loan Code was written in 1971. It was revised in 1988, 1993, and 2000. The current revision was completed in 2008.

ILLINET INTERLIBRARY LOAN CODE

This code, approved by the Illinois State Library Advisory Committee, endorsed by the Illinois Library Systems, adopted by the Illinois State Library, and effective March 12, 2008, governs interlibrary lending policy within ILLINET. Based on the most current American Library Association National Interlibrary Loan Code, this code promotes efficient resource sharing among ILLINET libraries.

I. DEFINITION

Interlibrary loan is the process by which a library requests material from, or supplies material to, another library. The purpose of interlibrary loan is to obtain, upon request of a library user, material not available in the user's local library. The terms "requesting library" and "supplying library" are used in preference to "borrowing" and "lending" to cover the exchange of copies as well as loans. Circulation of materials between a central library and its branches is not considered interlibrary loan. Reciprocal borrowing is not within the scope of this document.

II. SCOPE

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1. The prerogative of each ILLINET library is to enter into mutually beneficial cooperative agreements in order to meet the needs of its primary clientele. These agreements are outside the scope of this code. In the absence of pre-arranged agreements between and among specific libraries, this code governs interlibrary loan among ILLINET libraries.
2. Any type of library material needed by an individual for any purpose, including but not limited to study, instruction, information, recreation, or research, may be requested from another library.
3. Any materials, regardless of format, may be requested from another library. The supplying library determines whether the material can be provided.

III. ETHICS AND RESPONSIBILITIES OF ILLINET LIBRARIES

1. Each library will develop collections in response to local needs. Interlibrary loan is an adjunct to, not a substitute for, collection development in individual libraries.
2. To expedite State and nationwide resource sharing initiatives, every ILLINET library should strive to enter and maintain its collection and holdings in a regional, statewide, and/or national electronic database.
3. Each library will offer and promote the availability of interlibrary loan service to its users.
4. Personnel responsible for interlibrary loan in each library must be familiar with relevant interlibrary loan documents and aids, including interlibrary loan codes and procedures, bibliographic tools, and services.
5. Libraries will comply with current copyright law (17 USC) governing both print and digital resources.
6. Interlibrary loan is a mutual relationship and libraries are strongly encouraged to supply materials as freely as they request materials.
7. Each library will ensure the confidentiality of the user.
8. Each library will be responsible for maintaining a current online lending policy for interlibrary loan. The policy should include any schedule of fees/charges, restrictions, preferred methods of delivery and special instructions.

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9. Each library will make its borrowing policy available for its users.
10. Each library will clearly identify its materials with a current ownership mark.
11. Each library will collect and annually submit its interlibrary loan statistics to the Illinois State Library.
12. Each library will annually review and update its Every Library in ILLINET (ELI) record.

IV. RIGHTS & RESPONSIBILITIES OF REQUESTING LIBRARY

1. The requesting library is responsible for compliance with copyright law (17 USC) and its accompanying guidelines, and will inform its users of the applicable portions of the law. An indication of copyright compliance shall be provided with all requests for photocopies.
2. The requesting library is responsible for identifying libraries that own the requested material. The requesting library is responsible for checking the policies of potential suppliers for restrictions, special instructions and information on fees prior to sending a request.
3. The requesting library should avoid sending the majority of its requests to a few libraries. However, each library has the right to determine the best source for the requested material.
4. Requested items will be cited completely and accurately. The requesting library should transmit all interlibrary loan requests in standard bibliographic format in accordance with the protocols of the electronic network or transmission system used. In the absence of an electronically generated form, the elements of the American Library Association Interlibrary Loan Request Form should be used.
5. When items cannot be verified and/or located, "cannot verify" or "cannot locate" will be indicated on the request. The source of reference should also be indicated on the request.
6. The requesting library must honor the supplying library's conditions of loan, including observation of dates and duration of loans, recall notices, fees (if applicable), and in-library use only and other special handling provisions. The requesting library will convey these conditions to library users.
7. The requesting library will package material to prevent damage in shipping. The requesting library must comply with packaging instructions as required by the supplying library.

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8. The requesting library is responsible for borrowed materials from the time they leave the supplying library until they have been received back at the supplying library. If damage or loss occurs, the requesting library is responsible for compensation or replacement, in accordance with the preference of the supplying library.
9. The requesting library is responsible for all fees authorized by VII (Fees) imposed by the supplying library. The requesting library is responsible for timely processing of payments related to the interlibrary loan transaction.
10. Some libraries permit users to initiate online interlibrary loan requests that are sent directly to potential supplying libraries. The user's home library assumes full responsibility for these user-initiated transactions.
11. Libraries that initiate interlibrary transactions for reciprocal borrowers assume responsibility for that transaction.

V. RIGHTS & RESPONSIBILITIES OF SUPPLYING LIBRARY

1. Libraries are strongly encouraged to implement generous interlibrary loan lending policies with due consideration for the needs of their primary clientele.
2. The supplying library will search, locate, send, reply to, refer or cancel all ILL requests within a maximum of three working days after receipt.
3. The supplying library may return a request unfilled when bibliographic data and location are incomplete.
4. The supplying library will send a copy of the request or sufficient information to identify the request, along with any materials provided.
5. The supplying library will notify the requesting library of dates and duration of loans for the materials, renewal policies, in-library use only, and special handling and other packaging instructions.
6. The supplying library has the right to recall its material at any time.
7. The supplying library will send any bills to the requesting library within one year after the due date of the item.

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VI. RUSH AND URGENT REQUESTS

1. "Rush" service requests are those in which the requesting library designates the request to be Rush and requires the item to be processed and sent within 24-hours or one working day.
2. "Urgent" service requests are those in which the requesting library designates the request to be Urgent and requires the item to be processed and received in less than 24 hours.
3. Requesting libraries that need Rush or Urgent service requests will contact the supplying library directly to negotiate conditions and fees.
4. An ILLINET library may, by policy or on a case-by-case basis, choose not to offer Rush or Urgent service.

VII. FEES

1. ILLINET libraries may not assess fees for the loan of returnables to other ILLINET libraries, except as noted under the provision for Rush or Urgent service requests in Section VI.
2. ILLINET libraries are encouraged to absorb the cost of providing photocopies; however, some ILLINET libraries may be required to assess fees for photocopies.
3. If a library chooses not to use Intra-System Delivery or Illinois Library Delivery Service (ILDS), the library must negotiate special shipping conditions with the requesting/supplying library prior to shipment of the item.
4. Libraries that assess service fees for Rush or Urgent delivery will make their policies available on request.
5. Libraries will not assess overdue fines to other libraries.

VIII. VIOLATION OF THE CODE

1. Should a violation occur, the following procedures should be followed:
 - a. The requesting/supplying library is responsible for informing the requesting/supplying library of any failure to observe the provisions of this code.

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5. The complete report should be sent by the initiating library's regional library system to all parties involved, as well as to the Illinois State Library. The Illinois State Library, in consultation with the regional library systems, will act on the recommendations in the complaint and decide on the appropriate action in accordance with the Illinois Administrative Code (23 Ill. Adm. Code 3030.122 and 3030.115).

(Source: Added at 36 Ill. Reg. 3217, effective February 16, 2012)

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- 1) Heading of the Part: Illinois State Library, Government Documents Section
- 2) Code Citation: 23 Ill. Adm. Code 3020
- 3)

| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
|-------------------------|-------------------------|
| 3020.100 | Amend |
| 3020.110 | Amend |
| 3020.120 | Amend |
| 3020.200 | Amend |
| 3020.210 | Amend |
| 3020.220 | Amend |
| 3020.230 | Repeal |
| 3020.240 | Amend |
- 4) Statutory Authority: Implementing Section 21 and authorized by Section 2 of the State Library Act [15 ILCS 320/2 and 21]
- 5) Effective Date of Amendments: February 16, 2012
- 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 and available at the Illinois State Library, Gwendolyn Brooks Building, 300 South Second Street, Springfield IL 62701-1796.
- 9) Notice of Proposal Published in the Illinois Register: November 18, 2011; 35 Ill. Reg. 19127
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Difference between proposal and final version: In Section 3020.200 (a), the date for determining that depository libraries will continue in their current status was changed from December 31, 2011 to March 1, 2012.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter from JCAR? Yes

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- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) A Complete Description of the Subjects and Issues Involved: The amendments in this rulemaking reflect the Illinois State Library's initiative to transition the state government depository program to an electronic-based system. A limited amount of hardcopy versions of publications created by state agencies will have to be submitted to the Illinois State Library for distribution to depository libraries.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Joseph Natale
Rules Coordinator
Illinois State Library
Gwendolyn Brooks Building
Springfield, IL 62701-1796

217/558-4185
jnatale@ilsos.net

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE B: CULTURAL RESOURCES
CHAPTER I: SECRETARY OF STATE

PART 3020

ILLINOIS STATE LIBRARY, GOVERNMENT DOCUMENTS SECTION

SUBPART A: DEPOSIT OF PUBLICATIONS

Section

| | |
|----------|---|
| 3020.100 | Definitions |
| 3020.110 | State Agency Publications |
| 3020.120 | State University Publications and Presses |
| 3020.130 | Delivery Cost and Responsibility |
| 3020.140 | Excess Copies (Repealed) |
| 3020.150 | Administrator of State Agency |
| 3020.160 | Lists of Published Materials |

SUBPART B: DEPOSITORY LIBRARIES

Section

| | |
|----------|---|
| 3020.200 | Designation of Depositories |
| 3020.210 | Retention and Disposal of Publications |
| 3020.220 | Citizen Access to Publications |
| 3020.230 | Inspection of Depositories (Repealed) |
| 3020.240 | Termination of Depository Status |

AUTHORITY: Implementing Section 21 and authorized by Section 2 of the State Library Act [15 ILCS 320/2 and 21].

SOURCE: Filed effective December 21, 1967; rules repealed, new rules adopted and codified at 8 Ill. Reg. 319, effective December 27, 1983; amended at 10 Ill. Reg. 4555, effective July 1, 1986; amended at 27 Ill. Reg. 219, effective January 1, 2003; amended at 33 Ill. Reg. 4169, effective February 27, 2009; amended at 34 Ill. Reg. 19115, effective November 22, 2010; amended at 36 Ill. Reg. 3248, effective February 16, 2012.

SUBPART A: DEPOSIT OF PUBLICATIONS

Section 3020.100 Definitions

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The following definitions apply to this Part:

"Access" means the allowance or liberty to make use of publications deposited in a depository or exchange library.

"Core list" means State agency publications that the Government Documents Section has designated as required in a tangible format.

"Depositories" means those libraries and/or resource centers that have Illinois publications deposited in their collections for citizen availability by agreement with the Secretary of State.

"Electronic depository" means the depository that provides permanent public access to publications of the State of Illinois in an electronic format.

"Ephemeral material" means any material that is of a short duration, for example, an announcement of a conference or seminar, applications and forms.

~~"Exchange libraries" means those libraries with which the Secretary of State has an agreement whereby each library exchanges publications.~~

~~"ILLINET" means the Illinois Library and Information Network.~~

"Metadata" means structured information that describes content, origin, format and other key characteristics of data for the purpose of information management.

"Metadata generator" means the Web-based resource used by State agencies to submit URLs, metadata and electronic versions of published materials to the Illinois State Library.

"Microforms" means any medium bearing microimages, such as microfiche or microfilm.

"Publications" means all formats of media, including microforms, recordings, and other printed material paid for in whole or in part by funds appropriated by the General Assembly or issued at the request of a State agency, excepting however, correspondence, interoffice memoranda, and confidential publications. Publications to be deposited with the Illinois State Library and the electronic

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depository include, but are not limited to, the following:

- Annual Reports
- Bulletins/Circulars
- Handbooks/Manuals
- Laws/Rules/Decisions
- Maps/Charts
- Newsletters
- Pamphlets/Brochures/Fact Sheets
- Press Releases Issued by Constitutional Officers
- Technical/Research/Statistical Reports

"Published material" means publications in print and electronic formats duplicated by any means of duplication, including material downloaded from a publicly accessible electronic network.

"Recordings" means anything, other than printing on paper, on which sound or visual images have been recorded, including cassettes, records, slides, films or electronic storage media.

"Secure transfer protocol" means the method for transfer of the deposited electronic files shall be as resistant as possible to corruption or outside interference to maintain the integrity of the file content.

"State agencies " means every State office, officer, department, division, section, unit, service, bureau, board, commission, committee, and subdivision thereof of all branches of the State government and which agencies expend appropriations of State funds, regardless of the amount. This includes state universities.

"Superseded material" means any publication cumulated in later issues, issued in later revised editions, or separates, replaced by final bound volumes.

"URL" or "Uniform Resource Locator" means the address for a resource or site (usually a directory or file) on the World Wide Web and the convention that Web browsers use for locating files and other remote services.

(Source: Amended at 36 Ill. Reg. 3248, effective February 16, 2012)

Section 3020.110 State Agency Publications

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- a) Within one week after an agency receives copies of publications it intends to issue, the agency shall send 26 copies of all publications, priced and non-priced, to the Government Documents Section, Illinois State Library. The agency shall send 26 copies of publications on the core list. The ~~Along with the publications,~~ ~~the~~ issuing agency shall include information containing the address of the agency and, if applicable, the price of each item so that it may appear on the list of State of Illinois publications issued by the State Library.
- 1) In addition to the 35 copies submitted to the Illinois State Library, the agency shall submit to the Illinois State Library an electronic copy of the publication via the Illinois State Library's metadata generator using a secure transfer protocol.
 - 2) Submissions in the metadata generator will be deposited in the electronic depository.
 - 3) ~~When a State agency has very few copies of a publication printed, the Illinois State Library may accept three copies of a publication in print instead of the 35 copies if an electronic version has been deposited.~~
 - 34) Electronic deposit is required for copyrighted and priced publications. Internet availability of copyrighted and priced publications will be determined by the depositing State agency.
- b) The issuing agency shall notify the Illinois State Library of all ~~an~~ electronic-only ~~publications~~ publication by submitting the publication and metadata describing the publication to the electronic depository via the Illinois State Library's metadata generator.
- c) One electronic copy shall be provided to the Illinois State Library of all published materials as defined in this Part in a format acceptable to the Illinois State Library, including, but not limited to, the following:
- 1) Microsoft Office ~~file~~
 - 2) Plain text file
 - 3) Adobe Acrobat

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- 4) Video (mpeg) or sound (wav)
 - 5) Image files (JPEG, TIFF)
 - 6) Formats in compliance with the Illinois Information Technology Accessibility Act Standards ([see http://www.dhs.state.il.us/IITAA/IITAAStandards.html](http://www.dhs.state.il.us/IITAA/IITAAStandards.html))
- d) In formats where applicable (such as HTML), electronic-only publications shall include metadata embedded in the file posted on a publicly accessible network as submitted to the electronic depository via the Illinois State Library's metadata generator.

(Source: Amended at 36 Ill. Reg. 3248, effective February 16, 2012)

Section 3020.120 State University Publications and Presses

- a) Within one week after a State university receives publications it intends to issue, the university shall deposit ~~two~~three copies of all priced and non-priced university publications, and two copies of all publications published by the university presses, with the Government Documents Section. The address of the issuing State university and the price of the publications shall accompany the materials.
 - 1) In addition to ~~two~~three copies of university publications or two copies of university press publications submitted to the Illinois State Library, the State university shall submit to the Illinois State Library an electronic copy of the publication via the Illinois State Library's metadata generator using a secure transfer protocol.
 - 2) Submissions in the metadata generator will be deposited in the electronic depository.
 - 3) Electronic deposit is required for copyrighted and priced publications. Internet availability of the publication will be determined by the depositing State university.
- b) The issuing agency shall notify the Illinois State Library of an electronic-only publication by submitting the publication and metadata describing the publication

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to the electronic depository via the Illinois State Library's metadata generator.

- c) One electronic copy shall be provided to the Illinois State Library of all published materials as defined in this Part in a format acceptable to the Illinois State Library as indicated in Section 3020.110(c) of this Part.
- d) In formats where applicable, electronic-only publications shall include metadata embedded in the file posted on a publicly accessible network as submitted via the Illinois State Library's metadata generator.

(Source: Amended at 36 Ill. Reg. 3248, effective February 16, 2012)

SUBPART B: DEPOSITORY LIBRARIES

Section 3020.200 Designation of Depositories

- a) All libraries serving as depositories ~~or exchange libraries~~ as of ~~March 1, 2012~~~~December 27, 1983~~ shall continue in that status, unless that status is terminated according to the provisions of Section 3020.240. ~~The Director of the Illinois State Library shall designate which institutions shall replace depositories or exchange libraries for Illinois publications.~~
- b) Designation of depositories shall be based on the institution's ability to provide access to the material to the public, the institution's interest in the publications of the State of Illinois, and the institution's geographic location. ~~The Director shall give priority to libraries in the same library system as the terminating depository. If no qualified library in the same geographic area, as established by the library system, desires depository status, the priority will be given to a qualified library in the same geographical area as the terminating depository.~~
- e) ~~Priority for the replacement of an exchange library shall be given to a state library, based on that state's similarity to Illinois in terms of industry and demographic factors, and the library's interest in Illinois publications. If no qualified state library desires exchange status, the priority will be given to an institution expressing an interest in Illinois publications.~~

(Source: Amended at 36 Ill. Reg. 3248, effective February 16, 2012)

Section 3020.210 Retention and Disposal of Publications

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- a) The Illinois State Library shall keep all depository materials indefinitely, except for ephemeral materials. The Illinois State Library shall retain one copy of superseded material. The Illinois State Library shall retain ownership of Illinois publications deposited in its depository and exchange libraries.
- b) Each depository must keep all publications for five years except ~~for ephemeral and~~ superseded materials ~~received for five years~~. At the end of that time, a depository may send a list of unneeded publications ~~onto~~ the Government Documents ~~List Manager, Illinois State Library, Gwendolyn Brooks Building, 300 South Second, Springfield IL 62701-1796, who will circulate the list~~ to other depository libraries for their selection. If other libraries request any publications on the list, the discarding library will forward the publications to them, by the least expensive method, at the selecting library's expense. Publications not selected by other depositories may be disposed of or destroyed.
- c) A depository may discard a publication that is published in a tangible format and deposited in the electronic depository if it retains the tangible format for the current and previous year.
- d) A depository is permitted to replace tangible versions with electronic equivalents of publications provided the electronic version is complete and permanently accessible. The Illinois State Library will provide a list on its website of titles that meet these requirements.

(Source: Amended at 36 Ill. Reg. 3248, effective February 16, 2012)

Section 3020.220 Citizen Access to Publications

- a) The depository library must make reference service available not only to the library's primary users but to all Illinois citizens. Cataloging of the publications, ~~except for ephemera~~, is required in order to make State publications easily accessible and retrievable.
- b) Depository libraries shall permit all Illinois citizens access to the depository publications in their collection. Access is "adequate" if it meets the following standards: Non-circulating material and circulating material that is not currently charged to a patron will be made available within 48 hours after a citizen request; circulating material that is currently charged to a patron will be made available to

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fill a citizen request within 24 hours after its return to the depository library.

- c) The Illinois State Library shall work with issuing State agencies *to make published materials available to the public, by means of access, by way of the largest nonproprietary nonprofit cooperative public computer network* [15 ILCS 320/7].

(Source: Repealed at 36 Ill. Reg. 3248, effective February 16, 2012)

Section 3020.230 Inspection of Depositories (Repealed)

- a) ~~The Director of the Illinois State Library, or a designated representative, shall visit and inspect the depositories every five years to assure the State Library that the depository is providing public access to and adequate maintenance of the publications. Maintenance is adequate if it does not contribute to the physical deterioration of the deposited material.~~
- b) ~~The Director of the Illinois State Library shall also receive, in conjunction with the inspections, written reports from the depository libraries containing the program of administration for access and maintenance of the publications. The written report shall include information concerning library personnel, depository publication statistics, circulating rules, cataloging and processing procedures, and equipment and storage facilities.~~

(Source: Repealed at 36 Ill. Reg. 3248, effective February 16, 2012)

Section 3020.240 Termination of Depository Status

- a) A depository has the right to terminate its status as a depository by a letter from the depository's governing authority to the Director of the Illinois State Library. The Director may terminate the status of a library as a depository if the requirements of Section 3020.210 and 3020.220-3020.230 are not met. At termination, the library will request instructions from the State Library about the disposition of the depository publications on hand.
- b) If a depository library wishes to challenge the termination of its depository status, the depository must request a hearing within one month after termination notice from the State Library. The members of the hearing committee will be the Director of the State Library, the Government Documents Coordinator, ~~the~~

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~~Director of the library system to which the depository library belongs, and two representatives~~~~a representative~~ from ~~two separate depositories~~~~a depository in a non-adjacent library system~~, who ~~have~~~~has~~ been mutually agreed upon by the Director of the Illinois State Library and the depository library challenging termination. The majority decision of this committee concerning the termination of the depository library will be final.

(Source: Amended at 36 Ill. Reg. 3248, effective February 16, 2012)

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NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Access to Information
- 2) Code Citation: 2 Ill. Adm. Code 651
- 3)

| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
|-------------------------|------------------------|
| 651.101 | Repealed |
| 651.103 | Repealed |
| 651.201 | Repealed |
| 651.202 | Repealed |
| 651.301 | Repealed |
| 651.302 | Repealed |
| 651.401 | Repealed |
| 651.402 | Repealed |
| 651.501 | Repealed |
| 651.502 | Repealed |
| 651.503 | Repealed |
| 651.APPENDIX A | Repealed |
| 651.APPENDIX B | Repealed |
| 651.APPENDIX C | Repealed |
| 651.APPENDIX D | Repealed |
| 651.APPENDIX E | Repealed |
| 651.APPENDIX F | Repealed |
| 651.APPENDIX G | Repealed |
- 4) Statutory Authority: The Freedom of Information Act [5 ILCS 140/3(h)] and 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15]
- 5) Effective Date of Rulemaking: February 15, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? The rulemaking does not include incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act.
- 8) A copy of the adopted repealer, including material incorporated by reference, is on file at One West Old State Capitol Plaza, Suite 400, Springfield, Illinois and is available for public inspection.

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NOTICE OF ADOPTED REPEALER

- 9) Notice of Proposal Published in Illinois Register: Prior publication of internal rule in the *Illinois Register* is not required pursuant to Section 5-15 of the Illinois Administrative Procedure Act (IAPA).
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to First or Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between proposal and final version: Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to First Notice or Second Notice review by JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to First Notice or Second Notice review by JCAR.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking is being replaced by a new rule that implements changes to the Freedom of Information Act in accordance with Public Act 96-542.
- 16) Information and questions regarding these adopted repealers shall be directed to:

Bradley A. Rightnowar
Assistant General Counsel
One West Old State Capitol Plaza
Suite 400
Springfield, Illinois 62701

217/785-6998
217/557-9365 [facsimile]

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Access to Records of the Office of the Illinois State Treasurer
- 2) Code Citation: 2 Ill. Adm. Code 651
- 3)

| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
|--------------------------|-------------------------|
| 651.110 | New |
| 651.120 | New |
| 651.210 | New |
| 651.220 | New |
| 651.230 | New |
| 651.310 | New |
| 651.320 | New |
| 651.330 | New |
| 651.410 | New |
| 651.420 | New |
| 651.430 | New |
| 651.440 | New |
| 651.450 | New |
| 651.460 | New |
| 651.470 | New |
| 651.510 | New |
| 651.520 | New |
| 651.530 | New |
| 651.APPENDIX A | New |
- 4) Statutory Authority: 5 ILCS 140/3(h) and 5 ILCS 100/5-15
- 5) Effective Date of Rulemaking: February 15, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including material incorporated by reference, is on file at One West Old State Capitol Plaza, Suite 400, Springfield, Illinois and is available for public inspection.

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- 9) Notice of Proposal Published in Illinois Register: Prior publication of an internal rule in the *Illinois Register* is not required pursuant to Section 5-15 of the Illinois Administrative Procedure Act.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to First or Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between proposal and final version: Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to First or Second Notice review by JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to First or Second Notice review by JCAR.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The adopted rule aligns with the legislative changes made to the Freedom of Information Act in accordance with Public Act 96-542.
- 16) Information and questions regarding these adopted rules shall be directed to:

Bradley A. Rightnowar
Assistant General Counsel
Office of Illinois State Treasurer Dan Rutherford
One West Old State Capitol Plaza
Suite 400
Springfield, Illinois 62701

217/785-6998
217/557-9365 [facsimile]

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

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NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATIONS

SUBTITLE C: CONSTITUTIONAL OFFICERS

CHAPTER VII: STATE TREASURER

PART 651

ACCESS TO RECORDS OF THE OFFICE OF THE ILLINOIS STATE TREASURER

SUBPART A: INTRODUCTION

| | |
|---------|---------------------|
| Section | |
| 651.110 | Summary and Purpose |
| 651.120 | Definitions |

SUBPART B: CLASSIFICATION OF RECORDS

| | |
|---------|---|
| Section | |
| 651.210 | Records that Will Be Disclosed |
| 651.220 | Records that Will Be Withheld from Disclosure |
| 651.230 | Statutory Exemptions |

SUBPART C: PROCEDURES FOR REQUESTING
RECORDS FROM THE OFFICE OF THE TREASURER

| | |
|---------|--|
| Section | |
| 651.310 | Submittal of Requests for Records |
| 651.320 | Information To Be Provided in Requests for Records |
| 651.330 | Requests for Records for Commercial Purposes |

SUBPART D: RESPONSE TO REQUESTS FOR RECORDS

| | |
|---------|---|
| Section | |
| 651.410 | Timeline for Response |
| 651.420 | Requests for Records that the Office of the Treasurer Considers Unduly Burdensome |
| 651.430 | Requests for Records that Require Electronic Retrieval |
| 651.440 | Denials of Requests for Records |
| 651.450 | Requests for Review of Denials – Public Access Counselor |
| 651.460 | Circuit Court Review |
| 651.470 | Administrative Review |

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SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section

| | |
|---------|------------------------------|
| 651.510 | Inspection of Records |
| 651.520 | Copying of Records; Fees |
| 651.530 | Reduction and Waiver of Fees |

651.APPENDIX A Fee Schedule for Duplication and Certification of Records

AUTHORITY: Implementing and authorized by Section 3(h) of the Freedom of Information Act [5 ILCS 140] and implementing Section 17.1 of the State Treasurer Act [15 ILCS 505/17.1] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted at 8 Ill. Reg. 13427, effective July 16, 1984; amended at 22 Ill. Reg. 15626, effective August 24, 1988; old Part repealed at 36 Ill. Reg. 3259 and new Part adopted at 36 Ill. Reg. 3261, effective February 15, 2012.

SUBPART A: INTRODUCTION

Section 651.110 Summary and Purpose

- a) This Part states the policy of Office of the Illinois State Treasurer (Office of the Treasurer) for making its records available for reasonable public inspection while, at the same time, protecting legitimate interests in confidentiality.
- b) This Part:
 - 1) Establishes the following classifications for records in the Office of the Treasurer's possession:
 - A) Records that shall be disclosed; and
 - B) Records that shall be withheld from disclosure.
 - 2) Contains the procedures by which requesters may obtain records in the Office of the Treasurer's possession; and

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- 3) Contains the procedures for claiming and determining that records submitted to the Office of the Treasurer are exempt from disclosure.

Section 651.120 Definitions

Terms not defined in this Section shall have the same meaning as in the Freedom of Information Act [5 ILCS 140]. The following definitions are applicable for purposes of this Part:

"Act" means State Treasurer Act [15 ILCS 505].

"Commercial purpose" means the use of any part of a record or records, or information derived from records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a "commercial purpose" when the principal purpose of the request is:

to access and disseminate information concerning news and current or passing events;

for articles of opinion or features of interest to the public; or

for the purpose of academic, scientific, or public research or education.
(Section 2(c-10) of FOIA)

"Copying" means the reproduction of any record by means of any photographic, electronic, mechanical, or other process, device or means now known or hereafter developed and available to the Office of the Treasurer. (Section 2(d) of FOIA)

"FOIA" means the Freedom of Information Act [5 ILCS 140].

"Freedom of Information Officer" or "FOI Officer" means an individual or individuals responsible for receiving and responding to requests for public records.

"News media" means a newspaper or other periodical issued at regular intervals, news service in paper or electronic form, radio station, television station, television network, community antenna television service, or person or

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corporation engaged in making news reels or other motion picture news for public showing. (Section 2(f) of FOIA)

"Office of the Treasurer" means the Office of the Illinois State Treasurer as established by the Act.

"Person" means any individual, corporation, partnership, firm, organization or association, acting individually or as a group. (Section 2(b) of FOIA)

"Private information" means unique identifiers, including a person's Social Security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person. (Section 2(c-5) of FOIA)

"Public Access Counselor" means an individual appointed to that office by the Attorney General under Section 7 of the Attorney General Act [15 ILCS 205].

"Public body" means all legislative, executive, administrative, or advisory bodies of the State, State universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, any subsidiary bodies of any of the foregoing, including but not limited to committees and subcommittees thereof, and a School Finance Authority created under Article 1E of the School Code [105 ILCS 5]. (Section 2(a) of FOIA)

"Records" means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of or under the control of the Office of the Treasurer. (Section 2(c) of FOIA)

"Requester" is any person who has submitted to the Office of the Treasurer a written request, electronically or on paper, for records.

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"Treasurer" means the Illinois State Treasurer.

"Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. (Section 7(1)(c) of FOIA)

SUBPART B: CLASSIFICATION OF RECORDS

Section 651.210 Records that Will Be Disclosed

Upon request meeting the requirements of this Part, the Office of the Treasurer shall disclose to the requester all records requested except that it shall not disclose certain records as provided in Section 651.202 or 651.203. Records covered under this Section shall include, but are not limited to:

- a) *Records of funds. All records relating to the obligation, receipt and use of public funds of the Office of the Treasurer are records subject to inspection and copying by the public. (Section 2.5 of FOIA)*
- b) *Payrolls. Certified payroll records submitted to the Office of the Treasurer under Section 5(a)(2) of the Prevailing Wage Act [820 ILCS 130] are records subject to inspection and copying in accordance with the provisions of FOIA; except that contractors' and employees' addresses, telephone numbers, and Social Security numbers will be redacted by the Office of the Treasurer prior to disclosure. (Section 2.10 of FOIA)*
- c) *Criminal history records. The following documents maintained by the Office of the Treasurer pertaining to criminal history record information are records subject to inspection and copying by the public pursuant to FOIA:*
 - 1) *Court records that are public;*
 - 2) *Records that are otherwise available under State or local law; and*
 - 3) *Records in which the requesting party is the individual identified, except as provided under Section 651.202(a)(5)(F) of this Part. (Section 2.15(b) of FOIA)*

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- d) *Settlement agreements. All settlement agreements entered into by or on behalf of the Office of the Treasurer are records subject to inspection and copying by the public, provided that information exempt from disclosure under Section 651.202 or 651.203 of this Part may be redacted. (Section 2.20 of FOIA)*

Section 651.220 Records that Will Be Withheld from Disclosure

When a request is made to inspect or copy a record that contains information that is otherwise exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the Office of the Treasurer shall make the remaining information available for inspection and copying. (Section 7(1) of FOIA)

- a) *Subject to this requirement and Section 7 of FOIA, the following shall be exempt from inspection and copying:*
- 1) *Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law; (Section 7(1)(a) of FOIA)*
 - 2) *Private information, unless disclosure is required by another provision of FOIA, a State or federal law or a court order; (Section 7(1)(b) of FOIA)*
 - 3) *Files, documents, and other data or databases maintained by one or more law enforcement agencies and specifically designed to provide information to one or more law enforcement agencies regarding the physical or mental status of one or more individual subjects; (Section 7(1)(b-5) of FOIA)*
 - 4) *Personal information contained within records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy; (Section 7(1)(c) of FOIA)*

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- 5) *Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:*
- A) *Interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;*
 - B) *Interfere with active administrative enforcement proceedings conducted by the public body that is the recipient of the request;*
 - C) *Create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;*
 - D) *Unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the Office of the Treasurer will provide traffic accident reports, the identities of witnesses to traffic accidents, and rescue reports, except when disclosure would interfere with an active criminal investigation;*
 - E) *Disclose unique or specialized investigative techniques other than those generally used and known, or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the Office of the Treasurer;*
 - F) *Endanger the life or physical safety of law enforcement personnel or any other person; or*
 - G) *Obstruct an ongoing criminal investigation by the Office of the Treasurer; (Section 7(1)(d) of FOIA)*
- 6) *Records that relate to or affect the security of correctional institutions and detention facilities; (Section 7(1)(e) of FOIA)*

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- 7) *Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the Treasurer. The exemption provided in this subsection (a)(7) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents; (Section 7(1)(f) of FOIA)*
- 8) *Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested. All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this subsection (a)(8) does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this subsection (a)(8) does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm. Nothing in this subsection (a)(8) shall be construed to prevent a person or business from consenting to disclosure; (Section 7(1)(g) of FOIA)*
- 9) *Proposals and bids for any contract, grant, or agreement, including information that if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contract or agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made; (Section 7(1)(h) of FOIA)*

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- 10) *Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by the Office of the Treasurer when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this subsection (a)(10) does not extend to requests made by news media as defined in Section 651.102 when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public; (Section 7(1)(i) of FOIA)*
- 11) *The following information pertaining to educational matters:*
 - A) *Test questions, scoring keys, and other examination data used to administer an academic exam;*
 - B) *Information received by a primary or secondary school, college, or university under its procedure for the evaluation of faculty members by their academic peers;*
 - C) *Information concerning a school's or university's adjudication of student disciplinary cases, but only to the extent that disclosure would unavoidably reveal the identity of the student; and*
 - D) *Course materials or research materials used by faculty members; (Section 7(1)(j) of FOIA)*
- 12) *Architects' plans and engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and for projects constructed or developed with public funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security; (Section 7(1)(k) of FOIA)*
- 13) *Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act [5 ILCS 120] until the public body makes the*

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minutes available to the public under Section 2.06 of the Open Meetings Act; (Section 7(1)(l) of FOIA)

- 14) *Communications between the Office of the Treasurer and an attorney or auditor representing the Office of the Treasurer that would not be subject to discovery in litigation, and materials prepared or compiled by or for the Office of the Treasurer in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the Office of the Treasurer, and materials prepared or compiled with respect to internal audits of the Office of the Treasurer; (Section 7(1)(m) of FOIA)*
- 15) *Records relating to the Office of the Treasurer's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed; (Section 7(1)(n) of FOIA)*
- 16) *Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section; (Section 7(1)(o) of FOIA)*
- 17) *Records relating to collective negotiating matters between the Office of the Treasurer and its employees or representatives, except that any final contract or agreement shall be subject to inspection and copying; (Section 7(1)(p) of FOIA)*
- 18) *Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment; (Section 7(1)(q) of FOIA)*
- 19) *The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent*

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Domain Act [735 ILCS 30], records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt only until a sale is consummated; (Section 7(1)(r) of FOIA)

- 20) *Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool. Insurance or self-insurance (including any intergovernmental risk management association or self-insurance pool) claims, loss or risk management information, records, data, advice or communications; (Section 7(1)(s) of FOIA)*
- 21) *Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law; (Section 7(1)(t) of FOIA)*
- 22) *Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act [5 ILCS 175]; (Section 7(1)(u) of FOIA)*
- 23) *Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this subsection (a)(23) may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations; (Section 7(1)(v) of FOIA)*

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- 24) *Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency; (Section 7(1)(x) of FOIA)*
- 25) *Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act [20 ILCS 3855] and Section 16-111.5 of the Public Utilities Act [220 ILCS 5] that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission; (Section 7(1)(y) of FOIA)*
- 26) *Information about students exempted from disclosure under Section 10-20.38 or 34-18.29 of the School Code, and information about undergraduate students enrolled at an institution of higher education exempted from disclosure under Section 25 of the Illinois Credit Card Marketing Act of 2009 [110 ILCS 26]; (Section 7(1)(z) of FOIA)*
- 27) *Information the disclosure of which is exempted under the Viatical Settlements Act of 2009 [215 ILCS 158]; (Section 7(1)(aa) of FOIA)*
- 28) *Information regarding interments, entombments, or inurnments of human remains that are submitted to the Cemetery Oversight Database under the Cemetery Care Act [760 ILCS 100] or the Cemetery Oversight Act [225 ILCS 411], whichever is applicable. (Section 7(1)(bb) of FOIA)*
- 29) Confidential information obtained by the Office of the Treasurer from a Technology Business, as defined by the Technology Development Act [30 ILCS 265], consisting of trade secrets, commercial or financial information regarding the operation of the Technology Business or the competitive position of the Technology Business.
- 30) Information that identifies the purchasers or qualified beneficiaries of any Illinois prepaid tuition contract or any terms or beneficiaries of any Illinois prepaid tuition contract or any terms or provisions of a contract as those terms and provisions relate to a particular purchaser or qualified beneficiary, or discloses any other matter relating to the participation of any purchaser or qualified beneficiary in the Illinois Bright Start program or in any independent plan under which that program is administered.

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- b) *A record that is not in the possession of the Office of the Treasurer but is in the possession of a party with whom the Office of the Treasurer has contracted to perform a governmental function on behalf of the Office of the Treasurer, and that directly relates to the governmental function and is not otherwise exempt under FOIA, shall be considered a record of the Office of the Treasurer for purposes of Subpart C. (Section 7(2) of FOIA)*

Section 651.230 Statutory Exemptions

To the extent provided for by the following statutes, the following shall be exempt from inspection and copying:

- a) *Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act [75 ILCS 70].*
- b) *Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.*
- c) *Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act [410 ILCS 325].*
- d) *Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act [420 ILCS 44].*
- e) *Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535].*
- f) *Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act [110 ILCS 979].*
- g) *Information the disclosure of which is exempted under the State Officials and Employees Ethics Act [5 ILCS 430] and records of any lawfully created State or*

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local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.

- h) *Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code [65 ILCS 5].*
- i) *Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act [20 ILCS 2605].*
- j) *Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code [625 ILCS 5].*
- k) *Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act [210 ILCS 28].*
- l) *Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act [765 ILCS 77], except to the extent authorized under that Article.*
- m) *Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act [725 ILCS 124]. This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.*
- n) *Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act [410 ILCS 525].*
- o) *Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act [70 ILCS 3615] or the St. Clair County Transit District under the Bi-State Transit Safety Act [45 ILCS 111].*

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- p) *Information prohibited from being disclosed by the Personnel Records Review Act [820 ILCS 40].*
- q) *Information prohibited from being disclosed by the Illinois School Student Records Act [105 ILCS 10].*
- r) *Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act [220 ILCS 5]. (Section 7.5 of FOIA)*

SUBPART C: PROCEDURES FOR REQUESTING
RECORDS FROM THE OFFICE OF THE TREASURER

Section 651.310 Submittal of Requests for Records

- a) Any request for public records should be submitted in writing to the FOI Officer at the Office of the Treasurer.
- b) The Office of the Treasurer has one FOI Officer, located in Springfield, Illinois.
- c) Contact information for the FOI Officer may be found online at <http://www.treasurer.il.gov/about-us/foia.aspx>.
- d) FOIA requests may be submitted via mail, e-mail, fax, or hand delivery.
 - 1) Requests via mail or hand delivery, should be addressed and forwarded as follows:

Illinois State Treasurer Dan Rutherford
ATTN: FOI Officer
1 West Old State Capitol Plaza, 4th Floor
Springfield, Illinois 62701
 - 2) E-mailed requests should be sent to FOIA@treasurer.state.il.us, contain the request in the body of the e-mail, and indicate in the subject line of the e-mail that it contains a FOIA request.
 - 3) Faxed FOIA requests should be faxed to (217) 557-5871, Attn: FOI Officer.

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Section 651.320 Information To Be Provided in Requests for Records

A request for records should include:

- a) The complete name, mailing address and telephone number of the requester;
- b) As specific a description as possible of the records sought. Requests that the Office of the Treasurer considers unduly burdensome or categorical may be denied. (See Section 3(g) of FOIA and Section 651.402 of this Part.);
- c) A statement as to the requested medium and format for the Office of the Treasurer to use in providing the records sought: for example, paper, specific types of digital or magnetic media, or videotape;
- d) A statement as to the requested manner for the Office of the Treasurer to use in providing the records sought: for example, inspection at Office of the Treasurer headquarters or providing paper or electronic copies;
- e) A statement as to whether the requester needs certified copies of all or any portion of the records, including reference to the specific documents that require certification; and
- f) A statement as to whether the request is for a commercial purpose.

Section 651.330 Requests for Records for Commercial Purposes

- a) *It is a violation of FOIA for a person to knowingly obtain a record for a commercial purpose without disclosing that it is for a commercial purpose if requested to do so by the Office of the Treasurer. (Section 3.1(c) of FOIA)*
- b) *The Office of the Treasurer shall respond to a request for records to be used for a commercial purpose within 21 working days after receipt. The response shall:*
 - 1) *Provide to the requester an estimate of the time required by the Office of the Treasurer to provide the records requested and an estimate of the fees to be charged, which the Office of the Treasurer may require the person to pay in full before copying the requested documents;*

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- 2) *Deny the request pursuant to one or more of the exemptions set out in Section 651.202 or 651.203;*
 - 3) *Notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*
 - 4) *Provide the records requested. (Section 3.1(a) of FOIA)*
- c) *Unless the records are exempt from disclosure, the Office of the Treasurer shall comply with a request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes. (Section 3.1(b) of FOIA)*

SUBPART D: RESPONSE TO REQUESTS FOR RECORDS

Section 651.410 Timeline for Response

- a) Except as stated in subsection (b) or (c), the Office of the Treasurer will respond to any written *request for records within 5 business days after its receipt of the request. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. If the Office of the Treasurer fails to respond to a request within the requisite periods in this subsection (a) but thereafter provides the requester with copies of the requested records, it will not impose a fee for such copies. If the Office of the Treasurer fails to respond to a request received, it will not treat the request as unduly burdensome as provided under Section 651.402. (Section 3(d) of FOIA)* A written request from the Office of the Treasurer to provide additional information shall be considered a response to the FOIA request.
- b) *The time limits prescribed in subsection (a) may be extended for not more than 5 business days from the original due date for any of the following reasons:*
 - 1) *The requested records are stored in whole or in part at locations other than the office having charge of the requested records;*
 - 2) *The request requires the collection of a substantial number of specified records;*

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- 3) *The request is couched in categorical terms and requires an extensive search for the records responsive to it;*
 - 4) *The requested records have not been located in the course of routine search and additional efforts are being made to locate them;*
 - 5) *The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 or 7.5 of FOIA or should be revealed only with appropriate deletions;*
 - 6) *The request for records cannot be complied with by the Office of the Treasurer within the time limits prescribed by subsection (a) without unduly burdening or interfering with the operations of the Office of the Treasurer; or*
 - 7) *There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request. (Section 3(e) of FOIA)*
- c) *The person making a request and the Office of the Treasurer may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the Office of the Treasurer agree to extend the period for compliance, a failure by the Office of the Treasurer to comply with any previous deadlines shall not be treated as a denial of the request for the records. (Section 3(e) of FOIA)*
- d) *When additional time is required for any of the reasons set forth in subsection (b), the Office of the Treasurer will, within 5 business days after receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming. Failure to respond within the time permitted for extension shall be considered a denial of the request. If the Office of the Treasurer fails to respond to a request within the time permitted for extension but thereafter provides the requester with copies of the requested public records, it may not impose a fee for those copies. If the Office of the Treasurer issues an extension and subsequently fails to respond to the request, it will not*

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treat the request as unduly burdensome under Section 651.402. (Section 3(f) of FOIA)

Section 651.420 Requests for Records that the Office of the Treasurer Considers Unduly Burdensome

- a) *The Office of the Treasurer will fulfill requests calling for all records falling within a category unless compliance with the request would unduly burden the Office of the Treasurer, there is no way to narrow the request, and the burden on the Office of the Treasurer outweighs the public interest in the information. Before invoking this exemption, the Office of the Treasurer will extend to the requester an opportunity to confer with it in an attempt to reduce the request to manageable proportions. (Section 3(g) of FOIA) The amended request must be in writing.*
- b) *If the Office of the Treasurer determines that a request is unduly burdensome, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the Office of the Treasurer. Such a response shall be treated as a denial of the request for information. (Section 3(g) of FOIA)*
- c) *Repeated requests for records that are unchanged or identical to records previously provided or properly denied under this Part from the same person shall be deemed unduly burdensome. (Section 3(g) of FOIA)*

Section 651.430 Requests for Records that Require Electronic Retrieval

- a) A request for records that requires electronic retrieval will be treated the same as any other request for records, with the same timeline and extensions as allowed for other records.
- b) The Office of the Treasurer will retrieve and provide electronic records only in a format and medium that is available to the Office of the Treasurer.

Section 651.440 Denials of Requests for Records

- a) The Office of the Treasurer will deny requests for records when:

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- 1) Compliance with the request would unduly burden the Office of the Treasurer, as determined pursuant to Section 651.402, and the requester has not reduced the request to manageable proportions; or
 - 2) The records are exempt from disclosure pursuant to Section 7 or 7.5 of FOIA or Section 651.202 or 651.203 of this Part.
- b) The denial of a request for records must be in writing.
- 1) The notification shall include a description of the records denied; *the reason for the denial, including a detailed factual basis for the application of any exemption claimed; and the names and titles or positions of each person responsible for the denial* (Section 9(a) of FOIA);
 - 2) *Each notice of denial shall also inform such person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor* (Section 9(a) of FOIA); and
 - 3) *When a request for records is denied on the grounds that the records are exempt under Section 7 or 7.5 of FOIA, the notice of denial shall specify the exemption claimed to authorize the denial and the specific reasons for the denial, including a detailed factual basis and a citation to the supporting legal authority* (Section 9(b) of FOIA).
- c) A requester may treat the Office of the Treasurer's failure to respond to a request for records within 5 business days after receipt of the written request as a denial for purposes of the right to review by the Public Access Counselor.
- d) If the Office of the Treasurer has given written notice pursuant to Section 651.401(d), failure to respond to a written request within the time permitted for extension may be treated as a denial for purposes of the right to review by the Public Access Counselor.
- e) *Any person making a request for records shall be deemed to have exhausted his or her administrative remedies with respect to that request if the Office of the Treasurer fails to act within the time periods provided in Section 651.401.* (Section 9(c) of FOIA)

Section 651.450 Requests for Review of Denials – Public Access Counselor

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- a) *A person whose request to inspect or copy a record is denied by the Office of the Treasurer may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial. (Section 9.5(a) of FOIA)*
- b) *If the Office of the Treasurer asserts that the records are exempt under Section 651.202(a)(4) or (a)(7), it will, within the time periods provided for responding to a request, provide written notice to the requester and the Public Access Counselor of its intent to deny the request in whole or in part. The notice will include:*
 - 1) *A copy of the request for access to records;*
 - 2) *The proposed response from the Office of the Treasurer; and*
 - 3) *A detailed summary of the Office of the Treasurer's basis for asserting the exemption. (Section 9.5(b) of FOIA)*
- c) *Upon receipt of a notice of intent to deny from the Office of the Treasurer, the Public Access Counselor shall determine whether further inquiry is warranted. The Public Access Counselor shall process the notification of intent to deny as detailed in Section 9.5(b) of FOIA. Times for response or compliance by the Office of the Treasurer under Section 651.401 will be tolled until the Public Access Counselor concludes his or her inquiry. (Section 9.5(b) of FOIA)*
- d) *Within 7 working days after the Office of the Treasurer receives a request for review from the Public Access Counselor, the Office of the Treasurer shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor. (Section 9.5(c) of FOIA)*
- e) *Within 7 working days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the Office of the Treasurer may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy. (Section 9.5(d) of FOIA)*

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- f) *The requester may, but is not required to, respond in writing to the answer within 7 working days and shall provide a copy of the response to the Office of the Treasurer. (Section 9.5(d) of FOIA)*
- g) *In addition to the request for review, and the answer and response thereto, if any, a requester or the Office of the Treasurer may furnish affidavits or records concerning any matter germane to the review. (Section 9.5(e) of FOIA)*
- h) *A binding opinion from the Attorney General shall be binding upon both the requester and the Office of the Treasurer, subject to administrative review under Section 651.407. (Section 9.5(f) of FOIA)*
- i) *If the Attorney General decides to exercise his or her discretion to resolve a request for review by mediation or by a means other than issuance of a binding opinion, the decision not to issue a binding opinion shall not be reviewable. (Section 9.5(f) of FOIA)*
- j) *Upon receipt of a binding opinion concluding that a violation of FOIA has occurred, the Office of the Treasurer shall either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under Section 651.407. If the opinion concludes that no violation of FOIA has occurred, the requester may initiate administrative review under Section 651.407. (Section 9.5(f) of FOIA)*
- k) *If the Office of the Treasurer discloses records in accordance with an opinion of the Attorney General, the Office of the Treasurer is immune from all liabilities by reason thereof and shall not be liable for penalties under FOIA. (Section 9.5(f) of FOIA)*
- l) *If the requester files suit under Section 651.406 with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor, and the Public Access Counselor shall so notify the Office of the Treasurer. (Section 9.5(g) of FOIA)*
- m) *The Attorney General may also issue advisory opinions to the Office of the Treasurer regarding compliance with FOIA. A review may be initiated upon receipt of a written request from the Treasurer or the Office of the Treasurer's General Counsel, which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional*

OFFICE OF THE TREASURER

NOTICE OF ADOPTED RULES

information from the Office of the Treasurer in order to assist in the review. If the Office of the Treasurer relies in good faith on an advisory opinion of the Attorney General in responding to a request, the Office of the Treasurer is not liable for penalties under FOIA, so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor. (Section 9.5(h) of FOIA)

Section 651.460 Circuit Court Review

A requester also has the right to file suit for injunctive or declaratory relief in the Circuit Court for Sangamon County or for the county in which the requester resides, in accordance with the procedures set forth in Section 11 of FOIA.

Section 651.470 Administrative Review

A binding opinion issued by the Attorney General shall be considered a final decision of an administrative agency, for purposes of administrative review under the Administrative Review Law [735 ILCS 5/Art. III]. An action for administrative review of a binding opinion of the Attorney General shall be commenced in Cook County or Sangamon County. An advisory opinion issued to the Office of the Treasurer shall not be considered a final decision of the Attorney General for purposes of this Section. (Section 11.5 of FOIA)

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section 651.510 Inspection of Records

- a) The Office of the Treasurer may make available records for personal inspection at the Office of the Treasurer's headquarters office located at the Illinois Business Center, 400 West Monroe Street, Suite 401, Springfield, Illinois 62704, or at another location agreed to by both the Office of the Treasurer and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record. The Office of the Treasurer may provide records in duplicate forms, including, but not limited to, paper copies, data processing printouts, videotape, microfilm, audio tape, reel to reel microfilm, photographs, computer disks and diazo.
- b) *When a person requests a copy of a record maintained in an electronic format, the Office of the Treasurer shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the records in the specified*

OFFICE OF THE TREASURER

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electronic format, then the Office of the Treasurer shall furnish it in the format in which it is maintained by the Office of the Treasurer, or in paper format at the option of the requester. (Section 6(a) of FOIA)

- c) A requester may inspect records by appointment only, scheduled subject to space availability. The Office of the Treasurer will schedule inspection appointments to take place during normal business hours, which are 8:30 a.m. to 5:00 p.m. Monday through Friday, exclusive of State holidays. If the requester must cancel the viewing appointment, the requester shall so inform the Office of the Treasurer as soon as possible before the appointment.
- d) In order to maintain routine Office of the Treasurer operations, the requester may be asked to leave the inspection area for a specified period of time.
- e) The requester will have access only to the designated inspection area.
- f) Requesters shall not be permitted to take briefcases, folders or similar materials into the room where the inspection takes place. An Office of the Treasurer employee may be present during the inspection.
- g) The requester shall segregate and identify the documents to be copied during the course of the inspection.

Section 651.520 Copying of Records; Fees

- a) In accordance with Section 651.503, unless a fee is otherwise fixed by statute, the Office of the Treasurer will provide copies of records and certifications of records in accordance with the fee schedule set forth in Appendix A.
- b) *In calculating its actual cost for reproducing records or for the use of the equipment of the Office of the Treasurer to reproduce records, the Office of the Treasurer will not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records. (Section 6(b) of FOIA)*
- c) In order to expedite the copying of records that the Office of the Treasurer cannot copy, due to the volume of the request or the operational needs of the Office of the Treasurer, in the timelines established in Section 651.401, the requester may provide, at the requester's expense, the copy machine, all necessary materials, and

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the labor to copy the public records at the Office of the Treasurer headquarters in Section 651.501, or at another location agreed to by both the Office of the Treasurer and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record.

- d) Copies of records will be provided to the requester only upon payment of any fees due. *The Office of the Treasurer may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium, but the Office of the Treasurer will not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records.* (Section 6(a) of FOIA) Payment must be by check or money order sent to the Office of the Treasurer, payable to "Treasurer, State of Illinois".
- e) If a contractor is used to inspect or copy records, the following procedures shall apply:
- 1) The requester, rather than the Office of the Treasurer, must contract with the contractor;
 - 2) The requester is responsible for all fees charged by the contractor;
 - 3) The requester must notify the Office of the Treasurer of the contractor to be used prior to the scheduled on-site inspection or copying;
 - 4) Only Office of the Treasurer personnel may provide records to the contractor;
 - 5) The Office of the Treasurer must have verification that the requester has paid the Office of the Treasurer, if payment is due, for the copying of the records before providing the records to the contractor; and
 - 6) The requester must provide to the Office of the Treasurer the contractor's written agreement to hold the records secure and to copy the records only for the purpose stated by the requester.

Section 651.530 Reduction and Waiver of Fees

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- a) *Fees may be reduced or waived by the Office of the Treasurer if the requester states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. In making this determination, the Office of the Treasurer will consider the following:*
- 1) *Whether the principal purpose of the request is to disseminate information regarding the health, safety, welfare or legal rights of the general public; and*
 - 2) *Whether the principal purpose of the request is personal or commercial benefit. For purposes of this subsection (a), "commercial benefit" shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public. (Section 6(c) of FOIA)*
- b) The Office of the Treasurer will provide copies of records without charge to federal, State and municipal agencies, Constitutional officers and members of the General Assembly, and not-for-profit organizations providing evidence of good standing with the Secretary of State's Office.
- c) *Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of records when furnished in a paper format will not be applicable to those records when furnished to a requester in an electronic format. (Section 6(a) of FOIA)*

OFFICE OF THE TREASURER

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Section 651.APPENDIX A Fee Schedule for Duplication and Certification of Records

| TYPE OF DUPLICATION | FEE (PER COPY) |
|--|---------------------------------|
| Paper copy from original, up to and including 50 copies of black and white, letter or legal sized copies | No charge |
| Paper copy from original, in excess of 50 copies of black and white, letter or legal sized copies | \$.15/page |
| Paper copy from microfilm original | \$.15/page |
| Microfilm diazo from original | \$.50/diazo |
| VHS video copy of tape | Actual cost of the reproduction |
| Audio tape copy of tape | Actual cost of the reproduction |
| CD ROM disk | Actual cost of the reproduction |
| Photograph from negative | Actual cost of the reproduction |
| Blueprints/oversized prints | Actual cost of the reproduction |
| Paper copies in color or in a size other than letter or legal | Actual cost of the reproduction |
| Certification fee | \$1.00/record |

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Medication
- 2) Code Citation: 11 Ill. Adm. Code 603
- 3)

| | |
|-------------------------|--------------------------|
| <u>Section Numbers:</u> | <u>Emergency Action:</u> |
| 603.60 | Amend |
| 603.75 | Amend |
| 603.160 | Amend |
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Emergency Amendment: February 15, 2012
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which they are to expire: The emergency rulemaking will expire at the end of the 150-day period, or upon adoption of permanent rules, whichever comes first.
- 7) Date filed with the Index Department: February 15, 2012
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the Illinois Racing Board's central office and is available for public inspection.
- 9) Reason for Emergency: The Board relies on the Racing Commissioners International (RCI) Uniform Classification Guidelines for Foreign Substances when adjudicating medication positive tests on racehorses. The RCI recently made revisions to the guidelines (December 2011, version 3.00).
- 10) A Complete Description of the Subjects and Issues Involved: This emergency rulemaking updates the Board's medication rules to accurately reflect the most current version of the RCI's Uniform Classification Guidelines for Foreign Substances.
- 11) Are there any proposed rulemakings pending on this Part: No
- 12) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 13) Information and questions regarding these emergency amendments shall be directed to:

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NOTICE OF EMERGENCY AMENDMENTS

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

312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

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

EMERGENCY

- 603.70 Furosemide
603.75 Environmental Contaminants

EMERGENCY

- 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
603.150 Post Mortems
603.160 Penalties

EMERGENCY

- 603.170 Veterinarian's Records
603.180 Carbon Dioxide Tests
603.190 Erythropoietin and Darbepoietin Antibody Testing Program
603.200 Out of Competition Testing
603.210 Androgenic-Anabolic Steroids (AAS)

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

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NOTICE OF EMERGENCY AMENDMENTS

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. 11250, effective August 1, 2004; amended at 28 Ill. Reg. 15790, effective December 1, 2004; emergency amendment at 29 Ill. Reg. 2779, effective February 22, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4116, effective February 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5726, effective April 8, 2005; amended at 29 Ill. Reg. 12265, effective July 24, 2005; amended at 29 Ill. Reg. 14038, effective September 1, 2005; emergency amendment at 30 Ill. Reg. 14371, effective August 21, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18729, effective November 20, 2006; amended at 31 Ill. Reg. 1478, effective January 1, 2007; emergency amendment at 31 Ill. Reg. 6680, effective April 23, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 12982, effective September 1, 2007; amended at 32 Ill. Reg. 7397, effective May 1, 2008; amended at 33 Ill. Reg. 12571, effective August 25, 2009; expedited correction at 34 Ill. Reg. 9551, effective August 25, 2009; emergency amendment at 35 Ill. Reg. 265, effective December 17, 2010, for a maximum of 150 days; emergency amendment at 35 Ill. Reg. 2810, effective February 1, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 7400, effective April 25, 2011; amended at 35 Ill. Reg. 8485, effective May 23, 2011; emergency amendment at 35 Ill. Reg. 15296, effective September 6, 2011, for a maximum of 150 days; emergency rule repealed by emergency amendment at 35 Ill. Reg. 18434, effective October 24, 2011, for the remainder of the 150 days; amended at 36 Ill. Reg. 330, effective January 1, 2012; emergency amendment at 36 Ill. Reg. 3290, effective February 15, 2012, for a maximum of 150 days.

Section 603.60 Permitted Use of Foreign Substances and Threshold Levels**EMERGENCY**

- a) Non-Steroidal Anti-Inflammatories (NSAID): Threshold Levels
 - 1) Only one non-steroidal anti-inflammatory drug (NSAID) may be present in a horse's body while it is participating in a race. The presence of more than one NSAID, greater than the threshold level, is forbidden and will result in the purse being redistributed.
 - 2) Subject to the prohibition contained in Section 603.40 (24 hour ban), the only foreign substances that now meet the criteria established in Section

ILLINOIS RACING BOARD

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603.80 are phenylbutazone (or its metabolite oxyphenylbutazone), flunixin, pyrillamine, isoxsuprine and ketoprofen.

- 3) The threshold level of phenylbutazone shall be less than 5.0 micrograms (mcg) per milliliter (ml) of serum or plasma. The threshold level for oxyphenylbutazone shall be less than 5.0 mcg/ml of serum or plasma.
 - A) Within a 365 day period, in the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to 5.0 mcg/ml but less than 10.0 mcg/ml of serum or plasma, the trainer shall be subject to the following penalties absent mitigating circumstances:
 - i) first offense, minimum fine of \$250;
 - ii) second offense, minimum fine of \$500;
 - iii) third or subsequent offense, minimum fine of \$1,000 and a 15 day suspension.
 - B) Within a 365 day period, in the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to 10.0 mcg/ml of serum or plasma, the trainer shall be subject to the following penalties absent mitigating circumstances:
 - i) first offense, minimum fine of \$500 and the purse shall be redistributed;
 - ii) second offense, minimum fine of \$1,000, a 15 day suspension and the purse shall be redistributed;
 - iii) third or subsequent offense, minimum fine of \$2,500, a 30 day suspension and the purse shall be redistributed.
- 4) The threshold level of flunixin shall be less than 20.0 ng/ml of serum or plasma and the threshold level of ketoprofen shall be less than 10.0 ng/ml of serum or plasma. In the event a post-race sample from a horse contains an amount of:

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- A) flunixin greater than or equal to 20.0 ng/ml but less than 100.0 ng/ml or ketoprofen greater than or equal to 10.0 ng/ml but less than 50.0 ng/ml, the trainer shall be subject to the following penalties, within a 365 day period, and absent mitigating circumstances:
- i) first offense, minimum fine of \$250;
 - ii) second offense, minimum fine of \$500;
 - iii) third or subsequent offense, minimum fine of \$1,000 and a 15 day suspension.
- B) flunixin greater than or equal to 100.0 ng/ml or ketoprofen greater than or equal to 50.0 ng/ml, the trainer shall be subject to the following penalties, within a 365 day period, and absent mitigating circumstances:
- i) first offense, minimum fine of \$500 and the purse shall be redistributed;
 - ii) second offense, minimum fine of \$1,000, a 15 day suspension and the purse shall be redistributed;
 - iii) third or subsequent offense, minimum fine of \$2,500, a 30 day suspension and the purse shall be redistributed.
- 5) If the phenylbutazone, oxyphenylbutazone, flunixin or ketoprofen overage is due to the negligence of the veterinarian attending the horse, the veterinarian shall be subject to the same penalties as are set forth in subsections (a)(3)(A) and (B) and (a)(4)(A) and (B).
- 6) To help horsemen determine the test levels of phenylbutazone, oxyphenylbutazone, flunixin, pyrilamine, isoxsuprine and ketoprofen, the Board laboratory will test, for the actual cost of processing the sample, all equine serum or plasma samples submitted to it that are accompanied by an affidavit indicating time, method, and route of administration.

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- 7) Penalties for violations of this Section shall be based on the following criteria:
 - A) previous warnings and rulings for violations of this Section;
 - B) the age and experience of the violator;
 - C) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;
 - D) what action, if any, was taken to avoid the violation;
 - E) the purse of the race.
- b) The following foreign substances may be administered externally to a horse entered to a race: Leg paints and liniment that do not contain any "caine" derivatives, pharmacodynamic and/or chemotherapeutic agents, and that can be applied topically without penetrating the skin.
- c) Subject to the prohibition contained in Section 603.40 (24-hour ban), the following foreign substances, commonly referred to as anti-bacterial, anti-fungal, anti-protozoal or anti-ulcer drugs, may be present in the body of a horse participating in a race.
 - 1) Anti-Bacterials
 - Amikacin
 - Ampicillin
 - Ampicillin sodium
 - Azolsulfamide
 - Chloramphenicol
 - Doxycycline
 - Enrofloxacin (Baytril)
 - Erythromycin sulfate
 - Gentamicin sulfate
 - Kanamycin sulfate
 - Methenamine
 - Metronidazole
 - Neomycin sulfate

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Nitrofurantoin
Oxytetracycline
Penicillin G. Benzathine
Penicillin G. Potassium
Sulfadimethozine
Sulfadimethoxine
Sulfamethoxazole
Sulfametranidazole
Sulfapyridine
Sulfathiazole
Tetracycline
Trimethoprim

2) Anti-Fungals

Amphotericin B
Griseofulvin
Neomycin Undecyclenate
Nystatin

3) Anti-Protozoals

Nitazoxanide (Navigator)
Ponazuril (Marquis)
Pyrimethamine (Daraprim)

4) Anti-Ulcers

Cimetidine (Tagamet)
Omeprazole (Prilosec or GastroGard)
Ranitidine (Zantac)

- d) This listing of anti-bacterial, anti-fungal, anti-protozoal and anti-ulcer drugs is all inclusive and shall not include any other anti-bacterial, anti-fungal, anti-protozoal or anti-ulcer drug.
- e) A foreign substance of accepted therapeutic value may be administered as prescribed by a veterinarian when threshold levels and guidelines for its use have been approved by the Board and this Part has been duly amended. The Board

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shall give due consideration to threshold levels and guidelines, when making additions to the permitted list, that have been established by the Quality Assurance Program Committee of the Association of Racing Commissioners International (ARCI, 1510 Newtown Pike, Suite 210, Lexington KY 40511; December~~August~~ 2011 version 3.002-01; this incorporation includes no later amendments or editions).

- f) Official test samples may contain the following drug substance, or its metabolites, in an amount that does not exceed the threshold level:
 - 1) The threshold level of isoxsuprine shall be less than 1,000.0 ng/ml in urine.
 - 2) The threshold level of pyrilamine shall be less than 50.0 ng/ml in urine.
- g) The provisions of this Section shall be applied retroactively when substantively applicable, including all actions pending before the Board without regard to when the cause of action accrued; provided, however, that this subsection shall not operate to affect rights of individuals that have fully vested.

(Source: Amended by emergency rulemaking at 36 Ill. Reg. 3290, effective February 15, 2012, for a maximum of 150 days)

Section 603.75 Environmental Contaminants**EMERGENCY**

The following drugs are recognized as substances that unavoidably become part of the food supply or environment of the horse.

- a) Benzoylecgonine (a metabolite of cocaine):
 - 1) Each time the laboratory reports benzoylecgonine less than 150.0 ng/ml, the Stewards shall conduct an inquiry. The presence of benzoylecgonine in the horse shall be considered reasonable cause to order a drug screen on the trainer, groom or any other licensed person who cares for the horse pursuant to Section 508.50.
 - 2) Laboratory reports of benzoylecgonine, greater than or equal to 150.0 ng/ml, shall be treated as a Class 1 drug, as defined in the Association of

ILLINOIS RACING BOARD

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Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (ARCI, 1510 Newtown Pike, Suite 210, Lexington KY 40511; ~~December~~ ~~August~~ 2011 version ~~3.002-04~~; this incorporation includes no later amendments or editions).

- b) Dimethyl Sulfoxide (DMSO):
The test level of DMSO, greater than or equal to 500 mcg/ml, in urine shall be considered a violation of Section 603.50 and the trainer shall receive a fine of not less than \$500 and the purse shall be redistributed.

(Source: Amended by emergency rulemaking at 36 Ill. Reg. 3290, effective February 15, 2012, for a maximum of 150 days)

Section 603.160 Penalties**EMERGENCY**

- a) Any person who administers or conspires to administer any foreign substance to any horse in violation of this Part shall be subject to a fine and/or license suspension or revocation and the purse money won may be re-distributed.
- b) Penalties for violations of this Part shall be based on the following criteria:
- 1) the nature of the foreign substance; e.g., cough medicine, steroid, narcotic, stimulant, depressant, etc.;
 - 2) the accessibility of the drug; e.g., can be purchased over the counter, only with a prescription, only with a license for controlled substances, cannot be purchased in this country;
 - 3) the age and experience of the violator;
 - 4) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;
 - 5) what action, if any, was taken by the violator to avoid the violation;
 - 6) the purse of the race.

ILLINOIS RACING BOARD

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- c) Any person who violates any provision of this Part for which no specific penalty is provided may be penalized by the stewards or the Board in accordance with the provisions for penalties contained elsewhere in this Chapter or in the Illinois Horse Racing Act of 1975. When imposing penalties, the stewards or the Board shall consider all relevant factors including, but not limited to those specified in this Part.
- d) In harness racing, any trainer suspended for a violation of this Part shall, upon notice of the violation, submit to the Stewards a current stable list on a form provided by the Board.
- 1) The horses on the stable list shall be placed on the Steward's List unless:
 - A) The owner of each horse on the stable list secures the services of a trainer approved by the Stewards; and
 - B) The approved trainer stables the horses on the stable list on the grounds of an organization licensee for the full term of the penalized trainer's suspension;
 - 2) Horses on the stable list shall be permitted to leave to race in other racing jurisdictions or for medical reasons.
- e) Penalties for Class 4 and 5 drug violations:
- 1) Class 4 as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances (ARCI, 1510 Newtown Pike, Suite 210, Lexington KY 40511; ~~December~~ ~~August~~ 2011 version ~~3.002.01~~; this incorporation includes no later amendments or editions). Except as provided in Sections 603.60 and 603.70 of this Part, upon finding of a Class 4 substance, the trainer shall be subject to a fine and/or license suspension or revocation and the purse money won may be re-distributed according to the criteria set forth in subsection (e)(3).
 - 2) Class 5 as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances. Except as provided in Sections 603.75 and 603.60(c) of this Part, upon finding of a Class 5 substance, the trainer shall be subject to a fine and/or

ILLINOIS RACING BOARD

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license suspension or revocation and the purse money won may be re-distributed according to the criteria set forth in subsection (e)(3).

- 3) In determining a disqualification and purse redistribution under this subsection (e), the Stewards shall use the following criteria:
 - A) A recommendation by the Board veterinarian and/or Board chemist regarding the significance of the concentration of the drug or metabolite present and the estimated withdrawal time.
 - B) A recommendation by industry experts, including equine pharmacologists and equine physiologists, regarding the effect of the drug on the horse in the concentration found and/or estimated withdrawal times.
 - C) Repeat violations of these medication and prohibited substance rules by the same trainer or with respect to the same horse.
 - D) Prior violations of similar rules in other racing jurisdictions by the same trainer or with respect to the same horse.
 - E) The criteria set forth in subsection (b).
- 4) The provisions of this subsection (e) shall be applied retroactively when substantively applicable, including all actions pending before the Board, without regard to when the cause of action accrued; provided, however, that this subsection (e)(4) shall not operate to affect rights of individuals that have fully vested prior to April 23, 2007.

(Source: Amended by emergency rulemaking at 36 Ill. Reg. 3290, effective February 15, 2012, for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT

- 1) Heading of the Part: Sheltered Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 330
- 3)

| | |
|------------------------|-------------------------|
| <u>Section Number:</u> | <u>Proposed Action:</u> |
| 330.1156 | New |
- 4) Date Notice of Proposed Amendment Published in the Illinois Register:

June 24, 2011; 35 Ill. Reg. 9957
- 5) Reason for Withdrawal:

The Department proposed the amendments to Part 330 to fulfill a requirement, in Public Act 96-1372, that the Department "adopt, by rule, a protocol specifying how informed consent for psychotropic medication may be obtained or refused". During the public comment period, these amendments were denounced by all commentators, who cited manifold problems with the language. Rather than try to revise the language, the Department is withdrawing the rulemaking to re-propose re-drafted language at a later date.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT

- 1) Heading of the Part: Illinois Veterans' Homes Code
- 2) Code Citation: 77 Ill. Adm. Code 340
- 3) Section Number: Proposed Action:
340.1615 New
- 4) Date Notice of Proposed Amendment Published in the Illinois Register: June 24, 2011;
35 Ill. Reg. 9979
- 5) Reason for Withdrawal:

The Department proposed the amendments to Part 340 to fulfill a requirement, in Public Act 96-1372, that the Department "adopt, by rule, a protocol specifying how informed consent for psychotropic medication may be obtained or refused". During the public comment period, these amendments were denounced by all commentators, who cited manifold problems with the language. Rather than try to revise the language, the Department is withdrawing the rulemaking to re-propose re-drafted language at a later date.

DEPARTMENT OF LABOR

NOTICE OF CORRECTION TO NOTICE OF PUBLIC INFORMATION

- 1) Heading of the Notice: Notice of Public Information
- 2) Statutory Authority: 820 ILCS 130/11a
- 3) Register citation of Notice of Public Information: 36 Ill. Reg. 1811
- 4) Explanation: The Notice of Public Information published in the Illinois Register on February 3, 2012 contained the name of "Osterhoff Fence, 838 E. 4000 S. Road, Kankakee, IL 60901, IDOL Case No.(s): 2007-PW-JD01-0567 & 2010-PW-JD11-0512" stating "this debarment is effective until 4 years have elapsed from the date of publication of the list containing the name of the contractor". Osterhoff Fence is not under debarment and therefore should not have appeared on the Notice of Public Information .

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MARCH AGENDA

SCHEDULED MEETING:

STRATTON OFFICE BUILDING
ROOM A-1
SPRINGFIELD, ILLINOIS
MARCH 6, 2012
9:30 A.M.

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

It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

*Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706*

*Email: jcar@ilga.gov
Phone: 217/785-2254*

RULEMAKINGS CURRENTLY BEFORE JCAR

PROPOSED RULEMAKINGS

Central Management Services

1. Pay Plan (80 Ill. Adm. Code 310)
 - First Notice Published: 35 Ill. Reg. 19885 - 12/23/11
 - Expiration of Second Notice: 3/24/12

Education

2. Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)
 - First Notice Published: 35 Ill. Reg. 17572 - 11/4/11

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MARCH AGENDA

-Expiration of Second Notice: 3/15/12

3. School Construction Program (23 Ill. Adm. Code 151)
 - First Notice Published: 35 Ill. Reg. 17597 - 11/4/11
 - Expiration of Second Notice: 3/15/12

Environmental Protection Agency

4. Procedures For Collection of Air Pollution Site Fees (35 Ill. Adm. Code 251)
 - First Notice Published: 35 Ill. Reg. 16172 - 10/14/11
 - Expiration of Second Notice: 3/16/12
5. Annual Emissions Report (35 Ill. Adm. Code 254)
 - First Notice Published: 35 Ill. Reg. 16178 - 10/14/11
 - Expiration of Second Notice: 3/16/12

Financial and Professional Regulation

6. Illinois Professional Land Surveyor Act of 1989 (68 Ill. Adm. Code 1270)
 - First Notice Published: 35 Ill. Reg. 19570 - 12/9/11
 - Expiration of Second Notice: 3/15/12
7. The Structural Engineering Practice Act of 1989 (68 Ill. Adm. Code 1480)
 - First Notice Published: 35 Ill. Reg. 19596 - 12/9/11
 - Expiration of Second Notice: 3/15/12

Gaming Board

8. Video Gaming (General) (11 Ill. Adm. Code 1800)
 - First Notice Published: 35 Ill. Reg. 15418 - 9/23/11
 - Expiration of Second Notice: 3/11/12

Healthcare and Family Services

89-150-11-19392 EMS

9. Electronic Health Information Technology (89 Ill. Adm. Code 150)
 - First Notice Published: 35 Ill. Reg. 19392 - 12/2/11
 - Expiration of Second Notice: 3/31/12

Higher Education

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MARCH AGENDA

10. Program Review (Private Colleges and Universities) (23 Ill. Adm. Code 1030)
 - First Notice Published: 35 Ill. Reg. 19824 - 12/23/11
 - Expiration of Second Notice: 4/1/12
11. Approval of New Units of Instruction, Research and Public Service at Public Institutions (23 Ill. Adm. Code 1050)
 - First Notice Published: 35 Ill. Reg. 19865 - 12/23/11
 - Expiration of Second Notice: 4/1/12

Natural Resources

12. Sport Fishing Regulations for the Waters of Illinois (17 Ill. Adm. Code 810)
 - First Notice Published: 35 Ill. Reg. 15868 - 10/7/11
 - Expiration of Second Notice: 3/8/12
13. Hound Running Areas (17 Ill. Adm. Code 970)
 - First Notice Published: 35 Ill. Reg. 6742 - 4/22/11
 - Expiration of Second Notice: 4/1/12
14. Designation of Restricted Waters in the State of Illinois (17 Ill. Adm. Code 2030)
 - First Notice Published: 35 Ill. Reg. 19045 - 11/18/11
 - Expiration of Second Notice: 3/8/12

Pollution Control Board

15. Underground Storage Tanks (35 Ill. Adm. Code 731)
 - First Notice Published: 35 Ill. Reg. 16183 - 10/14/11
 - Expiration of Second Notice: 3/8/12
16. Petroleum Underground Storage Tanks (Releases Reported September 23, 1994 through June 23, 2002) (Repealer) (35 Ill. Adm. Code 732)
 - First Notice Published: 35 Ill. Reg. 16191 - 10/14/11
 - Expiration of Second Notice: 3/8/12
17. Petroleum Underground Storage Tanks (Releases Reported On or After June 24, 2002) (35 Ill. Adm. Code 734)
 - First Notice Published: 35 Ill. Reg. 16338 - 10/14/11
 - Expiration of Second Notice: 3/8/12

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MARCH AGENDA

Public Health

18. Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)
 - First Notice Published: 35 Ill. Reg. 9927– 6/24/11
 - Expiration of Second Notice: 4/10/12
19. Health Care Employee Vaccination Code (77 Ill. Adm. Code 956)
 - First Notice Published: 35 Ill. Reg. 16431 - 10/14/11
 - Expiration of Second Notice: 3/21/12

Revenue

20. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
 - First Notice Published: 35 Ill. Reg. 19649– 12/9/11
 - Expiration of Second Notice: 3/31/12
21. Electronic Filing of Returns or Other Documents (86 Ill. Adm. Code 760)
 - First Notice Published: 35 Ill. Reg. 19452– 12/2/11
 - Expiration of Second Notice: 3/24/12
22. TeleFile Program (Repealer) (86 Ill. Adm. Code 770)
 - First Notice Published: 35 Ill. Reg. 19459– 12/2/11
 - Expiration of Second Notice: 3/24/12
23. Motor Fuel Tax (86 Ill. Adm. Code 500)
 - First Notice Published: 35 Ill. Reg. 19062– 11/18/11
 - Expiration of Second Notice: 3/31/12
24. Environmental Impact Fee (86 Ill. Adm. Code 501)
 - First Notice Published: 35 Ill. Reg. 19123– 11/18/11
 - Expiration of Second Notice: 3/29/12

State Universities Civil Service System

25. State Universities Civil Service System (80 Ill. Adm. Code 250)
 - First Notice Published: 35 Ill. Reg. 17415– 10/28/11
 - Expiration of Second Notice: 3/31/12

EMERGENCY RULEMAKINGS

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MARCH AGENDA

Board of Higher Education

26. Private Business and Vocational Schools (23 Ill. Adm. Code 1095)
-Notice Published: 36 Ill. Reg. 3067 - 2/24/12

Housing Development Authority

27. Homeownership Mortgage Loan Program (47 Ill. Adm. Code 300)
-Notice Published: 36 Ill. Reg. 1783 - 2/3/12

EXEMPT RULEMAKINGS

Pollution Control Board

28. RCRA and UIC Permit Programs (35 Ill. Adm. Code 702)
-Proposed Date: 35 Ill. Reg. 17190 - 10/28/11
29. UIC Permit Program (35 Ill. Adm. Code 704)
-Proposed Date: 35 Ill. Reg. 17215 - 10/28/11
30. Procedures for Permit Issuance (35 Ill. Adm. Code 705)
-Proposed Date: 35 Ill. Reg. 17256 - 10/28/11
31. Underground Injection Control Operating Requirements (35 Ill. Adm. Code 730)
-Proposed Date: 35 Ill. Reg. 17264 - 10/28/11

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of February 15, 2011 through February 21, 2012 and have been scheduled for review by the Committee at its March 6, 2012 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

| <u>Second Notice Expires</u> | <u>Agency and Rule</u> | <u>Start Of First Notice</u> | <u>JCAR Meeting</u> |
|--------------------------------------|--|--------------------------------------|-------------------------|
| 3/31/12 | <u>State Universities Civil Service System</u> , State Universities Civil Service System (80 Ill. Adm. Code 250) | 10/28/11 35 Ill. Reg. 17415 | 3/6/12 |
| 3/31/12 | <u>Department of Healthcare and Family Services</u> , Electronic Health Information Technology (89 Ill. Adm. Code 150) | 12/2/11 35 Ill. Reg. 19392 | 3/6/12 |
| 3/31/12 | <u>Department of Revenue</u> , Retailers' Occupation Tax (86 Ill. Adm. Code 130) | 12/9/11 35 Ill. Reg. 19649 | 3/6/12 |
| 3/31/12 | <u>Department of Revenue</u> , Motor Fuel Tax (86 Ill. Adm. Code 500) | 11/18/11 35 Ill. Reg. 19062 | 3/6/12 |
| 4/1/12 | <u>Board of Higher Education</u> , Program Review (Private Colleges and Universities) (23 Ill. Adm. Code 1030) | 12/23/11 35 Ill. Reg. 19824 | 3/6/12 |
| 4/1/12 | <u>Board of Higher Education</u> , Approval of New Units of Instruction, Research and Public Service at Public Institutions (23 Ill. Adm. Code 1050) | 12/23/11 35 Ill. Reg. 19865 | 3/6/12 |

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

| | | | |
|--------|---|---------------------------------|--------|
| 4/1/12 | <u>Department of Natural Resources, Hound Running Areas (17 Ill. Adm. Code 970)</u> | 4/22/11 35 Ill. Reg. 6742 | 3/6/12 |
|--------|---|---------------------------------|--------|

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 36, Issue 9 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

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