2010 ILLINOIS REGISTER

RULES OF GOVERNMENTAL AGENCIES

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TABLE OF CONTENTS

October 22, 2010 Volume 34, Issue 43

PROPOSED RULES
FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF
Title Insurance Act
50 Ill. Adm. Code 8100.....15926
Illinois Public Accounting Act
68 Ill. Adm. Code 1420.....15939
Real Estate License Act of 2000 (Repealer)
68 Ill. Adm. Code 1450.....15949
Real Estate License Act of 2000
68 Ill. Adm. Code 1450.....16062
POLLUTION CONTROL BOARD
Site-Specific Closures of Coal Combustion Waste Surface Impoundments
35 Ill. Adm. Code 840.....16188
STATE BOARD OF EDUCATION
Certification
23 Ill. Adm. Code 25.....16224
TRANSPORTATION, DEPARTMENT OF
Rates To Be Charged By Official Testing Stations For School Buses
92 Ill. Adm. Code 446.....16301
Rates To Be Charged By Official Testing Stations For Vehicles Other Than School Buses
92 Ill. Adm. Code 454.....16315
ADOPTED RULES
BOARD OF HIGHER EDUCATION
Access to Public Information (Repealer)
2 Ill. Adm. Code 5051.....16329
Access to Records of the Board of Higher Education
2 Ill. Adm. Code 5051.....16331
COMMERCE COMMISSION, ILLINOIS
Public Information, Rulemaking and Organization
2 Ill. Adm. Code 1700.....16359
COMMERCE AND ECONOMIC OPPORTUNITY, DEPARTMENT OF
Intermodal Facilities Promotion Program
14 Ill. Adm. Code 523.....16364
HUMAN RIGHTS COMMISSION
Procedural Rules
56 Ill. Adm. Code 5300.....16373
HUMAN RIGHTS, DEPARTMENT OF
Access to Public Records of the Department of Human Rights

2 Ill. Adm. Code 926.....16393
NATURAL RESOURCES, DEPARTMENT OF
Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting
17 Ill. Adm. Code 530.....16429
Duck, Goose and Coot Hunting
17 Ill. Adm. Code 590.....16457
Late-Winter Deer Hunting Season
17 Ill. Adm. Code 680.....16518
OFFICE OF THE STATE FIRE MARSHAL
Pyrotechnic Distributor and Operator Licensing Rules
41 Ill. Adm. Code 230.....16524
Pyrotechnic and Consumer Display Permitting Rules
41 Ill. Adm. Code 235.....16562
Fire Protection District Grant
41 Ill. Adm. Code 295.....16583
EMERGENCY RULES
CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF
Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment
74 Ill. Adm. Code 900.....16587
COMPTROLLER, OFFICE OF THE
Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment
74 Ill. Adm. Code 330.....16593
OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER
REVENUE, DEPARTMENT OF
2010 Third Quarter Sales & Miscellaneous Tax Sunshine Index.....16597
SECOND NOTICES RECEIVED
JOINT COMMITTEE ON ADMINISTRATIVE RULES
Second Notices Received.....16607
EXECUTIVE ORDERS AND PROCLAMATIONS
EXECUTIVE ORDERS
Executive Order Creating the Elgin-OHare West Bypass Advisory Council
2010-13.....16609

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 2010

Issue #	Rules Due Date	Date of Issue
1	December 21, 2009	January 4, 2010
2	December 28, 2009	January 8, 2010
3	January 4, 2010	January 15 2010
4	January 11, 2010	January 22, 2010
5	January 19, 2010	January 29, 2010
6	January 25, 2010	February 5, 2010
7	February 1, 2010	February 16, 2010
8	February 8, 2010	February 19, 2010
9	February 16, 2010	February 26, 2010
10	February 22, 2010	March 5, 2010
11	March 1, 2010	March 12, 20101
12	March 8, 2010	March 19, 2010
13	March 15, 2010	March 26, 2010
14	March 22, 2010	April 2, 2010
15	March 29, 2010	April 9, 2010
16	April 5, 2010	April 16, 2010
17	April 12, 2010	April 23, 2010
18	April 19, 2010	April 30, 2010
19	April 26, 2010	May 7, 2010
20	May 3, 2010	May 14, 2010
21	May 10, 2010	May 21, 2010
22	May 17, 2010	May 28, 2010
23	May 24, 2010	June 4, 2010

Issue #	Rules Due Date	Date of Issue
24	June 1, 2010	June 11, 2010
25	June 7, 2010	June 18, 2010
26	June 14, 2010	June 25, 2010
27	June 21, 2010	July 2, 2010
28	June 28, 2010	July 9, 2010
29	July 6, 2010	July 16, 2010
30	July 12, 2010	July 23, 2010
31	July 19, 2010	July 30, 2010
32	July 26, 2010	August 6, 2010
33	August 2, 2010	August 13, 2010
34	August 9, 2010	August 20, 2010
35	August 16, 2010	August 27, 2010
36	August 23, 2010	September 3, 2010
37	August 30, 2010	September 10, 2010
38	September 7, 2010	September 17, 2010
39	September 13, 2010	September 24, 2010
40	September 20, 2010	October 1, 2010
41	September 27, 2010	October 8, 2010
42	October 4, 2010	October 15, 2010
43	October 12, 2010	October 22, 2010
44	October 18, 2010	October 29, 2010
45	October 25, 2010	November 5, 2010
46	November 1, 2010	November 12, 2010
47	November 8, 2010	November 19, 2010
48	November 15, 2010	November 29, 2010
49	November 22, 2010	December 3, 2010
50	November 29, 2010	December 10, 2010
51	December 6, 2010	December 17, 2010
52	December 13, 2010	December 27, 2010
53	December 20, 2010	January 3, 2011

Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 15, 2010 to January 3, 2011.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Title Insurance Act

2) Code Citation: 50 Ill. Adm. Code 8100

3) Section Number: 8100.2402 — Proposed Action: Amendment

4) Statutory Authority: Implementing and authorized by the Title Insurance Act [215 ILCS 155/16(i)]

5) A complete description of the subjects and issues involved: Public Act 96-1454 added a new subsection to the Act [215 ILCS 155/16(i)] that provides: "The Secretary shall adopt and amend such rules as may be required for the proper administration and enforcement of this Section 16 consistent with the federal Real Estate Settlement Procedures Act and Section 24 of this Act." Both Section 24 of the Act and RESPA contain prohibitions concerning payments by title insurance companies and title insurance agents to others in exchange for the referral of business. Since PA 96-1454 requires that title insurance companies issue Closing Protection Letters in connection with closings, a title insurance company may offer a CPL at a reduced charge or at no charge to some customers while charging other customers a higher fee. Such disparate pricing is often a way of passing on a "discount or other thing of value" in exchange for the referral of business. The proposed amendment provides that there will not be deemed to be an illegal inducement or attempted inducement for the referral of business so long as a title insurance company charges the amounts specified in the rule (Section 8100.2402(b)(8)). In addition the language of PA 96-1454 results in the necessity of amending the current provision authorizing the issuance of CPL's in certain cases in order to make the language of the rule consistent with the language of the new statute. (Section 8100.2402(c)(3).

6) Any published studies or reports, along with the sources of underlying data, that were used when comprising 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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand, or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Craig Cellini, Rules Coordinator
Department of Financial and Professional Regulation
320 West Washington, 3rd Floor
Springfield, Illinois 62767-0001

217/785-0813

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities, and not-for-profit corporations affected: Title Insurance Companies and agents

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

TITLE 50: INSURANCE
CHAPTER V: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 8100
TITLE INSURANCE ACT

SUBPART A: RULES OF GENERAL APPLICATION

Section
8100.100 Notice of Suspension or Revocation
8100.105 Notification of Noncompliance or Material Change
8100.110 Display of Certificates or Registrations
8100.114 Certification
8100.115 Prohibition on Filing Application
8100.120 Computation of Time
8100.121 Requirements as to Proper Form
8100.125 Place of Filing
8100.130 Additional Information
8100.135 Additional Exhibits
8100.140 Information Unknown or Not Reasonably Available
8100.145 Requirements as to Paper, Printing and Language
8100.150 Number of Copies--Signatures
8100.155 Examination Fees
8100.170 Extension of Date for Filing
8100.190 Provisions for Granting of Variance from Rules

SUBPART B: DEFINITIONS

Section
8100.200 Definition of terms Used in this Part
8100.205 Definition of the term "Domestic Title Insurance Company" as Used in the Act
8100.210 Definition of the term "Application" as Used in Sections 4.(d) and 8.(b) of the Act
8100.215 Definition of the term "Audit" as Used in Section 12.(b) of the Act
8100.220 Definition of the term "Bonds of the United States" as Used in Section 4.(a) of the Act
8100.225 Definition of the term "Bonds ... of Any Body Politic of This State" as Used in Section 4.(a) of the Act
8100.230 Definition of the term "Bonds ... of This State" as Used in Section 4.(a) of the Act
8100.235 Definition of the term "Qualified to Do Business in This State" as Used in Section

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

4.(a) of the Act
8100.240 Definition of the term "Title Plant" as Used in Section 7.(b) of the Act
8100.245 Definition of the term "Net Retained Liability" as Used in Sections 8.(a) and 11.(c)(2) of the Act
8100.250 Definition of the term "Capital" as Used in Section 9.(a) of the Act
8100.255 Definition of the term "Notice" as Used in Section 9.(b) of the Act
8100.260 Definition of the term "Alien Title Insurance Company" as Used in Section 11.(b) of the Act
8100.265 Definition of the term "Foreign Title Insurance Company" as Used in Section 11.(b) and 15 of the Act
8100.270 Definition of the term "Like Purposes" as Used in Section 15 of the Act
8100.275 Definition of the term "Party" as Used in Section 23 of the Act
8100.280 Definition of the term "Person" as Used in Section 24 of the Act

SUBPART C: TITLE INSURANCE COMPANIES

Section
8100.400 Bonds and Securities Acceptable for Deposit
8100.401 Place of Deposit
8100.402 Computation of Amount on Deposit
8100.403 Exchange of Bonds on Deposit
8100.900 Impairment
8100.905 Definition of the Term "Statutory Liabilities" as Used in This Subpart
8100.1000 Date of Redetermination of Required Reserves
8100.1005 Records of Required Reserves
8100.1100 Records of Statutory Premium Reserve
8100.1200 Consumer Complaints
8100.1300 Report of Condition
8100.1500 Due Date for Filing Report
8100.1505 Due Date for Deposits and Payments
8100.1510 Review of Reports
8100.1515 Due Date for Delinquency Assessment

SUBPART D: TITLE INSURANCE AGENTS

Section
8100.1600 Registration of Title Insurance Agents

SUBPART E: INDEPENDENT ESCROWEES

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

Section
8100.1700 Bonds and Securities Acceptable for Deposit
8100.1701 Place of Deposit
8100.1702 Computation of Amount on Deposit
8100.1703 Exchange of Bonds on Deposit
8100.1704 Starker Exchange
8100.1705 Independent Accountant
8100.1706 Notice of Judgments
8100.1708 Maintenance of Books
8100.1710 Annual Report
8100.1712 Due Date for Filing of Annual Report
8100.1714 Confirmation of Escrow Fund and Liability
8100.1716 Basis of Books
8100.1718 Posting Dates
8100.1720 Escrow Books
8100.1722 General Books
8100.1724 Special Accounts
8100.1726 Records to be Preserved
8100.1728 Withdrawals From Special Accounts
8100.1730 Debit Balances Prohibited
8100.1732 Delivery of Documents or Property
8100.1734 Dated Instructions
8100.1738 Printed Instructions
8100.1740 Withdrawal of Escrow Fees
8100.1742 Notice of Interest
8100.1744 Transfers Between Escrows
8100.1746 Escrow Receipts
8100.1748 Drawing of Checks
8100.1750 Statement of Account

SUBPART G: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section
8100.2010 Request for Non-Binding Statements

SUBPART H: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

8100.2100 Preamble
8100.2102 Qualifications and Duties of the Hearing Officer
8100.2104 Notice of Hearing
8100.2106 Institution of a Contested Case by the Division
8100.2108 Requirement to File an Answer
8100.2110 Amendment or Withdrawal of the Notice of Hearing
8100.2112 Representation
8100.2114 Special Appearance
8100.2116 Substitution of Parties
8100.2118 Failure to Appear
8100.2120 Motions
8100.2122 Requirements Relating to Continuances
8100.2124 Rules of Evidence
8100.2126 Form of Papers
8100.2128 Bill of Particulars
8100.2130 Discovery
8100.2132 Examination of Witnesses
8100.2134 Subpoenas
8100.2136 Pre-Hearing Conferences
8100.2138 Record of a Pre-Hearing Conference
8100.2140 Hearings
8100.2142 Record of Proceedings
8100.2144 Record of Hearing
8100.2146 Orders
8100.2148 Stipulations
8100.2150 Open Hearings
8100.2152 Corrections to the Transcript
8100.2160 Disputes Between Parties Certified or Registered by the Division

SUBPART I: CONSUMER PROTECTION

Section
8100.2400 Preamble (Repealed)
8100.2402 Standards of Conduct
8100.2405 Definition of the term "Thing of Value" as Used in This Subpart
8100.2406 Borrower's Right to Cancel

SUBPART J: PUBLIC INFORMATION

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

Section
8100.3000 Non-Public Distribution of Information

AUTHORITY: Implementing and authorized by the Title Insurance Act [215 ILCS 155].

SOURCE: Emergency rules adopted at 14 Ill. Reg. 305, effective January 1, 1990, for a maximum of 150 days; adopted at 14 Ill. Reg. 8600, effective May 21, 1990; amended at 26 Ill. Reg. 14265, effective October 1, 2002; amended at 34 Ill. Reg. 852, effective December 29, 2009; amended at 35 Ill. Reg. _____, effective _____.

SUBPART I: CONSUMER PROTECTION

Section 8100.2402 Standards of Conduct

a) No title insurance company, title agent or independent escrowee shall pay, furnish, or agree to pay or furnish, either directly or indirectly, to or on behalf of any of the persons listed, any commission or any part of the fees or charges or any other thing of value as consideration for any past, present, or future title insurance business, any closing and settlement services or any other title business:

1) any producer of title business, escrow business, or any associate of a producer;

2) any obligee or prospective obligee of any obligation secured or to be secured either in whole or in part by real property or any interest therein; and

3) any person who is acting as or who is in the business of acting as agent, representative, attorney or employee of any of the persons described in subsections (a)(1) and (2)~~ above~~.

b) As relates to transactions defined in Section 18~~.~~(a) of the Act as applied to the persons set forth in subsection (a)~~ above~~ and to the extent that there is any inducement or attempted inducement in the placement of title insurance business, closing and settlement services or any other title business, instances of acts and practices which violate RESPA standards and are unlawful include, but are not limited to:

1) the disbursement of funds prior to the actual delivery of funds acceptable

to the closing and settlement services agent;

2) the disbursement of closing and settlement services funds before all necessary conditions of the transaction have been met;

3) paying for, furnishing or offering to pay for or furnish any reward, or compensation for any past, present or future title insurance business or closing and settlement services or any other title business including, but not limited to, the payment of a fee to an attorney for the referral of title business;

4) paying or offering to pay, any fee to a producer of title business for making an inspection or appraisal of property;

5) any transaction in which any person, as set forth in subsection (a)~~ above~~ is to receive, securities of the title insurance company, title insurance agent or independent escrowee at prices below the normal market price, or bonds or debentures that~~which~~ guarantee a higher than normal interest rate, whether or not the consummation of such transaction is directly or indirectly related to the number of closing and settlement services or title orders coming to the title insurance company, title insurance agent or independent escrowee through the efforts of that~~such~~ person;

6) furnishing to any producer of title business or associate of a producer reports containing publicly recorded information, appraisals, estimates of income production potential, information kits or similar packages containing information about one or more parcels of real property helpful to any producer of title business without making a charge that is commensurate with the actual cost of the work performed and the material furnished;

7) making or guaranteeing or offering to make or guarantee, either directly or indirectly, any loan to any producer of title business or associate of a producer, with terms more favorable than otherwise available to the producer;

8) guaranteeing, or offering to guarantee, the proper performance of closing and settlement services or undertakings that~~which~~ are to be performed by any producer of title business; however, the Director shall not deem any

inducement or attempted inducement in the placement of title insurance business, closing and settlement services or any other title business to have occurred if the title insurance company issuing a closing protection letter or affording closing protection by contract pursuant to Sections 16 and 16.1 of the Act, charges:

A) not less than $25 for each party receiving protection afforded by a closing protection letter or protection afforded by contract in the case of a buyer or lender receiving a title insurance policy in connection with the real property transaction giving rise to the issuance of the closing protection letter or affording of protection by contract;

B) not less than $50 for each party receiving protection afforded by a closing protection letter or protection afforded by contract in the case of a seller conveying or owner financing or refinancing property and not receiving a title insurance policy in connection with the real property transaction giving rise to the issuance of the closing protection letter or affording of protection by contract; or

C) A buyer, a seller, or an owner financing or refinancing property is each considered a single party to the transaction for purposes of this subsection (b)(8)(C), regardless of the number of people or entities making up the buyer, seller, or owner financing or refinancing property;

9) providing, or offering to provide, either directly or indirectly, a compensating balance or deposit in a lending institution either for the express or implied purpose of influencing the placement or channeling of title insurance business by the~~such~~ lending institution; this provision does not prohibit the maintenance by a title insurance company, title agent or independent escrowee of demand deposits or escrow deposits that~~which~~ are reasonably necessary for use in the ordinary course of the business of the title insurance company, title agent or independent escrowee;

10) paying for, or offering to pay for, the fees or charges of an outside professional (e.g., an attorney, engineer, appraiser, or surveyor) whose services are required by any producer of title business to structure or complete a particular transaction;

11) providing, or offering to provide, non-title services (e.g., computerized bookkeeping, forms management, computer programming, or any similar benefit) without a charge that~~which~~ is commensurate with the actual cost to any producer of title business or to any associate of a producer of title business;

12) furnishing, or offering to furnish, all or any part of the time or productive effort of any employee of the title insurance company, title insurance agent, or independent escrowee (e.g., office manager, escrow officer, secretary, clerk, messenger, etc.) to any producer of the title business or associate of a producer of title business;

13) paying for, or offering to pay for, all or any part of the salary of an employee of any producer of title business;

14) paying for, or offering to pay for, the salary or any part of the salary of a relative of any producer of title business that~~which~~ payment is in excess of the reasonable value of work performed by such relative on behalf of the title insurance company, title insurance agent or independent escrowee;

15) paying for, or offering to pay for, services by any producer of title business that~~which services~~ are ordinarily to be performed by the~~such~~ producer of title business in his or her licensed capacity as a real estate or mortgage broker or salesman or agent;

16) furnishing or offering to furnish, paying for or offering to pay for, furniture, office supplies, telephones, facsimile machines, equipment or automobiles to any producer of title business, or paying for, or offering to pay for, any portion of the cost of renting, leasing, operating or maintaining any of the aforementioned items;

17) paying for, furnishing, or waiving, or offering to pay for, furnish, or waive, all or any part of the rent for space occupied by any producer of title business;

18) renting, or offering to rent, space from any producer of title business, regardless of the purpose, at a rent that~~which~~ is excessive when compared with rents for comparable space in the geographic area, or paying, or

offering to pay, rent based in whole or in part on the volume of business generated by any producer of title business;

19) paying for, or offering to pay for, gifts, vacations, business trips, convention expenses, travel expenses, membership fees, registration fees, lodging or meals on behalf of a producer of title insurance, directly or indirectly, or supplying letters of credit, credit cards or any such benefits;

20) paying for, or offering to pay the cancellation fee for a title report or other fee on behalf of any producer of title business either before or after inducing the~~such~~ producer of title business to cancel an order with another title insurance company, title insurance agent or independent escrowee;

21) paying for or furnishing, or offering to pay for or furnish, any business form to any producer of title business other than a form regularly used in the conduct of the title insurance company's business and is furnished for the convenience of the title insurance company and does not constitute a direct monetary benefit to any producer of title business;

22) giving of trading stamps, cash redemption coupons or similar items to any producer of title business.

c) As relates to transactions defined in Section 18~~.~~(a) of the Act and as applied to the persons set forth in subsection (a)~~ above~~, instances of acts and practices that~~which~~ do not violate RESPA standards and are lawful include, but are not limited to:

1) publishing or printing and disseminating by a title insurance company, title insurance agent or independent escrowee any education information notwithstanding that the~~such~~ information may be of benefit to a producer of title business;

2) distributing by a title insurance company, title insurance agent or independent escrowee information, whether printed or oral, advertising novelties and gift items not to exceed ~~Twenty-five dollars (~~$25~~.00)~~ in value that bear the name of the giver (but not the name of the recipient) to producers of title business;

3) issuing by a title insurance company a closing protection letter or affording closing protection by contract, both pursuant to Section 16 or

16.1 of the Act, in favor of any insured or other party in any transaction that~~which~~ protects~~guarantees to~~ the insured or other party as provided in Section 16 or 16.1 of the Act~~that the closing shall be conducted by itself or its registered title insurance agent, that the documents thereunder shall be recorded and distributed, and that the title insurance policy shall be issued in accordance with the terms of the insured's closing instruction letter~~;

4) providing by title insurance companies, title insurance agents or independent escrowees reasonable promotional and educational activities that are not conditioned on the referral of business and that do not involve the defraying of expenses that otherwise would be incurred by persons in a position to refer settlement services or business incident thereto, such as a reception by a title company, seminars on title matters to professionals, furnishing property descriptions and names of record owners without charge to lenders, real estate brokers, attorneys, or others, or distribution of calendars and other promotional material, each, not to exceed ~~Twenty-five dollars (~~$25~~.00)~~ in value.

d) Nothing in this Section shall be construed as prohibiting:

1) the payment of a fee:

A) that~~which~~ bears a reasonable relationship to the value of the services rendered or performed:

i~~A~~) by any person or party to attorneys at law for services actually rendered, or

ii~~B~~) by a title company to its duly appointed agent for services actually performed in the issuance of a policy of title insurance, or

iii~~C~~) by a lender to its duly appointed agent for services actually performed in the making of a loan;~~,~~ and

B) that~~which~~ fee is paid to a settlement service provider for services outside of the normal scope of that provider's services to the parties to the transaction.

2) the payment to any person of a bona fide salary or compensation or other payment for goods or facilities actually furnished or for services actually performed, so long as the salary, compensation or other payment bears a reasonable relationship to the value of the services, goods or facilities.

3) proportionate returns on an ownership or franchise interest.

4) the ordinary and customary business entertainment or promotional activities by title insurance companies, title insurance agents or independent escrowees that~~which~~ are not directly or indirectly consideration as an inducement or compensation for the referral of title business or for the referral of any escrow or other service from a title insurance company, title insurance agent or independent escrowee.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Illinois Public Accounting Act

2) Code Citation: 68 Ill. Adm. Code 1420

3) Section Numbers: 1420.75 — Proposed Action: New Section

4) Statutory Authority: Implementing the Illinois Public Accounting Act [225 ILCS 450/16(e)] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]

5) A Complete Description of the Subjects and Issues Involved: Section 16(e) of the Act has been amended to require firms and sole practitioners, as a condition of renewal for all renewals after July 1, 2012, to satisfactorily complete a peer review in the preceding 3-year period; this proposed rulemaking adds Section 1420.75 to fully implement the peer review process.

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: This rulemaking has no impact on local governments.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0813 Fax: 217/557-4451

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing public accounting services.

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

C) Types of professional skills necessary for compliance: Public accounting skills are required for licensure.

14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1420
ILLINOIS PUBLIC ACCOUNTING ACT

Section
1420.10 Experience
1420.20 Application for Licensure as a Certified Public Accountant
1420.25 Application for Licensure as a Registered Certified Public Accountant
1420.30 Application for Licensure-Firm
1420.35 Temporary Practice
1420.40 Fees for the Administration of the Act
1420.50 Endorsement
1420.60 Restoration
1420.70 Continuing Professional Education
1420.75 Peer Review
1420.80 Renewals
1420.90 Annual Report of the Committee
1420.100 Conduct of Hearings (Repealed)
1420.110 Granting Variances

AUTHORITY: Implementing the Illinois Public Accounting Act [225 ILCS 450] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations for the Administration and Enforcement of the Provisions of the Illinois Public Accounting Act, effective June 30, 1975; codified at 5 Ill. Reg. 11058; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7748, effective June 15, 1982; emergency amendment at 7 Ill. Reg. 14548, effective October 13, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 6179, effective April 25, 1984; amended at 9 Ill. Reg. 5708, effective April 15, 1985; amended at 9 Ill. Reg. 8738, effective May 28, 1985; amended at 9 Ill. Reg. 13360, effective August 21, 1985; amended at 10 Ill. Reg. 20739, effective December 1, 1986; amended at 11 Ill. Reg. 18276, effective October 27, 1987; transferred from Chapter I, 68 Ill. Adm. Code 420 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1420 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2944; amended at 19 Ill. Reg. 16258, effective November 28, 1995; amended at 21 Ill. Reg. 15255, effective November 17, 1997; amended at

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

24 Ill. Reg. 14005, effective August 31, 2000; amended at 29 Ill. Reg. 9853, effective August 1, 2005; emergency amendment at 30 Ill. Reg. 16435, effective September 29, 2006; amended at 31 Ill. Reg. 3475, effective February 15, 2007; amended at 35 Ill. Reg. _____, effective _____.

Section 1420.75 Peer Review

a) Establishment of Peer Review Program

1) Pursuant to Section 16(e) of the Illinois Public Accounting Act (Act), the Division establishes a Peer Review Program to monitor a firm's and sole practitioner's compliance with applicable accounting, auditing and other attestation standards adopted by generally recognized standard-setting bodies. The program may include education, remediation, disciplinary sanctions or other corrective action in which performance does not comply with professional or regulatory standards.

2) The Division shall not require any firm or sole practitioner to become a member of any Peer Review Administrator.

b) Standards for Peer Reviews
The Division adopts the American Institute of Certified Public Accountants (AICPA) Standards for Performing and Reporting on Peer Reviews and related Interpretations, 1211 Avenue of the Americas, New York NY 10036, for reviews commencing on or after January 1, 2009, and for public company audit firms the firm inspection standards required under the Sarbanes-Oxley Act of 2002 (SOX), as its minimum standards for review.

c) Peer Review Administrators

1) The Division, upon recommendation of the Public Accountant Registration Committee (Committee), approves as a Qualified Peer Review Administrator the AICPA, AICPA National Peer Review Committee, the Illinois CPA Society, other state CPA societies and other organizations that are fully involved in the administration of the AICPA Peer Review Program, the National Conference of CPA Practitioners (NCCPAP) and the Public Company Accounting Oversight Board (PCAOB).

2) A Peer Review Administrator not listed in subsection (c)(1) shall make an application to the Division, on forms prepared by the Division, to receive authorization to act as a Peer Review Administrator.

3) To qualify as a Peer Review Administrator, an entity must annually submit a peer review plan of administration to the Division for review and approval. The plan of administration must:

A) establish a Peer Review Report Committee (PRRC), and subcommittees as needed, and provide professional staff as needed for the operation of the peer review program;

B) establish a program to communicate to firms and sole practitioners participating in the peer review program the latest developments in peer review standards and the most common findings in the peer reviews conducted by the Peer Review Administrator;

C) establish procedures for resolving any disagreement that may arise out of the performance of a peer review;

D) establish procedures to resolve matters that may lead to the dismissal of a firm or sole practitioner from the peer review program;

E) establish procedures to evaluate and document the performance of each reviewer, which may lead to the disqualification of a reviewer who does not meet the AICPA standards;

F) require the maintenance of records of peer reviews conducted under the program in accordance with the record retention rules of the AICPA; and

G) provide reports on the results of the peer review program to the Division upon request.

4) A Peer Review Administrator shall submit its plan of administration on forms prepared by the Division. Peer Review Administrators listed in subsection (c)(1) are exempt from the plan of administration submission requirements.

5) A Peer Review Administrator is subject to oversight for the purpose of carrying out the provisions of the Act.

d) Enrollment and Participation

1) For renewals on or after July 1, 2012, satisfactory completion of a peer review is required as a condition for renewal of a license for each firm or sole practitioner who provides services requiring a license under Section 8 of the Act. For purposes of this Section, satisfactory completion shall be defined as follows:

A) Peer reviews of firms and sole practitioners that are accepted by the PRRC without remedial or corrective actions shall be considered completed when accepted.

B) Peer reviews of firms and sole practitioners that are accepted by the PRRC subject to certain remedial or correction actions shall be considered accepted on the date the firm or sole practitioner signs an acceptance letter from the PRRC agreeing to complete the remedial or corrective actions and shall be considered completed when the firm or sole practitioner completes the remedial or corrective actions to the satisfaction of the PRRC. The Division may grant renewal of a firm's or sole practitioner's license upon the acceptance of its peer review, rather than upon the completion of its peer review.

C) Pursuant to Section 16(g) of the Act, the Division may hold a hearing for any firm or sole practitioner that fails to satisfactorily complete a peer review or comply with any remedial or corrective actions determined necessary by the PRRC.

2) Each firm or sole practitioner required to participate under Section 16(e) of the Act shall enroll in the program of an approved Peer Review Administrator and shall comply with the review due date assigned by an approved Peer Review Administrator. It is the responsibility of the firm or sole practitioner required to complete a peer review to schedule and satisfactorily complete a peer review prior to the expiration date set for renewal. Failure to schedule a peer review with an approved Peer Review

Administrator in sufficient time to enable the Peer Review Administrator to accept the review, as determined by the Peer Review Administrator, by the renewal date shall not constitute an excuse for failure to satisfactorily complete the peer review required for renewal.

3) The Division may accept extensions granted by the Peer Review Administrator to complete a review, provided the Division is notified by the firm or sole practitioner within 20 days after the date that an extension is granted. Extensions exceeding 3 months beyond the original due date established by the Peer Review Administrator must be approved by the Division and only for reasonable cause. Reasonable cause shall be determined on an individual basis by the Division and be defined as an inability to fulfill the peer review requirements during the applicable prerenewal period due to:

A) full-time service by a sole practitioner in the armed forces of the United States of America during a substantial part of the prerenewal period;

B) a temporary incapacitating illness of a sole practitioner documented by a statement from a currently licensed physician;

C) undue hardship (prolonged hospitalization, family illness, firm dissolution or reorganization); or

D) any other similar extenuating circumstances.

4) A firm or sole practitioner may choose from among the list of Qualified Peer Review Administrators in subsection (c) to administer its peer review; but must comply with all requirements of the Peer Review Administrator with which it is enrolled.

5) A firm or sole practitioner choosing to change to another Peer Review Administrator may do so provided that the firm or sole practitioner authorizes the previous Peer Review Administrator to communicate to the succeeding Peer Review Administrator any outstanding corrective actions related to the firm's or sole practitioner's most recent review. Any outstanding actions must be cleared and the peer review satisfactorily

completed in accordance with subsections (d)(1)(A) and (B) prior to transfer between Peer Review Administrators.

6) An out-of-state firm practicing in this State pursuant to a practice privilege provided for in Section 5.2(d) of the Act must comply with the peer review program of the state in which the firm is licensed.

7) An out-of-state firm practicing in this State pursuant to a practice privilege provided for in Section 5.2(d) of the Act from a state without a peer review program must comply with the peer review requirements set forth in Section 16(e) of the Act.

8) An out-of-state firm practicing in this State pursuant to a practice privilege provided for in Section 5.2(d) of the Act must submit proof of satisfactory completion of a peer review (or equivalent) and the out-of-state firm shall submit documentation of the satisfactory completion of a peer review at the request of the Division.

9) In the event a firm's or sole practitioner's practice is sold, dissolved or merged with the practice of one or more firms or sole practitioners, determination of successor or predecessor firms, peer review year-end and peer review due date, if any, will be determined by the Peer Review Administrator.

e) Effect of Successive Substandard Reviews

1) A firm or sole practitioner, or its successor, may have an accelerated review as required by the Peer Review Administrator if it receives two consecutive system or engagement reviews with a peer review rating of pass with deficiencies (formerly "modified").

2) A firm or sole practitioner, or its successor, shall have an accelerated review as required by the Peer Review Administrator if it receives two consecutive system or engagement reviews with a peer review rating of fail (formerly "adverse") or if it receives a rating of fail and a rating of pass with deficiencies within 2 consecutive system or engagement reviews.

3) If any accelerated review results in a peer review rating of pass with deficiencies or fail:

A) the firm or sole practitioner may complete attest engagements for which field work has already begun only if it engages a third party reviewer acceptable to the Division; and

B) the firm or sole practitioner shall not perform any other service requiring a license under Section 8 of the Act until given permission by the Division to resume practice. The Division may impose disciplinary or nondisciplinary guidelines and conditions for continued practice.

4) The Division in its discretion may require any firm or sole practitioner that has received a report with a peer review rating of pass with deficiencies or fail to be subject to remedial action as determined by the Division.

f) Peer Review Report Committee Qualifications and Responsibilities

1) Peer Review Report Committee members are subject to the qualifications and have the responsibilities outlined in the AICPA Standards for Performing and Reporting on Peer Reviews and related guidance.

2) Each PRRC member must comply with the confidentiality requirements of Section 16(f)(2) of the Act. The Peer Review Administrator may annually require its PRRC members to sign a statement acknowledging their appointments and the responsibilities and obligations of their appointments.

g) Division Access to Results of Firm's or Sole Practitioner's Peer Reviews

1) The Division may request from a firm or a sole practitioner any of the following peer review documents:

A) peer review report;

B) letter of response, if applicable;

C) acceptance letter;

D) letter signed by the reviewed firm accepting the peer review documents with the understanding that the firm agrees to take certain actions, if applicable;

E) letter notifying the reviewed firm that certain required actions have been completed, if applicable.

2) To comply with the Division's request in subsection (g)(1), the firm or sole practitioner must submit the requested documents to the Division within 45 days after the request, either by mail or electronically (e.g., by fax or email). In addition, the submission requirement may be met by allowing the documents to be made available to the Division via a state board access only website by the Peer Review Administrator (when that process is available).

(Source: Added at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Real Estate License Act of 2000

2) Code Citation: 68 Ill. Adm. Code 1450

3)

Section Numbers:	Proposed Action:
1450.10	Repealed
1450.15	Repealed
1450.20	Repealed
1450.25	Repealed
1450.30	Repealed
1450.35	Repealed
1450.40	Repealed
1450.50	Repealed
1450.55	Repealed
1450.60	Repealed
1450.65	Repealed
1450.70	Repealed
1450.75	Repealed
1450.80	Repealed
1450.85	Repealed
1450.90	Repealed
1450.95	Repealed
1450.100	Repealed
1450.105	Repealed
1450.110	Repealed
1450.115	Repealed
1450.120	Repealed
1450.125	Repealed
1450.130	Repealed
1450.135	Repealed
1450.140	Repealed
1450.145	Repealed
1450.150	Repealed
1450.155	Repealed
1450.160	Repealed
1450.165	Repealed
1450.170	Repealed
1450.175	Repealed
1450.180	Repealed

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED REPEALER

1450.185	Repealed
1450.190	Repealed
1450.195	Repealed
1450.200	Repealed
1450.205	Repealed
1450.207	Repealed
1450.210	Repealed
1450.215	Repealed
1450.220	Repealed
1450.225	Repealed
1450.230	Repealed
1450.235	Repealed
1450.240	Repealed
1450.245	Repealed
1450.246	Repealed
1450.250	Repealed
1450.255	Repealed
1450.260	Repealed
1450.265	Repealed
1450.266	Repealed
1450.270	Repealed
1450.275	Repealed
1450.276	Repealed
1450.277	Repealed
1450.278	Repealed
1450.280	Repealed
1450.285	Repealed
1450.286	Repealed
1450.287	Repealed
1450.288	Repealed
1450.290	Repealed
1450.295	Repealed
1450.300	Repealed
1450.305	Repealed
1450.310	Repealed
1450.315	Repealed
1450.320	Repealed
1450.325	Repealed
1450.330	Repealed

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED REPEALER

1450.335	Repealed
1450.340	Repealed

4) Statutory Authority: Implementing the Real Estate License Act of 2000 [225 ILCS 454] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]

5) A Complete Description of the Subjects and Issues Involved: As a result of the sunset review process, the vast majority of the Real Estate License Act of 2000 was rewritten under Public Act 96-856. Due to the extensive statutory revisions and the need to update, rewrite and reorganize the underlying regulatory standards, at this time the Division will repeal the original Part 1450, while simultaneously promulgating a replacement regulation under the same Part number. The Divisions proposed rules also appears in this Illinois Register.

6) Any published studies or reports, along with the sources of underlying data, that were used when comprising 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: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield, IL 62786

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED REPEALER

217/785/0813 Fax: 217/557-4451

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

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2010

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED REPEALER

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VIII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1450
REAL ESTATE LICENSE ACT OF 2000 (REPEALED)

SUBPART A: DEFINITIONS

Section
1450.10 Definitions

SUBPART B: LEASING AGENT RULES

Section
1450.15 Leasing Agent General Provisions
1450.20 Leasing Agent Examination Requirement
1450.25 Sponsor Card for Leasing Agents
1450.30 Issuance of Leasing Agent License
1450.35 Termination of Employment of Leasing Agent
1450.40 120 Day Leasing Agent Permit
1450.50 Continuing Education Requirement for Leasing Agents
1450.55 Approved Courses, Schools and Instructors for Leasing Agents

SUBPART C: LICENSING AND EDUCATION

Section
1450.60 Educational Requirements to Obtain a Broker's or Salesperson's License
1450.65 Salesperson and Broker Examinations
1450.70 Applications for Salesperson's and Broker's Licenses by Examination
1450.75 Sponsor Cards for Brokers and Salespersons
1450.80 Branch Offices
1450.85 Corporations, Limited Liability Companies, Partnerships, and Limited Partnerships
1450.90 Assumed Name
1450.95 Fees
1450.100 Nonresident Licensure by Reciprocity
1450.105 Renewals
1450.110 Change of Information

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED REPEALER

1450.115 Continuing Education
1450.120 Rental Finding Services

SUBPART D: COMPENSATION AND BUSINESS PRACTICES

Section
1450.125 Managing Broker Responsibilities
1450.130 Supervision
1450.135 Discrimination
1450.140 Advertising
1450.145 Internet Advertising
1450.150 Office Identification Signs
1450.155 Display of Licenses
1450.160 Employment Agreements
1450.165 Unlicensed Assistants
1450.170 Corporation for Indirect Payment
1450.175 Special Accounts
1450.180 Record Keeping
1450.185 Disclosure of Compensation
1450.190 Disclosure of Licensee Status
1450.195 Brokerage Agreements and Listing Agreements
1450.200 Written Agreements
1450.205 Referral Fees and Affinity Relationships

SUBPART E: AGENCY RELATIONSHIPS

Section
1450.207 Confidentiality
1450.210 Failure to Disclose Information Not Affecting Physical Condition
1450.215 Licensee Serving as a Dual Agent in a Transaction Where a Licensee is a Party to the Transaction

SUBPART F: DISCIPLINE RULES AND PROCEDURES

Section
1450.220 Unprofessional Conduct
1450.225 Suspension or Denial for Failure to Pay Taxes, Child Support or Any Illinois-Guaranteed Student Loan
1450.230 Temporary Suspension

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED REPEALER

1450.235 Otherwise Discipline
1450.240 Dissolution: Effect of Suspension or Revocation of Sponsoring Brokers or Managing Brokers
1450.245 Inspections and Audits
1450.246 Audits of Special Funds by Outside Auditors
1450.250 Case File Review Committee
1450.255 Hearings
1450.260 Real Estate Recovery Fund
1450.265 Automatic Termination Upon Order to Payout from the Real Estate Recovery Fund
1450.266 Advisory Letters

SUBPART G: PRE-LICENSE AND CONTINUING EDUCATION RULES

Section
1450.270 Definition of Schools and School Branch (Repealed)
1450.275 Pre-License Schools
1450.276 Curriculum for Pre-License Schools
1450.277 Expiration Date and Renewal Period for Pre-License Schools
1450.278 Pre-License Instructors
1450.280 Expiration Date and Renewal Period for Pre-License Instructors
1450.285 Continuing Education Schools
1450.286 Curriculum for Continuing Education Schools and Course Registration Process
1450.287 Expiration Date and Renewal Period for Continuing Education Schools
1450.288 Continuing Education Instructors
1450.290 Expiration Date and Renewal Period for Continuing Education Instructors
1450.295 Distance Education Courses
1450.300 Class Attendance Requirements (Repealed)
1450.305 Recruitment at Test Center
1450.310 Withdrawal of Approval of Schools (Repealed)
1450.315 Discipline of Schools or Instructors

SUBPART H: GRANTING VARIANCES

Section
1450.320 Granting Variances

SUBPART J: TRANSITION RULES

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED REPEALER

Section
1450.325 Salesperson Applicants – Transition Provisions
1450.330 Broker Applicants – Transition Provisions
1450.335 Continuing Education – Transition Provisions
1450.340 Education License Renewals – Transition Provisions

AUTHORITY: Implementing the Real Estate License Act of 2000 [225 ILCS 454] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations for the Administration of the Real Estate Brokers and Salesmen License Act (General Rules), effective December 4, 1974; Rules and Regulations for the Administration of the Real Estate Brokers and Salesmen License Act (School Rules), effective July 29, 1974; amended at 3 Ill. Reg. 885, effective February 2, 1979; amended at 4 Ill. Reg. 195, effective August 12, 1980; amended at 5 Ill. Reg. 5343, effective May 6, 1981; amended at 5 Ill. Reg. 8541, effective August 10, 1981; codified at 5 Ill. Reg. 11064; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; emergency amendment at 6 Ill. Reg. 2406, effective February 3, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8221, effective July 1, 1982; amended at 9 Ill. Reg. 341, effective January 3, 1985; transferred from Chapter I, 68 Ill. Adm. Code 450 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1450 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2977; amended at 12 Ill. Reg. 8036, effective April 26, 1988; amended at 15 Ill. Reg. 10416, effective July 1, 1991; amended at 16 Ill. Reg. 3204, effective February 14, 1992; emergency amendment at 19 Ill. Reg. 12003, effective August 8, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16623, effective December 1, 1995; amended at 20 Ill. Reg. 6492, effective April 30, 1996; recodified from Chapter VII, Department of Professional Regulation, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-23 and PA 89-508, at 20 Ill. Reg. 11984; amended at 21 Ill. Reg. 3602, effective March 7, 1997; amended at 21 Ill. Reg. 8350, effective June 30, 1997; old Part repealed and new Part adopted by emergency rulemaking at 24 Ill. Reg. 704, effective January 1, 2000, for a maximum of 150 days; old Part repealed and new Part adopted at 24 Ill. Reg. 8263, effective May 30, 2000; amended at 27 Ill. Reg. 12018, effective July 9, 2003; amended at 28 Ill. Reg. 2141, effective January 22, 2004; amended at 30 Ill. Reg. 11075, effective June 8, 2006; amended at 32 Ill. Reg. 6503, effective April 2, 2008; repealed at 35 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

Section 1450.10 Definitions

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED REPEALER

Unless otherwise clarified by this Part, definitions set forth in the Act also apply for purposes of this Part.

"Act" means the Real Estate License Act of 2000 [225 ILCS 454].

"Affidavit of Non-participation" means a sworn statement made by an unlicensed person associated with or an owner of a licensed real estate corporation, limited liability company, partnership, or limited partnership attesting that the unlicensed person is not actively directing or engaging in real estate activities as part of that association or ownership.

"Certificate of registration" means the document issued by the Division indicating approval of a continuing education course for which CE credit can be granted.

"Compliance agreement" means an agreement entered into between a licensee and the Division in conjunction with an administrative warning letter.

"Credit hour" means classroom attendance for a minimum of 50 minutes of lecture or its equivalent through a distance education program approved by the Division.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Division of Professional Regulation with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation-Division of Professional Regulation.

"Good moral character" means a reliable and trustworthy character as will enable a person to discharge the duties of a real estate licensee in a manner which protects the public's interest and welfare. Evidence of inability to discharge such duties may include the commission of conduct violative of Section 20-20 of the Act.

"Managing broker" means a broker who has supervisory responsibilities for licensees in one or, in the case of a multi-office company, more than one office and who has been appointed as such by the sponsoring broker. Refer to the

definition of sponsoring broker below.

"Moral turpitude" means conduct that is inherently base, depraved or vile.

"Office" means a real estate broker's place of business where the general public is invited to transact business and where records may be maintained and licenses displayed, whether or not it is the broker's principal place of business. When determining whether an office exists the following shall be considered by the Division:

An office is any business location or structure which is owned, controlled, operated or maintained by a person who, at that location or structure, is:

engaging in licensed activities;

offering real estate services to consumers;

holding out to the public that the person is engaged in the practice of real estate brokerage;

maintaining original real estate documents and records related to active or pending transactions;

maintaining current escrow records; or

meeting consumers for the purpose of engaging in real estate licensed activities.

The following places do not constitute an office:

a motor vehicle primarily used for transportation;

a place whose purpose is solely devoted to advertising real estate matters of a general nature or to making a sponsoring broker's business name generally known;

a place which a licensee uses solely for storage or archiving of records; or

a licensee's residence unless held out to the public as a location at which real estate brokerage services are available to the public.

A licensee engaged in the practice of real estate brokerage shall maintain an office. If the licensee is sponsored by another, then the office shall be the office of the sponsoring broker.

A post office box, mail drop location, or other similar facility shall not constitute an office, so long as none of the activities described in this definition take place at this facility.

"School branch" means a location where a pre-license school provides instruction other than the sponsoring school's principal location.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"Semester hours" shall be converted into quarter hours at a ratio of 2 semester hours to 3 quarter hours.

"Sole owner" when used to describe a licensee means a licensee who has a 100% ownership interest alone, has ownership as a joint tenant or tenant by the entirety or holds 100% beneficial interest in a land trust.

"Sponsoring broker" means the broker who has issued a sponsor card to a licensed salesperson, another licensed broker, or a leasing agent.

There shall be only one sponsoring broker for any one real estate company. According to the definition herein, the sponsoring broker is the entity holding the company real estate license, whether the entity is an individual who operates as a sole proprietorship, a partnership, limited liability company, corporation or registered limited liability partnership.

The entity that is the sponsoring broker for the real estate company may delegate its duties in accordance with company policy to appropriate company personnel, authorized to act and sign on behalf of the sponsoring broker.

Some examples include but are not limited to:

the sponsoring broker could authorize a managing broker for the company to sign sponsor cards in the name of the sponsoring broker;

the sponsoring broker could authorize a qualified company employee or independent contractor to oversee bookkeeping duties relative to the sponsoring broker's escrow account;

the sponsoring broker may delegate authorized signers for the escrow account to sign on behalf of the sponsoring broker; and

the sponsoring broker may delegate to authorized company personnel, the ability to sign contracts entered into by the sponsoring broker in accordance with the sponsoring broker's company policy.

SUBPART B: LICENSING AND EDUCATION

Section 1450.15 Leasing Agent General Provisions

a) A licensed leasing agent shall not engage in any licensed activities other than those activities relating to the leasing of residential real property. A licensed leasing agent may not offer or negotiate the sale or exchange of real estate, or engage in any other activities described in Section 1-10 of the Act not relating to the leasing of residential real estate.

b) No person other than a duly authorized broker, salesperson, or leasing agent or an individual working under a 120 day leasing agent permit shall engage in, for compensation, residential leasing activities for which a license is required under the Act.

c) No leasing agent licensee may accept compensation for the performance of leasing agent activities except from the sponsoring broker by whom the licensee is employed.

Section 1450.20 Leasing Agent Examination Requirement

a) The Division or its designated testing service shall conduct the examinations at

times and places as the Division shall approve.

b) If a person who has received a passing score on the examination fails to file an application and meet all requirements for a leasing agent license within one year after receiving a passing score on the examination, credit for the examination shall terminate. The person thereafter may make a new application for examination.

c) If an individual has failed the examination three times, the individual must repeat the education requirement set forth in Section 5-10 of the Act prior to taking the examination again.

Section 1450.25 Sponsor Card for Leasing Agents

a) Except for a person working under a 120 day leasing agent permit as provided in Section 1450.40 of this Subpart, no leasing agent license applicant may engage in the activities of a licensed leasing agent until a valid sponsor card has been issued to the applicant.

b) A sponsoring broker shall prepare upon forms provided by the Division and deliver to each leasing agent employed by the broker a sponsor card certifying that the person whose name appears thereon is in fact employed by that broker, and that the applicant has not practiced under a 120 day leasing agent permit for more than 120 days.

c) A sponsor card properly issued pursuant to this Section shall serve as a temporary permit allowing the sponsored individual to engage in practice as a leasing agent until the applicant is issued a leasing agent license. An applicant may practice under a sponsor card temporary permit for a maximum of 45 days.

d) A licensed real estate broker may issue a sponsor card to an individual only in the following circumstances:

1) upon presentation of a leasing agent examination pass score report which states that the broker may issue a sponsor card; or

2) upon presentation of an original leasing agent license which is endorsed by the broker by whom the leasing agent was previously employed.

e) The sponsoring broker shall, within 24 hours after issuance of the sponsor card, submit the following to the Division by certified or registered mail, return receipt requested, or other signature restricted delivery service.

1) For applicants for an initial leasing agent license:

A) a copy of the sponsor card and transcript, if applicable;

B) a leasing agent examination pass score report which states that the broker may issue a sponsor card;

C) a leasing agent license application that is signed by the applicant and on which all questions have been answered; and

D) the license application fee required by Section 1450.95 of this Part.

2) For persons already holding a leasing agent license:

A) a copy of the sponsor card; and

B) the properly endorsed leasing agent license and pocket card of the sponsored licensee.

f) A broker issuing a sponsor card shall retain a copy of the sponsor card until such time as the leasing agent license is received and properly displayed in the broker's office.

Section 1450.30 Issuance of Leasing Agent License

a) The Division shall, within 30 days after receipt of the copy of the sponsor card and other documentation submitted by the issuing broker, issue a leasing agent license and a pocket card to the sponsored licensee or notify the applicant why the license cannot be issued.

b) A leasing agent license shall be conspicuously displayed in the sponsoring broker's office. Each licensee shall carry on the licensee's person the licensee's pocket card or, if a pocket card has not yet been issued, a properly issued sponsor card, when engaging in any licensed activity. The licensee shall display the pocket card or sponsor card upon demand.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED REPEALER

Section 1450.35 Termination of Employment of Leasing Agent

a) Upon termination of employment of a leasing agent licensee, the sponsoring broker shall immediately:

1) endorse the leasing agent's license as provided on that document;

2) submit a photocopy of the endorsed license to the Division within 2 days after termination by certified mail, return receipt requested, or other signature restricted delivery service;

3) retain a copy of the endorsed license at least until the expiration date printed on that license; and

4) give the original endorsed license indicating the termination to the licensee.

b) Once a license is endorsed, the leasing agent licensee is prohibited from practicing until the licensee is again issued a properly completed sponsor card.

Section 1450.40 120 Day Leasing Agent Permit

a) Pursuant to Section 5-5(d) of the Act, a person engaging in practice under the provisions of this Section shall first obtain a 120 day leasing agent permit. A permit holder shall comply with all provisions of the Act and this Subpart as if the permit holder were a licensee, and shall be subject to standards of practice and disciplinary provisions as if the permit holder were a licensee. A broker supervising a permit holder shall be responsible for the activities and actions of a permit holder as if the permit holder were a leasing agent licensee.

b) Within 24 hours after employing a permit holder, a broker shall submit the following information to the Division on forms provided by the Division:

1) the name, address and other information as is requested by the Division to identify the permit holder;

2) certification by the permit holder that the applicant has not been a leasing agent licensee within the past two years and that the applicant has not been

a permit holder within the past two years;

3) certification that the permit holder is at least 18 years of age;

4) certification that the permit holder has successfully completed a four year course of study in a high school or secondary school or an equivalent course of study approved by the Illinois State Board of Education (e.g., GED); and

5) certification that the permit holder is at the time of application, or will be within a period of 90 days, enrolled in a leasing agent course of instruction approved by the Division.

c) Upon expiration of the 120 day leasing agent permit period, the permit holder shall immediately cease engaging in leasing agent activities unless the person has been issued a leasing agent sponsor card or a leasing agent license.

d) A person shall not practice pursuant to a 120 day leasing agent permit more than once in any 24 month period. A person who has been a leasing agent licensee within the past 24 month period shall not practice as a 120 day permit holder.

Section 1450.50 Continuing Education Requirement for Leasing Agents

a) Beginning with the July 31, 2000 renewal of licenses for leasing agents, and for every renewal thereafter, each leasing agent licensee shall complete during the 24 month period prior to that renewal a minimum of six hours of continuing education (CE) that is relevant to leasing residential real property and is approved by the Advisory Council created by Section 30-10 of the Act. Approved courses shall, at a minimum, cover recent changes in the Act and other laws affecting the leasing of residential real estate and material regarding fair housing laws relating to the leasing of residential real property.

b) A renewal applicant is not required to comply with these requirements for the first renewal following the original issuance of the applicant's leasing agent license.

c) Continuing education schools, instructors, and courses must be approved by the Division as provided in Section 1450.285 of this Part.

d) Licensee compliance with CE requirements shall be certified pursuant to the

following provisions:

1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements of this Section.

2) The Division may, in the context of compliance audits, require additional evidence demonstrating compliance with the CE requirements (e.g., a certificate of attendance). It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

3) In the context of a compliance audit, the Division shall accept verification (e.g., original transcript, certificate of attendance) submitted directly from a school on behalf of a renewal applicant as proof of CE compliance.

4) When there appears to be a lack of compliance with CE requirements, a licensee shall be subject to discipline pursuant to this Part and the Act.

e) The Division shall conduct audits pursuant to Section 1450.245 to verify compliance with this Section.

Section 1450.55 Approved Courses, Schools and Instructors for Leasing Agents

All pre-license education courses, continuing education courses, schools and instructors relating to leasing agent licensure must be approved by the Advisory Council and licensed pursuant to Sections 1450.275 and 1450.285 of this Part.

SUBPART C: LICENSING AND EDUCATION

Section 1450.60 Educational Requirements to Obtain a Broker's or Salesperson's License

a) An applicant for a salesperson's license must have successfully completed 45 credit hours of instruction in an approved Real Estate Transaction Course or have received a baccalaureate or master's degree in accounting, real estate, law, finance, business, or other degrees approved by the Division.

b) 120 credit hours of instruction in approved courses or a baccalaureate degree including courses involving real estate or related material are required for broker applicants. Credit shall be given for class hours successfully completed in the following manner:

1) 45 credit hours for a Real Estate Transactions course;

2) 15 credit hours for a Brokerage Administration course;

3) 15 credit hours for Contracts and Conveyances;

4) 15 credit hours of mandatory course work as established by the Education Advisory Council and the Division;

5) Credit for the remaining 30 class hours may be obtained by completing at least two of the following courses listed:

A) Appraisal

B) Property Management

C) Financing

D) Sales and Brokerage

E) Farm Property Management

F) Real Property Insurance

c) An applicant for a broker license who is licensed as an Illinois real estate salesperson is presumed to have completed a 45 credit hour Real Estate Transactions course provided that the licensee has not been nonrenewed for the preceding two years or more. Having received 45 class hours credit as a licensed real estate salesperson, an additional 45 class hours credit cannot be earned by taking a Real Estate Transactions course.

Section 1450.65 Salesperson and Broker Examinations

a) Each applicant for a salesperson's license shall file an application for examination as determined by the designated testing service. The application shall include:

1) Certification that the applicant is 21 years of age or 18 having attained the education required by Section 5-25 of the Act. Forty-eight semester hours

shall meet the minimum requirements of Section 5-25.

2) Certification of graduation from high school or its equivalent (e.g., GED).

3) The required fee as provided in Section 1450.95 of this Part.

4) Proof of one of the following:

A) Currently admitted to practice law by the Supreme Court of Illinois;

B) Completion of at least 45 class hours of instruction in real estate courses approved by the Advisory Council;

C) Completion of a correspondence course approved by the Advisory Council in accordance with Section 1450.295 of this Part; or

D) Evidence of receiving a baccalaureate or master's degree from a college or university in accounting, real estate, law, finance, business, or other degrees approved by the Division.

b) Each applicant for a broker's license shall file an application for examination as determined by the designated testing service. The application shall include:

1) Certification that the applicant is 21 years of age or 18 having attained the education required by Section 5-25 of the Act. Forty-eight semester hours shall meet the requirements of Section 5-25;

2) Certification of graduation from high school or its equivalent (e.g., GED);

3) The required fee as provided in Section 1450.95 of this Part;

4) Proof of one of the following:

A) Currently admitted to practice law by the Supreme Court of Illinois;

B) Completion of at least 120 hours of instruction in real estate courses approved by the Advisory Council in accordance with

Section 1450.275;

C) Completion of a correspondence course approved by the Advisory Council in accordance with Section 1450.295 of this Part; or

D) Evidence of receiving a baccalaureate or master's degree from a college or university in accounting, real estate, law, finance, business, or other degrees approved by the Division.

c) Applicants who complete the instruction described in subsection (b)(4)(B) after the final filing date for an examination will be permitted to submit proof prior to the examination, subject to the late fee and late proof procedures established by the testing service designated by the Division.

d) If an applicant has failed an examination 3 times, the applicant must repeat the pre-license education in order to be readmitted to sit for the examination.

e) Pursuant to Section 5-35(c) of the Act, the 3 year time period does not apply to education earned as part of a baccalaureate degree program.

Section 1450.70 Applications for Salespersons and Brokers Licenses by Examination

a) Each applicant for a salesperson's license shall submit to the Division:

1) An application which is signed by the applicant and on which all questions have been answered;

2) The fee as provided by Section 1450.95 of this Part;

3) Proof of successful completion of the examination authorized by the Division;

4) A properly completed sponsor card issued in accordance with Section 1450.75 of this Part; and

5) Transcript, if applicable.

b) Each applicant for a broker's license shall submit to the Division:

1) An application which is signed and on which all questions have been answered;

2) The fee as provided by Section 1450.95 of this Part;

3) Proof of successful completion of the examination authorized by the Division;

4) A properly completed sponsor card form issued in accordance with Section 1450.75 of this Part;

5) Transcript, if applicable; and

6) If the applicant will be a sponsoring broker, a properly completed consent to audit and examine special accounts form.

c) An applicant shall have one year from the date of receipt of a passing score on the examination to file an application with the Division and to meet all of the requirements for licensure.

Section 1450.75 Sponsor Cards for Brokers and Salespersons

a) A properly issued sponsor card shall serve as a temporary permit allowing the sponsored individual to engage in the practice of real estate for a maximum of 45 days only for the sponsoring broker named on the sponsor card.

b) The sponsoring broker shall issue a sponsor card to an individual only in the following instances:

1) Upon presentation of a real estate examination pass score report which states that the broker may issue a sponsor card;

2) Upon presentation of an original license endorsed by the broker by whom the licensee was previously employed or with whom the licensee was previously associated; or

3) Upon presentation of a license expired for less than 2 years.

c) Upon issuance of a sponsor card, the issuing broker shall, within 24 hours after

issuance, submit the following to the Division by certified or registered mail return receipt requested or other signature restricted delivery service:

1) For Licensees

A) a copy of the sponsor card and transcript, if applicable;

B) appropriate sponsor card fee as set forth in Section 1450.95 of this Part; and

C) one of the following:

i) the properly endorsed real estate license and pocket card of the sponsored licensee; or

ii) an expired license of the sponsored licensee along with the fee as provided by Section 1450.95 of this Part and proof of education, if applicable, as required by Section 5-50 or 5-55 of the Act; or

iii) the pocket card of the licensee and a sworn statement by the licensee explaining why the license is not submitted.

If neither the license nor pocket card is available, the status of the license shall be verified by the Director or his or her designee.

2) For Salesperson Applicants

A) a copy of the sponsor card and transcript, if applicable;

B) a real estate pass score report which states that the broker may issue a sponsor card; and

C) other documentation as required by Section 1450.70 of this Part.

3) For Broker Applicants

A) a copy of the sponsor card and transcript, if applicable;

B) a real estate pass score report which states that the broker may issue a sponsor card; and

C) other documentation as required by Section 1450.70 of this Part.

4) Should applicant be found not to have completed all the requirements, the applicant's sponsor card shall be void, the applicant shall be considered to have never been authorized to practice, and the applicant shall be subject to disciplinary action in accordance with Section 20-20 of the Act and Section 1450.220 of this Part.

d) A licensed real estate broker may practice as a sole proprietor, partnership, corporation, or limited liability company provided that prior to doing business the broker complies with the licensing requirements for partnerships, corporations or limited liability companies set forth in Section 1450.85 of this Part and submits the following to the Division by certified or registered mail return receipt requested or other signature restricted delivery service:

1) a copy of the sponsor card issued to himself;

2) the appropriate sponsor card fee as provided by Section 1450.95(h)(2); and

3) one of the following:

A) his or her properly endorsed real estate broker license and pocket card; or

B) an expired broker license along with the fee set forth in Section 1450.95 and proof of education, if applicable, as required by Section 1450.105; or

C) the pocket card and a sworn statement by the licensee explaining why the license is not submitted. If neither the license nor the pocket card is available, the status of the license shall be verified by the Director or his or her designee; or

D) a completed consent to audit and examine special accounts form if one is not already on file.

e) The Division shall, within 30 days after receipt of the sponsor card, appropriate fees and appropriate documentation, issue a license to the sponsored licensee, or notify the applicant why the license cannot be issued.

f) Expiration of the Sponsor Card. A sponsor card shall be valid for a period of 45 days from issue date unless extended for an additional 45 days by the Division for good cause.

1) Good cause shall be limited to those instances where the Division has unnecessarily delayed the processing of a license.

2) The request for extension shall be considered granted only upon written notice from the Division.

g) The sponsoring broker shall retain a copy of the sponsor card until the license is received.

h) Upon termination of a licensee, a sponsoring broker shall immediately:

1) Endorse the licensee's license as provided for on that document;

2) Submit a photocopy of the endorsed license to the Division within 2 business days after termination by certified or registered mail return receipt requested, or other signature restricted delivery service;

3) Retain a copy of the endorsed license at least until the expiration date printed on that license; and

4) Give the original endorsed license to the licensee.

i) Once a license has been endorsed, the licensee is prohibited from practicing real estate until the licensee is issued a properly completed sponsor card.

j) Each licensee shall carry either a properly issued sponsor card or a valid pocket card at all times and shall display same upon demand.

Section 1450.80 Branch Offices

a) A sponsoring broker wanting to operate a real estate branch office shall, in accordance with Section 5-45 of the Act, file an application with the Division, on forms provided by the Division, together with the following:

1) A properly completed Consent to Examine and Audit Special Accounts form;

2) The name and license number of the manager of the branch office; and

3) All required fees under Section 1450.95.

b) Upon receipt of the above documents and review of the application, the Division shall issue a license authorizing the sponsoring broker to engage in real estate activities at that branch office or shall notify the applicant of the reason for the denial of the license.

c) The name of the branch office shall be the same as that of the main office, or shall clearly delineate the branch office's relationship with the main office (e.g., affiliated with, associated with, subsidiary of).

d) The sponsoring broker shall not open a branch office or have licensees working from a branch office until after receipt of the branch office license.

Section 1450.85 Corporations, Limited Liability Companies, Partnerships, and Limited Partnerships

a) Persons who desire to practice real estate in this State in the form of a corporation, limited liability company, or partnership shall, in accordance with Section 5-15 of the Act, file an application with the Division, on forms provided by the Division, together with the following:

1) If an assumed name is to be used, a copy of the assumed name certificate;

2) A Federal Employer Identification Number (FEIN). If a FEIN has not been issued, a photocopy of the FEIN application;

3) A properly completed Consent to Examine and Audit Special Accounts form;

4) A properly completed real estate corporation/limited liability company/partnership information form;

5) The fee as provided by Section 1450.95 of this Subpart.

b) All requirements for a license to practice as a corporation, limited liability company or partnership shall be met within 1 year after the date of original application or the application shall be denied and the fee forfeited. Thereafter, to be considered for licensure, the applicant shall file a new application and fee.

c) Corporations, in addition to the items listed in subsection (a) of this Section, shall submit the following:

1) The name of the corporation and its registered address, a list of all officers, and the license number for each officer who is licensed as a real estate broker;

2) A copy of the Articles of Incorporation bearing the seal of the office, in the jurisdiction in which the corporation is organized, whose duty it is to register corporations under the laws of that jurisdiction. If it is a foreign corporation, a copy of the certificate of authority to transact business in this State is also required;

3) All unlicensed officers shall submit affidavits of non-participation with the corporation application. Licensed salespersons shall not be officers of the corporation even if they submit an affidavit of non-participation; and

4) A list of all shareholders, the number of shares of the corporation owned and the license number for each shareholder who is a licensee.

d) Limited Liability Companies

1) Limited liability companies, in addition to the items listed in subsection (a), shall submit the following:

A) The name of the limited liability company and its registered address, a list of all members, and the license number for each member who has an Illinois real estate license. If a member of the limited liability company is a business entity, the applicant shall

identify any licensees who are owners, officers, managers, or partners of the business entity;

B) A list of all managers and their broker license numbers;

C) A copy of the Articles of Organization filed with the Secretary of State or, if it is a foreign limited liability company, a copy of the application for admission endorsed by the Secretary of State.

2) All unlicensed members shall submit with the limited liability company application affidavits of non-participation. Licensed salespersons shall not be managers of the limited liability company even if they submit an affidavit of non-participation.

e) Partnerships, in addition to the items listed in subsection (a), shall submit the following:

1) An application containing the name of the partnership and its business address and the names of all general partners, and the broker license number of each general partner. Licensed salespersons shall not be general partners.

2) An affidavit stating that the partnership has been legally formed.

f) Limited partnerships, in addition to the items listed in subsection (a), shall submit the following:

1) A letter of authority from the Secretary of State's Limited Partnership Department or, if it is a foreign limited partnership, a copy of the application for admission endorsed by the Secretary of State;

2) A listing of all general partners and, if any general partner is a real estate licensee, the broker license number for each licensed general partner;

3) All unlicensed general partners must submit with the partnership application affidavits of non-participation; and

4) If the general partner is an entity, the identity and license number of any brokerage licenses who are owners, managers, members or partners of the

entity.

g) In assessing the restrictions against a salesperson or leasing agent, or group of salespersons or leasing agents, owning, or directly or indirectly controlling, more than 49% of a corporation, limited liability company, or partnership, pursuant to Section 5-15(e) of the Act the following may be considered:

1) For corporations: the Division may consider the role of any salespersons or leasing agents in any limited liability company or partnership that may have an interest in the corporation.

2) Limited liability companies: the Division may consider the role of any salespersons or leasing agents in any corporation or partnership that may serve as a member or manager of the limited liability company.

3) Partnerships: the Division may consider the role of any salespersons or leasing agents in any corporation or limited liability company that may serve as a limited partner. Additional information may be requested by the Division as necessary to determine compliance with this restriction.

h) Upon receipt of the above documents and review of the application, the Division shall issue a license authorizing the corporation, limited liability company, or partnership to engage in the practice of real estate or shall notify the applicant of the reason for the denial of the license.

Section 1450.90 Assumed Name

a) If a sponsoring broker acting as a sole proprietor operates under any name other than that appearing on his or her license, the sponsoring broker shall submit to the Division a certified copy of the broker's registration under the Assumed Business Name Act [805 ILCS 405]. The assumed business name registration shall be obtained in each county in which the assumed business name is used. Any corporation, limited partnership, general partnership or limited liability company operating under any name other than that appearing on its application for a license shall provide to the Division a copy of the filing or certificate authorizing it to do business under an assumed name. Sponsored licensees may not operate under an assumed business name other than that of their sponsoring broker.

b) The licensee shall submit the information to the Division within 30 days after use

of the assumed name.

Section 1450.95 Fees

a) License of a Leasing Agent

1) The application fee for an initial leasing agent license shall be $75.

2) The application fee to renew a leasing agent license shall be $50 per year.

3) The late renewal fee for leasing agent licenses renewed after the expiration date of the license shall be $50.

4) The fee for issuing a 120 day leasing agent permit shall be $25.

b) License of Real Estate Salesperson

1) The fee for an initial license as a salesperson is $125. The fee must accompany the application to determine the applicant's fitness to receive a license.

2) The fee for renewal of a salesperson's license which has not expired shall be calculated at the rate of $50 per year.

3) The fee for the renewal of a salesperson's license which has been expired for not more than 2 years, as provided for in Section 5-55 of the Act, is the sum of all lapsed renewal fees plus $50.

c) License of Broker

1) The fee for an initial license as a broker is $125. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for the renewal of a broker's license which has not expired shall be calculated at the rate of $75 per year.

3) The fee for the renewal of a broker's license which has been expired for not more than 2 years, as provided for in Section 5-55 of the Act, is the sum of all lapsed renewal fees plus $50.

d) License of Partnership, Limited Liability Company, or Corporation

1) The fee for an initial license for a partnership, limited liability company, or corporation is $125. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for the renewal of a license for a partnership, limited liability company, or corporation shall be calculated at the rate of $75 per year.

3) The fee for the renewal of a license for a partnership, limited liability company or corporation which has been expired is the sum of all lapsed renewal fees plus $50.

e) License for Branch Office

1) The fee for an initial license for a branch office is $125. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for the renewal of a branch office license shall be calculated at the rate of $75 per year.

3) The fee for the renewal of a branch office license which has been expired is the sum of all lapsed renewal fees plus $50.

f) Pre-License School, Instructor, and Course Fees

1) The fee for an application for initial approval of a pre-license school is $1,025. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for renewal of approval of a pre-license school shall be calculated at the rate of $525 per year.

3) The fee for the renewal of approval of a pre-license school which has been expired is the sum of all lapsed renewal fees plus $50.

4) The fee for an application for initial approval of a branch for a pre-license

school is $175 per branch. The fee must accompany the application to determine an applicant's fitness to receive approval.

5) The fee for renewal of approval of a branch for a pre-license school shall be calculated at the rate of $125 per branch per year.

6) The fee for the renewal of approval of a branch for a pre-license school which has been expired is the sum of all lapsed renewal fees plus $50.

7) The fee for transferring a branch location shall be $25 per transfer.

8) The fee for application for initial approval of a pre-license instructor is $125. The fee must accompany the application to determine the applicant's fitness for approval.

9) The fee for renewal of approval of a pre-license instructor shall be calculated at the rate of $125 per year.

10) The fee for the renewal of approval of a pre-license instructor which has been expired is the sum of all lapsed renewal fees plus $50.

11) The fee for application for initial approval of a pre-license course is $125. The fee must accompany the application for approval.

12) The fee for renewal of approval of a pre-license course shall be calculated at the rate of $50 per year.

13) The fee for the renewal of approval of a pre-license course which has been expired is the sum of all lapsed renewal fees plus $50.

g) Continuing Education School, Instructor, and Course Fees

1) The fee for an application for initial approval as a continuing education (CE) school shall be $2,025. The fee must accompany the application to determine an applicant's fitness for approval.

2) The fee for renewal of approval as a CE school shall be $2,025 per year.

3) The fee for renewal of approval as a CE school which has expired shall be

all lapsed renewal fees plus $50.

4) The fee for an application for initial approval as a CE instructor shall be $75. The fee must accompany the application to determine an applicant's fitness to receive approval.

5) The fee for renewal of approval as a CE instructor shall be $75 per year.

6) The fee for the renewal of approval as a CE instructor which has been expired shall be all lapsed renewal fees plus $50.

7) The fee for an application for initial approval of a CE course shall be $125. The fee must accompany the application for approval.

8) The fee for renewal of approval of a CE course shall be $50 per year.

9) The fee for renewal of approval of a CE course which has expired shall be all lapsed renewal fees plus $50.

h) General

1) All fees paid pursuant to the Act and this Section are non-refundable.

2) The fee for the issuance of a duplicate license or pocket card, for the issuance of a replacement license or pocket card for a license or pocket card which has been lost or destroyed, for the issuance of a license with a change of name or address other than during the renewal period, or for the issuance of a license with a change of location of business, is $25.

3) The fee for a certification of a licensee's record for any purpose is $25.

4) The fee for a wall license showing registration shall be the cost of producing the license.

5) The fee for a roster of persons licensed under the Act or for a list of licensees sponsored by the sponsoring broker shall be the cost of producing the roster.

6) Applicants for an examination as a leasing agent, broker, salesperson, or

instructor shall be required to pay a fee covering the cost of providing the examination. If a designated testing service is utilized for the examination, the fee shall be paid directly to the designated testing service. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged, shall result in the forfeiture of the examination fee.

7) The fee for requesting a waiver of continuing education requirements pursuant to Section 5-70 of the Act shall be $25.

8) The fee for processing a sponsor card other than at the time of original licensure is $25.

9) The fee for a copy of a transcript of the proceedings under Section 20-60(h) of the Act shall be the cost of a copy of the transcript. A copy of the balance of the record will be provided at the Division's cost for producing the record.

10) The fee for certifying the record referred to in Section 20-75 of the Act is $1 per page of the record.

11) The Division may charge an administrative fee not to exceed $500, as a part of a compliance agreement issued with an administrative warning letter pursuant to Section 1450.250(d)(2).

12) Each university, college, community college or school supported by public funds shall be exempt from the school licensure fees provided each university, college, community college or school meets the following criteria:

A) the facility is supported by public funds;

B) the instructors are considered full-time faculty and are supported by public funds or if the administrator of the real estate school/program/curricula is considered full-time with exclusive responsibility for the administration of the real estate school/program/curricula and is supported by public funds;

C) the program, pre-license and/or continuing education, revenues are deposited into the general fund of the university, college, community college or school as are other appropriated public funds; and

D) the program, pre-license and/or continuing education, is not a for-profit division of the university, college, community college or school.

Section 1450.100 Nonresident Licensure by Reciprocity

a) A nonresident broker's license shall be issued to a real estate broker licensed under the laws of his or her state of domicile under the following conditions:

1) That the broker is the holder of an active broker's license in his or her state of domicile;

2) The Division has a reciprocal agreement with the broker's state of domicile that includes the provisions of this Section;

3) That the standards of that state for licensing as a real estate broker are substantially equivalent to or greater than the minimum standards in Illinois;

4) That the broker maintains a definite place of business in his or her state of domicile and has been actively engaged in the real estate business as a broker during the immediately preceding 2 years; and

5) The broker shall file an application, on forms furnished by the Division, along with the required fee and:

A) a statement bearing the seal of the licensing authority from each state in which he or she is licensed, showing:

i) that he or she has an active license as a broker in that state;

ii) that the license is in good standing; and

iii) that no complaints are pending against the broker;

B) proof of passing an approved test on Illinois specific real estate brokerage laws;

C) if the broker does not maintain a definite office or place of business within the State of Illinois, a written statement which:

i) appoints the Director to act as the broker's agent upon whom all judicial and other process may be served;

ii) acknowledges and agrees to abide by all of the provisions of the Act with respect to all of the broker's activities within and relating to the State of Illinois; and

iii) assents to jurisdiction of the Division;

D) properly completed 45 day sponsor card form.

b) A nonresident salesperson's license may be issued to a real estate salesperson who is employed by or associated with a nonresident broker holding a broker license in this State under the following conditions:

1) That the salesperson is the holder of an active license in his or her state of domicile;

2) That the salesperson is domiciled in the same state as the broker with whom he or she is associated;

3) The Division has a reciprocal agreement with the salesperson's state of domicile that includes the provisions of this Section;

4) That the standards of that state for licensing as a salesperson are substantially equivalent to or greater than the minimum standards in Illinois; and

5) The salesperson shall file an application on forms furnished by the Division, along with the required fee and:

A) a properly completed 45 day sponsor card form;

B) a statement bearing the seal of the licensing authority from each state in which he or she is licensed, showing:

i) that he or she has an active license as a salesperson in that state;

ii) that the license is in good standing; and

iii) that no complaints are pending against the salesperson;

C) proof of passing an approved test on Illinois specific real estate brokerage laws; and

D) if the salesperson does not maintain a definite office or place of business within the State of Illinois, a written statement which:

i) appoints the Director to act as the salesperson's agent upon whom all judicial and other process may be served;

ii) acknowledges and agrees to abide by all of the provisions of the Act with respect to all of the salesperson's activities within and relating to the State of Illinois; and

iii) assents to jurisdiction of the Division.

c) Licenses previously granted under reciprocal agreements with other states shall remain in force so long as the Division has a reciprocal agreement with the state that includes the requirements of this Section, unless that license is suspended, revoked, or terminated by the Division for any reason provided for suspension, revocation, or termination of a resident licensee's license. Licenses granted under reciprocal agreements may be renewed in the same manner as a resident's license. Any licensee who renews a license which was granted under a reciprocal agreement thereby assents to jurisdiction without regard to the location of the licensee's domicile or principal business location or office locations.

d) Any person holding a valid nonresident license under this Section shall be eligible to obtain a broker's or salesperson's license of the type granted to residents without examination should that person change his/her state of domicile to Illinois

and that person otherwise meets the qualifications for licensure under this Act.

e) All requirements for nonresident licensure shall be met within 1 year after the date of original application or the application shall be denied and the fee forfeited. Thereafter, to be reconsidered for licensure, the applicant shall file a new application and fee.

Section 1450.105 Renewals

a) Every leasing agent license issued under the Act shall expire on July 31 of each even numbered year.

b) Every salesperson's license issued under the Act shall expire on April 30 of each odd numbered year. All salespersons licenses which expire on March 31, 2001, pursuant to the Real Estate License Act of 1983 shall be extended to April 30, 2001.

c) Every broker's license issued under the Act shall expire on April 30 of each even numbered year. All broker's licenses which expire on January 31, 2000, pursuant to the Real Estate License Act of 1983 shall be extended to April 30, 2000. Sponsoring brokers shall also submit a properly completed consent to audit and examine special accounts form.

d) Every license issued to a corporation, limited liability company, partnership, limited partnership, or branch office under the Act shall expire on October 31 of each even numbered year. The holder of the license shall submit the following:

1) A properly completed consent to audit and examine special accounts form; and

2) A properly completed change of business information form as provided for in Section 1450.110 of this Part.

e) Renewal applications shall be submitted on forms provided by the Division. All renewals shall include the name and license number of the sponsoring broker. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.

f) Practicing or offering to practice on an expired or inoperative license shall

constitute unlicensed or unauthorized practice and shall be grounds for discipline pursuant to Section 20-20 of the Act.

g) Any leasing agent, salesperson, or broker whose license under the Act has expired is eligible to renew the license without paying any lapsed renewal fees or reinstatement fee provided that the license expired while the licensee was:

1) on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard, the State Militia called into the service or training of the United States, or

2) engaged in training or education under the supervision of the United States prior to induction into military service, or

3) serving as the Director or Deputy Director, or as an employee of the Division. A licensee renewing his or her license in accordance with this subsection may renew the license within a period of two years following the termination of service and are not required to take a refresher course or a retest.

h) In accordance with Section 5-55 of the Act, any licensee whose license under this Act has expired for more than 2 years shall not be eligible for renewal of that license. Any licensee whose license has been expired for less than 2 years may renew the license at any time by complying with the requirements of this Part, by paying the fees required by Section 1450.95 of this Part and by providing the Division with evidence that the licensee has satisfactorily completed the required continuing education courses, including six hours per year while the license was expired.

i) In accordance with Section 5-50 of the Act, upon request, the Division shall prepare and mail to the sponsoring real estate broker a listing of licensees who, according to the records of the Division, are sponsored by that broker. The sponsoring broker shall notify the Division concerning any inaccuracies in the listing within 30 days after its receipt.

Section 1450.110 Change of Information

a) It is the responsibility of each licensee to immediately notify the Division of any change of name, address, or office location. For example, if the licensee has had a

name change either by court order or due to a change in marital status, the licensee shall notify the Division of the name change together with a certified copy of the marriage certificate or portions of the court order relating to the name change, and indicate under which name the license shall issue. If the licensee regularly practices under a diminutive of their first name (e.g., Meg for Margaret or Mark for Mariusz or Sam for Shamim), last name or a middle name instead of the licensee's full legal name, the licensee shall notify the Division of the alternate name. To help ensure proper credit, the licensee shall ensure that all continuing education certificates are issued under the name of licensure.

b) It is the responsibility of each sponsoring broker to immediately notify the Division of any change of business information.

1) When a licensee acquires or transfers any interest in a corporation, limited liability company, partnership, or limited partnership licensed under the Act, the sponsoring broker shall submit to the Division a properly completed change of business information form.

2) When a licensee becomes an officer or manager of a corporation, limited liability company, partnership, or limited partnership licensed under the Act, the sponsoring broker shall submit to the Division a properly completed change of business information form. Any changes in managing brokers, branch or principal offices shall be reported in writing to the Division within 15 days after the change.

Section 1450.115 Continuing Education

a) Continuing Education Hour Requirements

1) Pursuant to Article 5 of the Act, each licensee who is required to take continuing education (CE) shall complete 6 hours of CE for each year of the prerenewal period in courses approved by the Advisory Council. Licensees who complete CE after the expiration of a license are eligible for approval of CE only upon payment of all fees required by this Part and completion of the necessary forms.

2) Pursuant to Section 5-70 of the Act, CE requirements apply to those licensees who obtained initial licensure in Illinois on or after January 1, 1977 and those licensees who did not have a license for 15 years as of

January 1, 1992. Continuous licensure is not required to be eligible for this exemption. However, if a license has been expired for a period of 2 years or more, the date of initial licensure, for purposes of this Section, shall be the date of licensure after that nonrenewed period.

3) A renewal applicant is not required to complete CE requirements for the first renewal following original licensure if:

A) the initial salesperson's license was issued less than one year prior to the expiration date; or

B) the initial broker's license was issued less than one year prior to the expiration date.

4) A renewal applicant is required to complete 6 hours of continuing education if:

A) the licensee's initial salesperson license was issued more than one year prior to that licensee's first expiration date and less than two years prior to that licensee's first expiration date.

B) a broker's license was issued to a person, not already licensed as a salesperson, more than one year prior to that licensee's first broker expiration date and less than two years prior to that licensee's first broker expiration date.

5) Salespersons and brokers licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section, unless they are exempt pursuant to Section 5-70(a) of the Act or subsection (a)(2) or (a)(3).

6) The Division shall conduct random audits to verify compliance with this Section.

b) Approved Continuing Education

1) CE credit may be earned for verified attendance at or participation in a course which is offered by an approved CE school that meets the requirements set forth in Section 1450.285 of this Part.

2) CE credit may also be earned for completion of a self-study course that is offered by an approved CE school that meets the requirements set forth in Section 1450.295 of this Part.

3) Pursuant to Section 5-70 of the Act, the CE in a curriculum approved by the Education Advisory Council requirement shall be satisfied by successful completion of the following:

A) Core category. A minimum of 6 hours of CE in a curriculum approved by the Education Advisory Council.

B) Elective category. A maximum of 6 hours of CE in the following elective courses:

i) Appraisal;

ii) Property management;

iii) Residential brokerage;

iv) Farm property management;

v) Rights and duties of sellers, buyers and brokers;

vi) Commercial brokerage and leasing;

vii) Real estate financing; and

viii) Other CE courses approved by the Advisory Council (e.g., real estate tax laws).

4) One hour of approved CE shall include at least 50 minutes of classroom instruction and shall be exclusive of any time devoted to taking the examination as set forth in subsection (b)(6).

5) Each CE course shall include one or more subjects from either the core category or elective category set forth in subsection (b)(3)(A) or (b)(3)(B), where the individual is in actual attendance, or participates in, or

completes self-study. All CE courses shall be a minimum of three hours and shall be offered in three-hour increments. Each three-hour increment shall be from topics in the core or elective category. In no case shall topics from the core and elective category be combined within the same three-hour period. The CE school shall clearly indicate on the certificate of completion the number of hours earned from each CE course and identify whether the completed course was from the core or elective category.

6) Each CE course shall include the successful completion of an examination which measures the attendee's understanding of the course material. A score of at least 70% is required on the examination for successful completion of any CE course.

A) The examination shall be given on-site immediately following any CE course. When a sequence of courses is offered, the examination may be given either at the end of each individual course or it may be given at the end of the sequence of courses so long as the examination covers all aspects of the course material.

B) All examinations, including self-study examinations and retake examinations, shall be proctored by a representative of the approved CE school and shall include at least 25 questions for each three-hour increment of CE earned.

C) No credit for CE shall be given to any licensee unless the examination is successfully completed. The CE school shall allow the attendee one retake within 30 days after a failed examination in order to receive credit for CE. No more than one retake shall be allowed. A licensee failing a retake shall not receive credit for that CE course unless the entire course is retaken and the examination is successfully completed.

7) Self-study CE shall comply with all of the requirements of this Section, except that:

A) Verified attendance is only required for taking the examination.

B) Classroom instruction is not required for self-study CE, as the intent is for the licensees to review and learn the material on their

own.

C) Acceptable self-study materials include, but are not limited to, reading material and audio/video cassettes.

D) The examination site for self-study CE shall be determined by the CE school, and it shall be proctored by a representative of the approved sponsor. An approved instructor is not required to proctor the examination.

8) All CE courses shall:

A) Contribute to the advancement, integrity, extension and enhancement of professional skills and knowledge in the practice of real estate;

B) Provide experiences (e.g., role playing, lectures, films) which contain subject matter and course materials relevant to that set forth in Section 5-70 of the Act; and

C) Be developed and presented by persons with education and/or experience in the subject matter of the CE course.

9) Nothing shall prohibit an approved CE school and its instructors from utilizing audio-visual aides or satellite communications with two-way voice interaction in assisting in the presentation of CE courses.

10) Pursuant to Section 5-70(f) of the Act, CE credit may be earned by an approved instructor for teaching an approved CE course or pre-license course also approved for CE. Credit for teaching an approved CE course may only be earned one time per course during a prerenewal period. One hour of teaching is equal to one hour of CE.

11) As provided for in Section 5-75 of the Act, if licensees have earned CE hours offered in another state or territory for which they will be claiming credit toward full compliance in Illinois, each applicant shall submit an application along with a $25 processing fee within 90 days after completion of the CE course and prior to expiration of the license. The Advisory Council shall review and recommend approval or disapproval of

the CE course provided the CE school and CE course are substantially equivalent to those approved in Illinois and provided that the course included the successful completion of a proctored examination. In determining whether the CE school and CE course are substantially equivalent the Advisory Council shall use the criteria in Sections 5-70 through 5-85 of the Act and this Section.

12) CE credit shall not be given for CE courses taken in Illinois from schools not pre-approved by the Division.

13) Except for self-study CE courses, no more than 6 hours of CE may be taken in any calendar day.

c) Certification of Compliance with CE Requirements

1) Each licensee shall certify on the renewal application full compliance with the CE requirements set forth in subsections (a) and (b) of this Section.

2) The Division may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of completion, transcript, etc.). It is the responsibility of each renewal applicant as proof of CE completed.

3) When during an audit or compliance review, the Division determines that a licensee may be deficient in complying with CE requirements, the Division will notify the licensee, and the sponsoring broker of the licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery service, of the possible deficiency. The licensee shall have 60 days from the date the deficiency notification is mailed to submit to the Division evidence of compliance with CE requirements.

A) If satisfactory evidence of compliance with CE requirement (as set forth in subsection (c)(2) of this Section) is submitted, the Division shall notify the licensee by first class mail, that the licensee is in compliance.

B) If the licensee has certified compliance with CE requirements on the licensee's most recent renewal application pursuant to subsection (c)(1) of this Section but cannot submit evidence of

having been in compliance on the date the licensee made the certification, the licensee may during the 60 days notice period submit evidence of having attained compliance with CE requirements after the date the certification was made. The submission of evidence of post-certification completion must be accompanied by a non-refundable administrative fee of $25 per course credit hour completed after the date the licensee originally certified compliance. The submission of evidence will not be reviewed or considered if the proper fee does not accompany the submission. Upon submission of the evidence and appropriate fee, the evidence will be reviewed. If the evidence is found to be satisfactory, the Division shall notify the licensee and the sponsoring broker of the licensee that the licensee is in compliance. Any credit hours submitted for post-certification course completion and found satisfactory may not be used as credit for the next renewal requirements.

C) If the licensee fails to submit within the 60 day notice period satisfactory evidence of compliance with CE requirements, the failure shall be evidence of a violation of Section 20-20(a) of the Act regarding false or fraudulent representation to obtain a license and the continuing education requirements of Article 5 of the Act. The Division shall send notice pursuant to Section 20-60 of the Act indicating the commencement of disciplinary proceedings. A copy of this notice shall be sent to the sponsoring broker of the licensee.

Section 1450.120 Rental Finding Services

a) Definition – Application

1) A rental finding service is any business that finds, attempts to find, or offers to find, for any person who pays or is obligated to pay a fee or other valuable consideration, a unit of rental real estate or a lessee to occupy a unit of rental real estate not owned or leased by the business.

2) Any person, corporation, limited liability company, partnership, or limited partnership that operates a rental finding service shall be considered a broker or salesperson as defined in the Act, shall obtain a license pursuant to the Act, and shall comply with the provisions of this Section.

3) The provisions of this Section shall not apply to those exempted under Section 5-20 of the Act.

b) Contract. A rental finding service shall, prior to accepting a fee or other valuable consideration for the services, enter into a written contract with the person for whom such services are to be performed and deliver to the individual a copy of the contract. The contract shall include, in the case of a rental finding service that finds, offers, or attempts to find a unit of rental real estate for an individual, at a minimum, the following provisions:

1) The term of the contract;

2) The total amount to be paid for the services to be performed and a clear designation of the amount paid in advance of the performance of the services;

3) A statement regarding the refund or nonrefund of the fee paid in advance, which shall include:

A) the precise conditions, if any, upon which a refund is based;

B) the fact that the conditions shall occur within 90 days from the date of the contract;

C) the fact that the refund shall be paid no later than 10 days after demand, provided the check has been honored;

4) The statements required by subsection (b)(3) shall be uniform in type of a size larger than that used for the balance of the contract;

5) The type of rental unit desired, the geographical area requested, and the rent the prospective tenant is willing to pay;

6) A detailed statement of rental finding services to be performed by the licensee, which shall include, at a minimum, the delivery to the prospective tenant of all rental information listed in subsection (c);

7) A statement that the contract shall be null and void if information

concerning possible rental units or locations furnished by the licensee is not current or accurate with respect to the type of rental unit desired and described in subsection (b)(5). A listing for a rental unit that has not been available for rent for over two days shall be prima facie proof of not being current;

8) A statement that information furnished by the licensee concerning possible rental units may be up to 2 days old;

9) A statement requiring the licensee to refund all fees paid in connection with the contract if the contract is null and void for any reason. The licensee shall not impose any condition for the refund and the contract shall state when the refund will be paid.

c) Disclosure. Pursuant to subsection (b)(6), the following written information for each rental unit shall be provided to the person with whom the contract is entered:

1) The name, address, and the telephone number of the owner of each rental unit or the owner's authorized agent;

2) A description of the rental unit;

3) The amount of rent requested;

4) The amount of security deposit required;

5) A statement describing utilities that are located in the rental unit and included in the rent;

6) The occupancy date and the term of lease;

7) A statement setting forth the source of the rental information (i.e., owner, agent);

8) All other information that may reasonably be expected to be of concern to the prospective tenant.

d) Permission of Owner. A rental finding service shall not list or advertise any rental unit without the express written authority of the owner or agent of each unit.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED REPEALER

SUBPART D: COMPENSATION AND BUSINESS PRACTICES

Section 1450.125 Managing Broker Responsibilities

a) The sponsoring broker shall inform the Division in writing of the name and certificate number of all managing brokers employed by the sponsoring broker and the office or branch offices each managing broker is responsible for managing. Each managing broker shall have an active license as a broker.

b) The sponsoring broker shall be responsible for issuing sponsor cards. However, the sponsoring broker may delegate that responsibility to one or more managing brokers.

c) Upon written request within 15 days after the loss of a managing broker, the Division shall issue a written authorization to allow the continuing operation of a licensed office or branch office, provided that the sponsoring broker or representative under a duly executed power of attorney assumes responsibility, in writing, for the operation of the office and agrees to personally supervise the operations. No authorization shall be valid for more than 60 days unless extended by the Division for good cause and upon written request by the sponsoring broker. Good cause includes circumstances as sales under contract pending closing, loss of livelihood for sales associates, and undue hardship caused to sellers.

d) When a managing broker receives a renewal application from the Division for a licensee supervised by the managing broker or employed by the sponsoring broker of the manager, he shall notify the licensee of the receipt, personally within 7 days or by certified or registered mail or other signature restricted delivery service within 10 days. The notice shall also inform the licensee that any unprocessed renewal form will be returned to the Division by the managing broker. When a managing broker receives a renewal application from Division for a licensee not supervised by the managing broker or employed by the sponsoring broker of the managing broker, the renewal form shall immediately be returned to the Division.

e) All managing brokers shall notify the Division on business letterhead of any change of business address of the offices they manage within 24 hours of any change. Change of address is required for all offices and branch offices. A license returned to the Division for the reason described in this subsection shall remain in

good standing until the new licenses are issued and in the possession of the licensee.

f) The Division will honor the Order of a court of competent jurisdiction appointing a legal representative for the sole purpose of closing out the affairs of a deceased broker or a broker who has been adjudicated disabled, who was a sole proprietor, until the real estate brokerage is closed but not to actively engage in the brokerage business as defined in Section 1-10 of the Act.

Section 1450.130 Supervision

a) A managing broker shall exercise reasonable supervision over the activities of licensees and unlicensed assistants working in those offices managed by the managing broker. This supervision of activities includes:

1) the implementation of office policies and procedures established by the sponsoring broker;

2) training of licensees or unlicensed assistants;

3) assisting licensees as necessary in real estate transactions;

4) supervising those special (escrow) accounts over which the sponsoring broker has delegated responsibility to the managing broker in order to ensure compliance with the special (escrow) account provisions of the Act and this Part;

5) supervising all advertising of any service for which a license is required;

6) familiarizing sponsored licensees with the requirements of federal and state laws relating to the practice of real estate; and

7) compliance with this Part for licensees and offices under his/her supervision.

b) The sponsoring broker shall remain ultimately responsible for compliance with this Part. The sponsoring broker shall name a managing broker for every office.

Section 1450.135 Discrimination

a) No licensee shall enter into a listing agreement that prohibits the sale or rental of real estate to any person because of race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, or any other class protected by Article 3 of the Illinois Human Rights Act [775 ILCS 5/Art. 3].

b) No licensee shall act or undertake to act as a real estate broker or real estate salesperson with respect to any property the disposition of which is prohibited to any person because of race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, or any other class protected by Article 3 of the Illinois Human Rights Act.

Section 1450.140 Advertising

a) Deceptive and misleading advertising includes, but is not limited to, the following:

1) advertising a property that is subject to an exclusive listing agreement with a sponsoring broker other than the licensee's own without the permission of and identifying that listing broker;

2) failing to remove advertising of a listed property within a reasonable time, given the nature of the advertising, after the earlier of the closing of a sale on the listed property or the expiration or termination of the listing agreement;

3) advertising a property at auction as an absolute auction or auction without reserve, when there is a minimum bid or opening bid required; and

4) advertising a property in a manner that creates a reasonable likelihood of confusion regarding the permitted use of the property. Examples of such advertising would be advertising a property zoned single family as appropriate for multi-dwelling use by using words or phrases such as "apartment", "two units", or "separate living arrangement", unless such use is permitted by the zoning ordinance, a variance from the zoning ordinance, a conditional permitted use or an existing legal non-conforming use.

b) For the purposes of this Section and Section 1450.145 on Internet Advertising, listing information available on a sponsoring broker's or licensee's website, extranet or similar site but behind a firewall or similar device requiring a password, registration or other type of security clearance to access that information shall not be considered advertising.

c) For the purposes of this Section and Section 1450.145 on Internet Advertising, unsolicited marketing of a licensee's real estate brokerage services and farming (prospecting) shall be considered advertising.

d) Nothing in Section 10-30 of the Act shall require a sponsoring broker to include the name of one of its sponsored licensees on signs or other general advertising of the sponsoring broker.

Section 1450.145 Internet Advertising

a) Definitions. For the purposes of this Section, these terms shall be defined as follows:

1) Advertising or marketing real property: An Internet site which consists of information regarding properties which have been listed with a real estate brokerage company, the identity of that real estate brokerage company or licensee for each property and information related to those properties.

2) Advertising or marketing of real estate brokerage services: An Internet site which includes an offer or solicitation to provide services related to marketing or identifying real property for sale or lease.

3) Page: Each html document. This can include several screens of information that are viewed by scrolling down to the end of the document.

4) Frame: This refers to that portion of the Web page that does not change when the user links to a different site or moves to different pages.

5) Scraping: This term refers to using or altering existing listing information or keywords that are copied from one Internet site and posted or displayed for the benefit of the general public in front of a firewall at another site without written or electronic authorization and disclosure of ownership.

b) A sponsoring broker that has authorized advertising or marketing real property must include on the page on which the company or firm's advertisement or marketing appears the following data:

1) the city or geographic area in which the property being advertised or marketed is located;

2) the company's name as registered with the Division or the assumed name it has registered with the Division (commonly recognized abbreviations are permitted);

3) if the sponsoring broker does not hold a real estate brokerage license for the jurisdiction in which the property is located, the regulatory jurisdictions in which the sponsoring broker does hold a real estate brokerage license; and

4) if this information is contained on the frame on the sponsoring broker's site, it does not have to be included on every page of the site.

c) Sponsoring Broker's HomePage

1) A sponsoring broker advertising or marketing real estate brokerage services must include on the company's home page or on a clearly identified link appearing on that page the following data:

A) the company or firm's name as registered with the Division or the assumed name as it has registered with the Division (commonly recognized abbreviations are permitted); and

B) the city and state in which the company's principal office is located.

2) If this information is contained on the frame on the sponsoring broker's site, it does not have to be included on every page of the site.

d) Any licensee who has authorized advertising or marketing real property must include on the page of the site on which the licensee's advertisement or information appears the following data:

1) the licensee's name;

2) the city or geographic area in which the property being advertised or marketed is located;

3) the name of the company with which the licensee is affiliated as that company name is registered with the Division or the assumed name it has registered with the Division (commonly recognized abbreviations are permitted);

4) if the licensee does not hold a real estate broker or salesperson license for the jurisdiction in which the property is located, the regulatory jurisdictions in which the licensee does hold a real estate broker or salesperson license; and

5) if this information is contained on the frame on the licensee's site, it does not have to be included on every page of the site.

e) Licensee's HomePage

1) A licensee advertising or marketing real estate brokerage services must include on his or her home page the following data:

A) the licensee's name;

B) the name of the company with which the licensee is affiliated as that company name is registered with the Division or the assumed name it has registered with the Division (commonly recognized abbreviations are permitted); and

C) the city and state in which the licensee's office is located.

2) If this information is contained on the frame on the licensee's site, it does not have to be included on every page of the site.

f) Sponsoring Broker − E-commerce or Electronic Communications

1) A sponsoring broker using e-commerce or electronic communications, such as e-mail, e-mail discussion groups and bulletin boards for marketing

or transactional purposes, must include on the first or last page of all communications the following data:

A) the company or firm's name as registered with the Division or the assumed name it has registered with the Division (commonly recognized abbreviations are permitted); and

B) the city and state in which the sponsoring broker's main office or the office from which the communication originated is located.

2) This subsection (f) shall not apply to communications between a sponsoring broker and a member of the public provided that the member of the public has sent a communication to the licensed company and that the sponsoring broker's initial communication contained the information required in this subsection (f).

g) License − E-commerce or Electronic Communication

1) Any licensee using e-commerce or electronic communications, such as e-mail, e-mail discussion groups, and bulletin boards, for marketing or transactional purposes, must include on the first or last page of all communications the following data:

A) the licensee's name;

B) the name of the company with which the licensee is affiliated as that company name is registered with the Division (commonly recognized abbreviations are permitted); and

C) the city and state in which the licensee's office is located.

2) This subsection (g) shall not apply to communications between a licensee and a member of the public provided that the member of the public has sent a communication to the licensee and that the licensee's initial communication contained the information required in this subsection (g).

h) It will be considered to be a violation of the Act and this Part if a licensee or sponsoring broker scrapes, as defined in this Section, listing information from another site. Listing information obtained from another Internet site and placed

behind a firewall or other device which is password protected or requires registration by the consumer in order to access that information need not identify the original listing broker.

i) A sponsoring broker or licensee may link to listing information from another Internet site without approval unless the owner of the site linked to specifically requires consent. Any link must be done in a way that does not mislead or deceive the public as to the ownership of any listing information.

j) All licensees, including sponsoring brokers, shall periodically review the advertising and marketing information on their site and update as necessary to assure that the information is current and not misleading.

Section 1450.150 Office Identification Signs

a) An identification sign on the outside of an office shall be of a size and nature that it will be reasonably readable by the public. Listings within building directories fulfill the requirements of this Section.

b) Office identification signs must be professional in appearance and meet all applicable zoning restrictions and applicable restrictive covenants.

c) The identification sign must be plainly visible from an area accessible to the public.

Section 1450.155 Display of Licenses

a) The original licenses of all licensees must be displayed in the office in which they primarily work and in a manner that will be visible and physically accessible to the public.

b) "Accessible" areas may include, but are not limited to:

1) the wall of a public waiting or reception area; or

2) the wall of a main hallway the public can frequently walk through.

c) Managing brokers assigned to manage more than one office shall display copies of their license in those offices they manage, but that are not the primary office

out of which the manager works.

Section 1450.160 Employment Agreements

a) Every sponsoring broker shall have a written employment agreement with every sponsored licensee.

b) The employment agreement shall be dated and signed by the parties. The agreement shall include, at a minimum, the employment or independent contractor relationship terms, including, but not limited to, supervision, duties, compensation, duration, and termination. The term "duration", as used in this subsection, is not intended to require a specific termination date, but rather to allow the parties to negotiate the term of the agreement, such as "at will" or a specific length of time, and how the agreement is renewed or terminated. These provisions shall be included in the agreement.

c) The employing broker shall give to every employee and independent contractor a copy of the employment agreement and any modifications.

Section 1450.165 Unlicensed Assistants

a) Licensees under the Act may employ, or otherwise utilize the services of, unlicensed assistants to assist them with administrative, clerical, or personal activities for which a license under the Act is not required.

b) An unlicensed assistant, on behalf of and under the direction of a licensee, may engage in the following administrative, clerical, or personal activities without being in violation of the licensing requirements of the Act. The following list is intended to be illustrative and declarative of the Act and is not intended to increase or decrease the scope of activities for which a license is required under the Act. An unlicensed assistant of a licensee may:

1) answer the telephone, take messages, and forward calls to a licensee;

2) submit listings and changes to a multiple listing service;

3) follow up on a transaction after a contract has been signed;

4) assemble documents for a closing;

5) secure public information from a courthouse, sewer district, water district, or other repository of public information;

6) have keys made for a company listing;

7) draft advertising copy and promotional materials for approval by a licensee;

8) place advertising;

9) record and deposit earnest money, security deposits, and rents;

10) complete contract forms with business and factual information at the direction of and with approval by a licensee;

11) monitor licenses and personnel files;

12) compute commission checks and perform bookkeeping activities;

13) place signs on property;

14) order items of routine repair as directed by a licensee;

15) prepare and distribute flyers and promotional information under the direction of and with approval by a licensee;

16) act as a courier to deliver documents, pick up keys, etc.;

17) place routine telephone calls on late rent payments;

18) schedule appointments for the licensee (this does not include making phone calls, telemarketing, or performing other activities to solicit business on behalf of the licensee);

19) respond to questions by quoting directly from published information;

20) sit at a property for a broker tour that is not open to the public;

21) gather feedback on showings;

22) perform maintenance, engineering, operations or other building trades work and answer questions about such work;

23) provide security;

24) provide concierge services and other similar amenities to existing tenants;

25) manage or supervise maintenance, engineering, operations, building trades and security; and

26) perform other administrative, clerical, and personal activities for which a license under the Act is not required.

c) An unlicensed assistant of a licensee may not perform the following activities for which a license under the Act is required. The following list is intended to be illustrative and declarative of the Act and is not intended to increase or decrease the scope of activities for which a license is required under the Act. An unlicensed assistant of a licensee may not:

1) host open houses, kiosks, or home show booths or fairs;

2) show property;

3) interpret information on listings, titles, financing, contracts, closings, or other information relating to a transaction;

4) explain or interpret a contract, listing, lease agreement, or other real estate document with anyone outside the licensee's company;

5) negotiate or agree to any commission, commission split, management fee, or referral fee on behalf of a licensee; or

6) perform any other activity for which a license under the Act is required.

d) Any licensee who employs an unlicensed assistant shall be responsible for the actions of the unlicensed assistant taken while under the supervision of, or at the direction of, the licensee.

e) Any licensee who is responsible for the actions of an unlicensed assistant by statute, regulation, contract, or office policy and who permits, aids, assists, or allows an unlicensed assistant to perform any activity for which a license under the Act is required shall be in violation of the Act.

f) Stenographic, clerical, maintenance, engineering, building trades, security, or office personnel not directly engaged in the practice of real estate brokerage as defined in Section 1-10 of the Act are not required to be licensed.

g) A licensee is prohibited from acting as an unlicensed assistant for any licensee other than his or her sponsoring broker or a licensee sponsored by the sponsoring broker.

Section 1450.170 Corporation for Indirect Payment

a) Every sponsored licensee who forms a corporation pursuant to Section 10-20(e) of the Act, for the purpose of receiving the sponsored licensee's compensation, shall file with the Licensing Section of the Division a copy of the certificate of incorporation issued by the Secretary of State.

b) A corporation formed pursuant to Section 10-20(e) of the Act may only receive compensation earned by the licensee. The corporation may not be licensed under the Act and shall not be used by the licensee to perform real estate activities, sponsor, employ or associate itself with other licensees, hold itself out to the public, or advertise to the public under the corporation's name.

c) A corporation formed pursuant to Section 10-20(e) of the Act may receive compensation earned by the licensee arising out of activities unrelated to the practice of real estate.

Section 1450.175 Special Accounts

a) Escrow Moneys Defined

1) "Escrow moneys" means all moneys, promissory notes or any other type or manner of legal tender or financial consideration deposited with any person for the benefit of the parties to the transaction. A transaction exists once an accepted real estate contract is signed or lease agreed to by the

parties. Escrow moneys include without limitation earnest moneys and security deposits, except those security deposits in which the person holding the security deposit is also the sole owner of the property being leased or sold and for which the security deposit is being held.

2) Pursuant to the terms of a written agreement between a licensee and a client, such as a property management agreement, rent moneys paid to a licensee for transmittal to the licensee's client (e.g., the owner) shall not be considered to be "escrow moneys". In addition, other moneys held in a custodial account by a licensee for transmittal to licensee's client, pursuant to the terms of a written agreement, such as a contract for deed, shall not be subject to these escrow rules.

3) Earnest money constitutes escrow moneys whether in the form of personal checks, cashier's checks, money orders, cash, or any other forms of legal tender.

b) Escrow Accounts. Pursuant to Section 20-20(h)(8) of the Act, sponsoring brokers who accept escrow moneys shall maintain and deposit in a special account (hereinafter referred to as an escrow account), separate and apart from personal or other business accounts, all escrow moneys entrusted to them while acting as the real estate brokers, escrow agents, or as the temporary custodians of the funds of others.

1) Such escrow account shall be non-interest bearing, unless the character of the deposit is such that payment of interest thereon is otherwise required by law or unless the principals to the transaction specifically require, in writing, that the deposit be placed in an interest bearing account.

2) If an interest bearing account is required, the recipient of the interest shall be specifically indicated, in writing, by the principals of the transaction.

3) A sponsoring broker may maintain more than one escrow account.

4) An escrow account need not be maintained by a sponsoring broker who does not receive escrow moneys entrusted to him or her while acting as a real estate broker, or as escrow agent, or as temporary custodian of the funds of others.

5) Every escrow account, whether interest bearing or non-interest bearing, shall be maintained at a federally insured depository.

6) Commingling Prohibited. Each sponsoring broker shall deposit only escrow moneys received in connection with any real estate transaction in an escrow account. The sponsoring broker shall not deposit personal funds in an escrow account, except he or she may deposit from his or her own personal funds, and keep in any escrow account, an amount sufficient to avoid incurring service charges relating to the escrow account. The sum shall be specifically documented as being for service charges and the sponsoring broker shall have proof available that the amount of his or her own funds in the escrow account does not exceed the minimum amount required by the depository to maintain the account without incurring service charges. Transfer of funds as provided for in subsection (i)(4) of this Section shall not constitute commingling.

c) The sponsoring broker shall provide a receipt to the payor of any cash constituting escrow funds and shall retain a copy of the receipt.

d) Time of Deposit of Escrow Moneys. All escrow moneys accepted by a sponsoring broker shall be placed in the sponsoring broker's escrow account not later than the next business day following the transaction. A transaction exists once an accepted real estate contract is signed or lease agreed to by the parties. If such funds are received on a day prior to a bank holiday or any other day on which the bank or savings and loan association is closed, such funds shall then be deposited on the next business day upon which the depository is open.

e) A sponsoring broker serving as escrow agent shall notify all principals in writing if a principal fails to tender escrow moneys, when a principal's payment as escrow moneys is dishonored by the financial institution on which it was drawn, or when there appears on the face of the governing contract to be a deficiency in the amount on deposit.

f) Maintenance of Escrow Moneys on Deposit in Escrow Account. The sponsoring broker shall keep all escrow moneys on deposit in an escrow account until a transaction is consummated or terminated, except to the extent that such escrow moneys, or any part thereof, shall be disbursed according to the provisions set forth in subsection (g).

g) Disbursement of Escrow Moneys. Pursuant to Section 20-20(h)(8) of the Act, the sponsoring broker shall disburse escrow moneys according to the following requirements, however, a sponsoring broker may not disburse funds until they have been honored by the payor's depository.

1) The sponsoring broker must disburse escrow moneys upon consummation or termination of the transaction. Such disbursement must be according to the terms of the contract and must be made not earlier than the day the transaction is consummated or terminated and not later than the next business day following the sponsoring broker's receipt of notice of the consummation or termination, or otherwise in accordance with the written direction of all principals to the transaction or their duly authorized agents.

A) Commissions and/or fees earned by a sponsoring broker in any transaction shall be disbursed by that broker from the funds deposited in an escrow account no earlier than the day the transaction is consummated or terminated and not later than the next business day after the transaction is consummated or terminated, or otherwise in accordance with the written direction of all principals to the transaction or their duly authorized agents.

B) Authorized disbursements are those which are made on behalf of, and at the written direction of, all principals to the transaction or their duly authorized agents.

C) A sponsoring broker shall not withhold, for any period of time, an authorized disbursement of escrow moneys due to any claim for a commission or compensation to any licensee.

2) Pursuant to Section 20-20(h)(8)(i) of the Act, if prior to the consummation or termination of the transaction, the sponsoring broker receives written direction from all of the principals to the transaction or their duly authorized agents agreeing to a disbursement of the escrow moneys, that broker must disburse the escrow moneys according to the written directions. Such disbursement must be made not later than the next business day following the sponsoring broker's receipt of the last required written direction.

3) The sponsoring broker may release escrow moneys pursuant to Section

20-20(h)(8)(ii) of the Act which allows a sponsoring broker to disburse escrow moneys prior to the consummation or termination of the transaction in accordance with directions providing for the release, payment, or distribution of escrow moneys contained in any written contract signed by the principals to the transaction or their duly authorized agents. In any such case the terms of the contract concerning the release of the escrow moneys shall be adhered to by the sponsoring broker.

4) Pursuant to Section 20-20(h)(8)(iii) of the Act and notwithstanding any other requirements or responsibilities in this Part, if the sponsoring broker receives an order from a court of competent jurisdiction providing for the disbursement of the escrow moneys, that broker must disburse the escrow moneys according to the terms of the order.

5) For the purposes of this Section, "duly authorized agent" shall mean an attorney-in-fact, an attorney-at-law who represents that he or she is acting on behalf of one of the principals to the transaction, or any other person the licensee can prove was authorized to act on behalf of a principal to the transaction.

h) Disputes Regarding Escrow Moneys

1) In the event of a dispute over the return or forfeiture of any escrow moneys held by the sponsoring broker or if a sponsoring broker has knowledge that any party to a transaction contests or disagrees with an anticipated disbursement of escrow moneys held by that broker, he or she shall continue to hold the deposit in his or her escrow account:

A) until he or she has a written release from all parties or their duly authorized agents consenting to the disposition, in which case the escrow moneys must be disbursed according to the terms of the written direction no later than the next business day after the sponsoring broker's receipt of the last required written release;

B) until a civil action is filed, by either the sponsoring broker or one of the parties, to determine its disposition, at which time payment may be made into court;

C) until the funds are turned over to the State Treasurer or such other

appropriate State agency or officer designated pursuant to the Act or the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025], because of inactivity of the account or inability to locate the parties, or inability of the parties to reach a resolution.

2) If an interpleader action is filed by the sponsoring broker, and the broker is authorized by real estate contract to withdraw from the escrow account those amounts as may be necessary to reimburse the sponsoring broker for costs and reasonable attorney's fees associated with that action, excluding costs and attorney's fees associated with that broker's attempt to collect a commission or fee.

i) Escrow Records. Each sponsoring broker who accepts earnest money shall maintain, in his or her office or place of business, a bookkeeping system in accordance with sound accounting principles, and without limiting the foregoing, such system shall consist of at least the following escrow records as further described below:

1) Journal. A journal shall be maintained for each escrow account. Such journal shall show the chronological sequence in which funds are received and disbursed by the sponsoring broker.

A) For funds received, such journal shall include the date the funds were received, the name of the person on whose behalf the funds are delivered to that broker and the amount of the funds so delivered.

B) For fund disbursement, the journal shall include the date, the payee, the check number and the amount disbursed.

C) A running balance shall be shown after each entry (receipt or disbursement).

2) Ledger. A ledger shall be maintained for each transaction. The ledger shall show the receipt and the disbursement of funds affecting a single particular transaction such as between buyer and seller, or landlord and tenant, or the respective parties to any other relationship. The ledger shall include the names of all parties to a transaction, the amount of such funds received by the sponsoring broker and the date of such receipt. The ledger

shall show, in connection with the disbursements of such funds, the date thereof, the payee, the check number and the amount disbursed. The ledger shall segregate one transaction from another transaction. There shall be a separate ledger or separate section of each ledger, as the broker shall elect, for each of the various kinds of real estate transactions (e.g., lease). If the ledger is computer generated from the same data entry from which the journal is generated, the sponsoring broker must maintain copies of the bank deposit slips, bank disbursement slips, or other bank receipts, to account for the data on the ledger.

3) Monthly Reconciliation Statement. Each sponsoring broker shall reconcile, within ten days after receipt of the monthly bank statement, each escrow account maintained by such broker except where there has been no transactional activity during the previous month. Such reconciliation shall include a written work sheet comparing the balances as shown on the bank or savings and loan association statement, the journal and the ledger, respectively, in order to insure agreement between the escrow account and the journal and the ledger entries with respect to such escrow account. Each such reconciliation shall be kept for at least 5 years from the last day of the month covered by such reconciliation.

4) If escrow moneys are transferred from an escrow account to another account for disbursement, the sponsoring broker must maintain a copy of all records reflecting a disbursement from the other account.

5) Master Escrow Account Log. Each sponsoring broker shall maintain a Master Escrow Account Log identifying all escrow bank account numbers, and the name and address of the bank where the escrow accounts are located. The Master Escrow Account Log must specifically include all bank account numbers opened for individual transactions, even if such account numbers fall under another umbrella account number.

6) A sponsoring broker may employ a more sophisticated bookkeeping system based on sound accounting principles, including a system of electronic data processing equipment. However, any such system must contain or produce printed records containing the information required by this Section, although it need not be in the same format as provided for in this Section.

7) The Division shall have available for distribution, on request, samples of an approved journal, ledger, monthly reconciliation statement, and Master Escrow Account Log.

8) Pursuant to Section 20-20(h)(9) of the Act, the sponsoring broker shall make available to the real estate enforcement personnel of the Division during normal business hours all escrow records and related documents maintained in connection with the practice of real estate within 24 hours after a request.

9) Copies of all Escrow Money Instruments. Except as otherwise provided by law, the broker shall retain copies of all escrow money instruments received from a principal as part of a transaction, including copies of all personal checks, cashier's checks, certified checks, money orders, promissory notes, or other financial instruments. The broker shall also retain copies and/or documentation of all disbursements or transfers into or out of an escrow account.

10) Escrow records shall be retained for 5 years. The escrow records for the immediate prior 2 years shall be maintained in the office location and the balance of the records can be maintained at another location.

11) If escrow records are lost, stolen, or destroyed due to fire, flood or any other circumstances, the broker must report such loss to the Division enforcement division within 30 days by signature restricted delivery. The broker must also immediately obtain copies of monthly bank statements, deposit and disbursement receipts, and any other available records, to reconstruct such loss of escrow records.

12) A sponsoring broker may delegate the bookkeeping duties under this Part to another person, including a managing broker, a bookkeeper, certified public accountant, unlicensed assistant, licensed assistant, or sponsored licensee. However, compliance with the bookkeeping duties remain the responsibility of the sponsoring broker. The sponsoring broker is ultimately responsible for the proper administration of the escrow account pursuant to this Part.

j) Sponsored Licensees. Sponsoring brokers shall institute office policies to ensure that the sponsored licensees tender escrow moneys received in compliance with

this Part. Sponsored licensees, whether salespersons, brokers, or leasing agents, may not maintain their own escrow accounts.

k) Branch Offices. Branch offices may maintain escrow accounts in compliance with this Part or may transmit all escrow moneys received to the main office, but not to another branch office, for compliance with this Part.

1) If the branch office does maintain escrow accounts, all of the requirements of this Part apply, including maintaining all required escrow records, and submitting to the Division all required escrow forms.

2) If the branch office does not maintain escrow accounts but instead transmits all escrow moneys received to the main office, all escrow moneys must be transmitted by the branch office to the main office not later than the next business day following the transaction. A transaction exists once an agreement has been reached and an accepted real estate contract signed or lease agreed to by the parties. Even if the branch office transmits all escrow moneys received to the main office, the branch office must maintain records showing the date the escrow moneys were transferred to the main office. The funds received at the main office from a branch office shall be placed in the sponsoring broker's escrow account not later than the next business day following receipt of such funds from the branch office.

l) Escrow Requirements for Property Management Activities. Security deposits shall be maintained in an escrow account for the duration of the lease, unless the tenant waives this requirement in writing. Such waiver, if included in the lease, shall appear in bold print.

m) Notification to the Division of Identity of Escrow Accounts. Consent to Audit All Accounts.

1) Each sponsoring broker shall, at the time of the original application for licensure and at the time of renewal of licensure, on forms provided by the Division, file with the Division the name of the banks, savings and loan associations, or other recognized depositories in which each escrow account is maintained, and the name of each account, and the names of the persons authorized to withdraw funds from such accounts, and shall, as a condition of licensure, consent on such form to the examination and audit

of all escrow accounts, notwithstanding whether the account is identified on the form, by the Division.

2) A new form shall be executed by the sponsoring broker and filed with the Division within 10 days after the time of a change of depository, method of doing business, or persons authorized to make withdrawal. A new form shall also be executed each time a new escrow account is opened. However, a new form shall not be required each time a new escrow account is opened for an individual transaction and where such account falls under an umbrella account which has already been identified in a prior form. The identity of each of these individual escrow accounts, however, must be included in the Master Escrow Account Log pursuant to subsection (i)(5) of this Section.

n) Violations. Any licensee who violates any of the provisions of this Part may be deemed to have endangered the public interest pursuant to Section 20(h)(12) of the Act and may be subject to a temporary suspension pursuant to Section 20-65 of the Act.

Section 1450.180 Record Keeping

a) A sponsoring broker shall keep or cause to be kept, escrow records, transaction records, employment agreements, and records reflecting the payment of compensation, as further described in this Section.

1) Escrow records for each interest bearing and non-interest bearing escrow account or account into which escrow funds have been deposited. These records shall include:

A) Journals as defined in Section 1450.175(i)(1).

B) Monthly bank statements.

C) Ledgers as defined in Section 1450.175(i)(2).

D) Monthly reconciliations as defined in Section 1450.175(i)(3).

E) Master Log of (Escrow) Accounts as defined in Section 1450.175(i)(5).

2) The escrow records required by subsection (a)(1) shall be maintained for 5 years. The broker shall ensure that the escrow records for the immediate prior 2 year period are maintained in the office location. All in office escrow records shall be made available for inspection and audit during normal business hours by the Division staff no later than 24 hours after a request for escrow records and related documents. Any escrow records more than two years old and stored at a location other than the office shall be made available for inspection during normal business hours within 30 days after the request.

3) Records relating to transactions shall be kept in the office involved in the transaction.

A) These records might include copies of the following:

i) Residential Property Transactions: Signed contracts, including offers and counteroffers, written release of escrow funds, Dual Agency Authorization, written direction for deposit into interest bearing special account, power of attorney, disclosures (e.g., lead paint, seller disclosure) and closing statements.

ii) Property Management/Leasing: Any rental finding agreement, leases, periodic accounting or statement to the owner regarding the receipts and disbursements.

iii) Commercial Representation: Tenant or owner representation agreement, letters of intent, leases, and any written modifications to an executed lease.

B) The documents listed in subsection (a)(3) are not intended to be all inclusive; rather, they are intended to be examples of pertinent documents to be retained. Any similar documents pertinent to a particular transaction shall also be retained. Any information contained on the outside of a transaction file shall be considered part of that file.

C) Transaction records shall be maintained for 5 years. The

sponsoring broker shall ensure that any transaction records involving any active or pending transaction or representation, or any transaction in which escrow funds or monies belonging to others were received and have not yet been disbursed shall be maintained in the office location. All transaction records maintained at the office location shall be made available for inspection and audit during normal business hours by the Division staff no later than 24 hours after a request for escrow records and related documents. Any transaction records stored at a location other then the office shall be made available for inspection during normal business hours within 30 days after the request.

D) Sponsoring brokers may allow their sponsored licensees to maintain a duplicate of the transaction records.

4) Employment agreements, as required by Section 10-20 of the Act, shall be maintained for 5 years after the sponsored licensee is no longer affiliated with the sponsoring broker. The broker shall maintain the written employment agreement for every licensee who is employed by or affiliated with the sponsoring broker. A copy of the employment agreement for each sponsored licensee at a branch office shall be maintained at the respective branch office.

5) Records reflecting the payment of compensation for the performance of licensed activities shall be maintained for 5 years.

b) If the records are kept electronically, the sponsoring broker shall ensure that a back up is made. In the case of escrow records, the back up shall be made at least monthly. The monthly reconciliation, including its worksheet, shall be printed out and maintained by hard copy. The journal shall be reduced to hard copy at least monthly.

Section 1450.185 Disclosure of Compensation

Pursuant to Section 10-10(b) of the Act, a licensee shall disclose, in writing, any compensation the licensee expects to receive or that he or she knows the licensee's sponsoring broker will receive, arising out of a referral to any person or entity whose services are related to the transaction, including any financial institution, insurance broker, mortgage broker, home inspector, or any other third party. The disclosure shall indicate the relationship between the

licensee or the licensee's sponsoring broker and the referred person or entity, and any interest the licensee or the licensee's sponsoring broker may have in the referred person or entity.

Section 1450.190 Disclosure of Licensee Status

A licensee is "selling, leasing or purchasing any interest", directly or indirectly, for purposes of Section 10-27 of the Act, when the licensee:

a) is selling, leasing or seeking to purchase property as sole owner;

b) is selling or seeking to purchase property as a joint tenant or tenant by the entirety;

c) holds a beneficial interest in a land trust selling, leasing or seeking to purchase an interest in the subject property;

d) is a general partner in a partnership selling, leasing or seeking to purchase an interest in the subject property;

e) is an officer, director, majority or controlling shareholder of a corporation selling, leasing or seeking to purchase an interest in the subject property; or

f) is a manager or majority or controlling member of a limited liability company selling, leasing or seeking to purchase an interest in the subject property.

Section 1450.195 Brokerage Agreements and Listing Agreements

a) All exclusive brokerage agreements, including all exclusive listing agreements and exclusive buyer brokerage agreements, shall be in writing.

b) All written buyer brokerage agreements, whether exclusive or non-exclusive, shall contain the following:

1) the agreed basis or amount of compensation and time of payment;

2) the duration of the buyer brokerage agreement, clearly set forth;

3) the name of the broker and the buyer;

4) the signatures of the parties; and

5) the duties of the buyer's broker.

c) All written listing agreements, whether exclusive or non-exclusive, shall contain the following:

1) the list price;

2) the agreed basis or amount of commission and the time of payment of the commission;

3) the duration of the listing agreement, with a definite termination date clearly set forth;

4) the name of broker and seller;

5) the identification of property involved (address or legal description);

6) the signatures of the parties; and

7) the duties of the listing broker.

d) Pursuant to Section 10-25 of the Act, no licensee shall obtain any written brokerage agreement containing a clause automatically extending the period of the contract. Any written brokerage agreement not containing such a provision for automatic expiration shall be void.

e) Every written brokerage agreement shall expressly provide that no amendment or alteration to the terms, with respect to the amount of commission or with respect to the time of payment of commission, shall be valid or binding unless made in writing and signed by the parties.

f) No licensee shall use real estate contract forms to change previously agreed commission payment terms.

g) If a listing agreement provides that, in the event of a default by a buyer, the broker's full commission or fees will be paid out of an earnest money deposit, with the remainder of the earnest money to be paid to the seller, the provision

shall appear in the listing agreement in letters larger than those generally used in the listing agreement.

h) Each brokerage agreement shall clearly state that it is illegal for either the owner or the broker to refuse to display or sell to any person because of one's membership in a protected class, e.g., race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, or any other class protected by Article 3 of the Illinois Human Rights Act.

i) Each brokerage agreement for a residential property of four units or less that provides for a protection period subsequent to its termination date shall also provide that no commission or fee will be due and owing pursuant to the terms of the brokerage agreement if, during the protection period, a valid, written brokerage agreement is entered into with another licensed real estate broker.

j) A broker may discuss a possible future brokerage agreement with a consumer whose property is exclusively listed with another broker or who is subject to a written exclusive buyer brokerage agreement only under the following conditions:

1) when the consumer initiates the contact; or

2) when the current broker, upon request, fails to provide, within 10 calendar days, the type and expiration date of the brokerage agreement between the consumer and the current broker. The request and response shall be in writing and mailed return receipt requested. If the above information is not received within 14 calendar days, the broker may then contact the consumer only if this information cannot be obtained from another source of shared broker information.

Section 1450.200 Written Agreements

a) No licensee shall solicit, accept or execute any contract or other document relating to a real estate transaction that contains any blanks with the intention of filling them in after signing or initialing the contract or other document.

b) No licensee shall make any addition to, deletion from or alteration of any signed contract or other document relating to a real estate transaction without the written, telefax or telegraphic consent or direction from all signatories. No licensee shall process any contract or other document that has been altered after being signed,

unless each addition, deletion or alteration is signed or initialed by all signatories at the time of the addition, deletion or alteration.

c) A true copy of the original or corrected contract or other document relating to a real estate transaction shall be delivered or mailed within 24 hours after the time of signing or initialing the original or correction to the person signing or initialing the contract or other document.

d) All forms used by licensees intended to become binding real estate contracts shall clearly state that fact in the heading in large bold type. No licensee shall use a form designated Offer to Purchase when it is intended that the form shall be a binding real estate contract.

Section 1450.205 Referral Fees and Affinity Relationships

a) No licensee may pay a referral fee to an unlicensed person who is not a principal to the transaction. In order to meet the license requirement, the person receiving the referral fee may be duly licensed as a real estate broker in either Illinois or the person's state or country of domicile. If the person's country of domicile does not have a licensing statute for real estate agents, then, in order to receive a referral fee, the person must comply with the laws, if any, of his or her country concerning the practice of real estate brokerage business.

b) Request of Referral Fee

1) No licensee may request a referral fee unless reasonable cause for payment of the referral fee exists. Reasonable cause for payment of a referral fee means that:

A) an actual introduction of a client has been made to a licensee; or

B) a contractual referral fee relationship exists with the licensee.

2) The fact that reasonable cause to demand a referral fee exists does not necessarily mean that a legal right to the referral fee exists.

3) A licensee is prohibited from interfering with the agency relationship of another licensee or attempting to induce a client to break a listing or an exclusive representation agreement with another licensee for the purpose

of replacing that agreement with a new listing or representation agreement in order to obtain a referral fee. For purposes of this Section, an agency relationship shall be deemed to exist when a written, exclusive agency agreement (either a listing or buyer representation agreement) is entered into. Interfering with the agency relationship of another licensee includes, but is not limited to:

A) demanding a referral fee from another licensee without reasonable cause;

B) threatening to take harmful action against the client of another licensee because of their existing agency relationship and in order to obtain a referral fee; or

C) counseling the client of another licensee on how to terminate or amend an existing agency contract in order to obtain a referral fee.

4) Any activities that involve the communication of corporate relocation policies or benefits to a transferring employee, as long as that communication does not involve advice or encouragement on how to terminate or amend an existing agency contract, shall not be considered interference under subsection (b)(3).

SUBPART E: AGENCY RELATIONSHIPS

Section 1450.207 Confidentiality

Licensees in receipt of confidential information shall take reasonable steps to safeguard that information from unauthorized disclosure.

Section 1450.210 Failure to Disclose Information Not Affecting Physical Condition

No cause of action shall arise against a licensee for the failure to disclose:

a) that an occupant of that property was afflicted with Human Immunodeficiency Virus (HIV) or any other medical condition;

b) that the property was the site of an act or occurrence that had no effect on the physical condition of the property or its environment or the structures located

thereon (Section 15-20 of the Act). Such acts shall include, but are not limited to, murder or suicide;

c) fact situations on property that is not the subject of the transaction; or

d) physical conditions located on property that is not the subject of the transaction that do not have a substantial adverse effect on the value of the real estate that is the subject of the transaction. This provision is intended to apply to actions taken by the Division under the Act as well as to all civil actions in Illinois.

Section 1450.215 Licensee Serving as a Dual Agent in a Transaction Where a Licensee is a Party to the Transaction

A licensee shall not serve as a dual agent in any transaction to which he or she, or an entity in which he or she, has an ownership interest is a party to the transaction.

SUBPART F: DISCIPLINE RULES AND PROCEDURES

Section 1450.220 Unprofessional Conduct

The Division may suspend, revoke, or take other disciplinary action based upon its finding that the licensee or applicant has engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public. The following descriptions are illustrative of the types of conduct that would constitute "dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public."

a) Failure to act in the best interests of a client.

b) Deliberately misleading a client as to the market value of the property.

c) Failing to advertise the property as obligated by the listing agreement.

d) Deliberately misrepresenting to prospective purchasers or their agents the condition of the property or the availability of access to show the property.

e) Purchasing or transferring of the property through an intermediary in order to conceal the purchase by the licensee.

f) Inducing a seller to list the property through false representations.

g) Inducing a seller through false representations or false promises to transfer the property to the licensee.

h) Taking unfair advantage of a client's or customer's age, disability, or lack of understanding of the English language.

i) Engaging in conduct with the public or other real estate licensees in the practice of real estate in a manner that is abusive, harassing, or lewd.

j) Representing oneself as a sponsoring broker or managing broker without providing the actual supervision and management of the real estate business.

k) Failing to reasonably safeguard confidential information or improperly using confidential information.

l) Obstructing an inspection, audit, investigation, examination, or a disciplinary proceeding.

m) Any violation of Section 1450.175, Special Accounts, shall be deemed unprofessional conduct.

n) Assisting or inducing a licensee to violate the Act or this Part.

Section 1450.225 Discipline for Failure to Comply with Illinois Tax Acts, Child Support Order or Default on Illinois Guaranteed Student Loan

a) If the Division receives certification that a licensee is in violation of Section 20-35, 20-40, or 20-45 of the Act, the Division shall notify the licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery, that the licensee may be disciplined unless the licensee provides to the Division certification that the licensee has complied with all applicable Illinois tax Acts, eliminated the delinquency, or has arranged for payment of the obligations in a manner satisfactory to the appropriate administering agency.

b) If the Division receives certification that an applicant is in violation of Section 20-35, 20-40, or 20-45 of the Act, the Division shall notify the applicant, by certified or registered mail, return receipt requested, or other signature restricted delivery, of its intent to deny the applicant a license under the Act, unless the applicant

provides to the Division certification that the applicant has complied with all applicable Illinois tax Acts, eliminated the delinquency or has arranged for payment of the obligations in a manner satisfactory to the appropriate administering agency.

c) For the purposes of this Section "certification " shall mean:

1) a verified statement by the appropriate administering agency of such delinquency, failure to file, failure to pay or default or satisfaction thereof; or

2) a finding by an administrative body, or a finding by a court of competent jurisdiction that the licensee or applicant is delinquent in child support or is liable to pay a certain amount for Illinois taxes or is delinquent or has defaulted on an Illinois guaranteed student loan obligation.

d) A licensee or applicant may participate in a hearing, but the basis for the hearing shall only be for the purpose of proving that the petitioner is not the person for which such failure to pay or delinquency information was received, that the petitioner has executed a formal, written payment plan with the appropriate administering agency, signed and approved by both parties, or that the petitioner has satisfied the outstanding debt; collateral attack of the certification is not permitted.

e) A licensee will be eligible for reinstatement, renewal or issuance upon a showing that the certified failure to file, failure to pay, default or delinquency has been satisfied and by completing the appropriate application and paying any fees as established by this Part.

Section 1450.230 Temporary Suspension

a) The grounds for temporary suspension, as set forth in Section 20-65 of the Act, shall be based on evidence sufficient to cause the Division to reasonably believe that the public interest, safety, or welfare imperatively requires emergency action. Emergency action is imperatively required when a licensee's conduct poses a threat that the public's or another licensee's money will be stolen or defalcated or that the continued licensure of a licensee will be a threat to the physical safety of the public or another licensee. When determining imminent harm, the Division may consider any combination of acts committed by a licensee including, but not

limited to:

1) Failure to account for or to remit any moneys or documents that belong to others, as set forth in Section 20-20(h)(7) of the Act;

2) Failure to maintain and deposit in a special or escrow account, separate and apart from personal and other business accounts, all escrow moneys belonging to others entrusted to a licensee while acting as a real estate broker, escrow agent, or temporary custodian of the funds of others as set forth in Section 20-20(h)(8) of the Act;

3) Failure to make available to real estate enforcement personnel of the Division during normal business hours all escrow records and related documents within 24 hours after a request for those documents by Division personnel, as set forth in Section 20-20(h)(9) of the Act and Section 1450.180 of this Part; however, this action in and of itself shall not be sufficient grounds for a temporary suspension; and

4) Commingling money or property of others with the licensee's own as set forth in Section 20-20(h)(13) of the Act.

b) A petition for temporary suspension shall:

1) State the statutory basis for the action petitioned;

2) Allege facts, supported by evidence or affidavit sufficient for temporary suspension;

3) Be signed by the Director or the Director's designee; and

4) Be presented to the Director either in person or by telephone and in the presence of a court reporter.

c) An order for temporary suspension shall:

1) Contain findings of fact sufficient to support imposition of a temporary suspension;

2) Recite the statutory basis for the action;

3) Appoint a hearing officer;

4) Demand immediate surrender of the license; and

5) Be signed by the Director.

d) A notice of temporary suspension shall accompany the order and shall:

1) Set a hearing date within 15 days after the date on which the order takes effects;

2) Name the hearing officer who shall conduct the hearing; and

3) Include a copy of the Division's Practice in Administrative Hearings.

Section 1450.235 Otherwise Discipline

a) "Discipline" means a refusal to issue or renew a license, probation, suspension, or revocation of a license, censure, reprimand, fine, or any other sanction explicitly provided for in the Act.

b) In conjunction with any of the disciplines enumerated in the Act, the Division may impose "other discipline" in order to maintain the standards of professional conduct, the competency of a licensee, and the protection of the public, which may include:

1) Restricting a licensee's access to escrow funds;

2) Requiring the successful completion of any approved real estate course, including courses for those licensees who would otherwise not be required to complete continuing education pursuant to Section 5-70 of the Act; or

3) Requiring the licensee to provide any report, record or document regarding real estate activity the Division deems relevant and appropriate.

Section 1450.240 Dissolution: Effect of Suspension or Revocation of Sponsoring Brokers or Managing Brokers

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED REPEALER

a) Suspension or revocation of sponsoring broker:
Upon the effective date of a temporary or otherwise suspension or revocation of the license of a sponsoring broker corporation, limited liability company, partnership, or sole proprietorship and their respective principal or sponsoring broker, unless an interim sponsoring broker or receiver is appointed by the real estate brokerage company or its representative and subject to approval by the Division:

1) The licenses of all respective sponsored licensees are automatically inoperative. However, each broker may resume the practice of real estate only upon securing a properly completed 45 day sponsor card, signed either as a self sponsored broker or by another sponsoring broker. Each salesperson or leasing agent may resume the practice of real estate only upon securing a properly completed 45 day sponsor card signed by an active sponsoring broker.

2) All brokerage agreements with the sponsoring broker, including listing agreements, are deemed expired pursuant to Section 10-25 of the Act unless a new sponsoring broker is named within 7 business days. Unless a new sponsoring broker is named within 7 days the suspended or revoked sponsoring broker shall notify, in writing, all clients with whom the sponsoring broker has an active brokerage agreement, and advise that the brokerage agreement expired as of the date that is 7 business days after the suspension or revocation, and that the clients are legally authorized to enter into another brokerage agreement with any active broker.

3) Suspensions or revocations of a sponsoring broker shall not have an effect on the enforceability of any pending, executed real estate contracts.

A) the suspended or revoked sponsoring broker shall send a written notice to all clients with a pending, executed real estate contract explaining the suspensions or revocations, and that the suspensions or revocations shall not have an effect on the enforceability of the pending, executed real estate contracts. The notice shall also identify the name, address, and telephone number of the person in control of the escrow money. To the extent that the clients require additional real estate services, the notice shall provide that the clients may seek those services from another active broker.

B) a suspension or revocation shall not preclude the receipt of any commission or other compensation earned by the suspended or revoked sponsoring broker or other formerly sponsored licensee prior to the effective date of a suspension or revocation of the sponsoring broker.

b) Suspension or revocation of managing broker:
In the event of a suspension or revocation of a managing broker the offices and branch offices managed by that managing broker may resume the practice of real estate upon securing a replacement managing broker. Consistent with Section 5-45(e) of the Act, if a replacement managing broker is unable to be secured immediately after a suspension or revocation of the managing broker, the entity may continue to practice real estate for the first 15 days after the suspension or revocation. If, after 15 days, a replacement managing broker has not been secured, the office may only continue to practice real estate upon securing the written authorization of the Division as provided for in Section 5-45(e) of the Act.

c) In the event of the voluntary retirement or the voluntary dissolution of a sponsoring broker, the sponsoring broker shall, at a reasonable time prior to the voluntary retirement or voluntary dissolution, provide written notice to all sponsored licensees to allow the sponsored licensees to secure new sponsoring brokers, and shall provide written notice to all active clients to allow the clients to secure brokerage agreements with new brokers.

Section 1450.245 Inspections and Audits

a) Inspections

1) The Division is authorized to inspect those areas of a sponsoring broker's office open and generally available to the public at any time during normal business hours with or without the sponsoring broker's consent. With the sponsoring or responsible managing broker's consent or, if no consent is given, then upon 24 hours' notice the Division may conduct a visual and physical inspection of the non-public areas of a sponsoring broker's office and interview any person, including any licensee or non-licensee, who may have knowledge or information about the licensee's practice of real estate. The licensee may have an attorney present if he or she so chooses.

2) Except as provided in subsection (b), upon any written or oral request by

Division personnel for written documentation, a licensee shall produce the requested documentation within 30 days after the request.

b) Escrow Audits

1) The Division is authorized to audit special accounts, escrow records and documents related to any escrow accounts maintained by the licensee. Escrow Audits may be conducted at any time with the sponsoring broker's consent or without consent during normal business hours with at least 24 hours' notice and the ability for the licensee to have an attorney present if her or she so chooses. Escrow Audits may include:

A) A review and examination of all required, original escrow records as set forth in this Part.

B) A review and examination of any document, including originals, related to a licensee's escrow accounts.

C) Interviews of any person, including any licensee or non-licensee, who may have knowledge or information about the licensee's practices for maintaining and administering his or her escrow accounts.

2) Upon any written or oral request by Division personnel for an Escrow Audit, a licensee shall make available during normal business hours any and all requested escrow records and related documents within 24 hours after the request. If those documents are not required to be kept on site, they shall be provided within 30 days after the request.

c) Subject to Section 20-20(h)(9) and (18) of the Act, the Division is authorized to obtain a licensee's original records for the purposes of inspection, audit, and reproduction. The Division shall promptly return all original documents or records to the licensee.

Section 1450.246 Audits of Special Funds by Outside Auditors

a) General Rule. The Division may cause audits of special accounts of sponsoring brokers to be conducted by licensed certified public accountants under the circumstances and as provided for in this Section.

b) Basis for Audit. Upon receipt of a complaint from one or more members of the public, information from another regulatory or law enforcement agency, or evidence developed by the Division, any of which causes the Division to reasonably believe that escrow moneys required to be kept in a special account have been misappropriated, the Division may contract with a licensed certified public accountant for the purpose of auditing the special accounts of the sponsoring broker responsible for the accounts in question.

c) Definitions. The following terms shall have the meanings set forth in this Section:

1) Reasonable belief. The complaints, information or evidence available to the Division are of such a nature or have sufficient credibility that a prudent person in the exercise of good judgment would reasonably rely or act upon that information or evidence.

2) Misappropriated or Misappropriation. The use of escrow moneys for a purpose other than that for which the escrow moneys were deposited or that is permitted by the Real Estate License Act of 2000, this Part, or the agreements providing for the handling of the escrow moneys. The mere failure to follow the provisions of Section 1450.175 dealing with the deposit and accounting for escrow moneys shall not constitute misappropriation.

3) Escrow Moneys. Shall have the same definition as set forth in Section 1-10 of the Act.

d) Notice of Audit. The Division shall notify in writing the sponsoring broker responsible for the special accounts to be audited that an auditor has been retained to audit those special accounts, the identity of the auditor or auditing firm, and the fact that the sponsoring broker shall submit all pertinent records for audit within 30 days after receipt of the written notice.

e) Procedures for Audit. The auditor or the Division shall contact the sponsoring broker responsible for the special accounts for the purpose of scheduling the audit of the special accounts. The sponsoring broker shall provide the records requested at the scheduled time and location or as otherwise agreed by the sponsoring broker and the auditor or the Division.

f) Written Report. Any licensed certified public accountant performing an audit for the Division under the provisions of this Section and the Act shall provide a written report to the Division, with a copy to the sponsoring broker, detailing the findings of the auditor with specific reference to compliance with the special account requirements of the Act and this Part.

g) Noncompliance and Cost of Audit. The sponsoring broker shall be liable for the cost of the audit if an order is issued by the Director, pursuant to Section 20-60 of the Act, finding that escrow moneys were misappropriated by the sponsoring broker or his, her, or its employees, independent contractors, agents or designees.

Section 1450.250 Case File Review Committee

a) The Real Estate Case File Review Committee of the Real Estate Administration and Disciplinary Board, authorized by Sections 20-60(c) and 25-10 and 25-15(4) of the Act, shall be composed of at least 2 voting members of the Real Estate Administration and Disciplinary Board as appointed by the Assistant Director of Real Estate Professions with approval of the Board, the Assistant Director, an Investigation Supervisor and Chief of Prosecutions.

b) The Case File Review Committee shall meet at least once every 2 months to exercise its functions and duties as set forth in subsection (c). The Case File Review Committee members may take the actions listed in subsection (d) without meeting in person, but through other communication. The Case File Review Committee may meet concurrently with members of the regulatory staff or Board members of related professions, including, but not limited to Auctioneers, Land Sales, Time Share, Appraisal, Mortgage Brokers to discuss interrelated professional matters. The Case File Review Committee shall make every effort to consider expeditiously and take prompt action on each item on its agenda.

c) A "complaint" means the initial claim or allegation made against a licensee which results in a preliminary investigation to determine whether or not a formal complaint shall be brought. "Case file" means a complaint has been made against a licensee that resulted in a preliminary inquiry and information has been sought pursuant to the Act and this Part in order to determine whether a formal complaint should be initiated and/or prosecution pursued.

d) The Case File Review Committee shall have the following duties and functions:

1) Shall recommend whether a case file be closed or refer the case file to Prosecutions for further review and action.

2) May recommend that an Administrative Warning Letter be issued, with or without a compliance agreement that may include an administrative fee pursuant to Section 1450.95(h)(11), and the case file closed. A case file may be closed without an Administrative Warning Letter if the Case File Review Committee deems it appropriate.

3) May recommend that cases of similar types of allegations be offered a standard disposition within a range recommended by the Board. A recommendation of an offer of standard disposition shall not restrict the Board from hearing an individual case at a hearing and issuing a recommendation based upon the individual facts and evidence in rebuttal, mitigation or aggravation in the individual matter.

4) May expedite a case file to Prosecutions if, in the opinion of the Assistant Director of Real Estate Professions, Investigation Supervisor, or Chief of Prosecutions, the matter requires immediate attention. Case files requiring immediate attention may include, but are not limited to: conduct involving fraud, dishonesty, embezzlement, or unlicensed practice; actual or imminent harm or injury to a member of the public; reports of an escrow account shortage or discrepancies; or, refusal to provide escrow account records or related documents within the required time period.

5) Shall report a summary of the actions of the Case File Review Committee at each Board meeting.

e) In determining what action to take or whether to proceed with a formal complaint, investigation and prosecution of a case file, the Case File Review Committee shall consider factors including, but not limited to:

1) the effect on the public's health, safety and welfare;

2) any indication of fraud;

3) commingling or embezzlement;

4) evidence of escrow account shortages or discrepancies;

5) refusal to provide escrow account records or related documents within the required time period; or

6) prosecutorial merit.

f) Disqualification of a Case File Review Committee member:

1) A Case File Review Committee member shall be recused from consideration of a case file when a conflict of interest or prejudice would prevent that Committee member from being fair and impartial.

2) Participation in the initial stages of the handling of a case file, including participation on the Case File Review Committee and in informal conferences, shall not bar a Case File Review Committee member from later participating in decision making relating to that case file as a formal complaint or prosecution.

g) Meetings of the Case File Review Committee are an exception to the Open Meetings Act and shall be closed to the public, in accordance with 5 ILCS 120/2(c)(15).

Section 1450.255 Hearings

All disciplinary hearings brought before the Board under Article 20 of the Act shall be conducted in accordance with the Rules of Practice in Administrative Hearings in 68 Ill. Adm. Code 1110.

Section 1450.260 Real Estate Recovery Fund

a) Necessity of Notice
When any person commences, in the civil courts, an action for a judgment that may result in collection from the Real Estate Recovery Fund, that person shall notify the Division in writing at the time of commencement of the action.

b) Time of Notice
"Time of the commencement of the action" shall be construed to mean within 7 days after:

1) the plaintiff in a civil action files a Complaint or an Amended Complaint in the Circuit Court or the Federal District Court; or

2) the aggrieved party files a proof of claim or an adversary action regarding nondischargeability of the debt in a bankruptcy matter.

c) Place and Manner of Notice
Notice required by Section 20-90 of the Act or by this Section shall be sent by certified mail, return receipt requested, or shall be delivered by hand, to the Division in Chicago, Illinois, Attention: Docket Clerk.

d) Contents of Notice
Every notice required by Section 20-90 of the Act or by this Section shall include:

1) a copy of the Court document:

A) the complaint showing the "Filed" stamp of the Clerk of the Court in which the complaint was filed; or

B) the proof of claim or an adversary complaint regarding nondischargeability in a bankruptcy matter.

2) copies of relevant documents available to the claimant, including:

A) real estate sales contract, lease, closing statement, disbursement directions, or other evidence of title to real property on which the claim is based, or if claimant does not possess title, evidence of the interest in real property on which the claim is based (evidence includes such documents as title policy, deed, or lease);

B) proof of any check or money order regarding earnest money or security deposit, other negotiable instruments, or dishonored checks issued by the licensee.

3) an itemized statement of losses of actual cash money which the claimant alleges occurred as a result of conduct identified in Section 20-85 of the Act by a licensed broker, salesperson, leasing agent, or unlicensed employee of a broker. Where no itemized statement is possible, the

claimant must state under oath that his or her losses are estimated and that his or her calculation of estimated losses is as accurate as circumstances permit him or her to make.

e) Necessity of Natural Person as a Defendant
No notice of claim will be recognized or accepted where the underlying complaint does not name at least one natural person, either a licensed broker, salesperson, leasing agent, or unlicensed employee of a broker, as a defendant.

Section 1450.265 Automatic Termination Upon Order to Payout from the Real Estate Recovery Fund

A licensee who desires to contest an automatic termination for payment out of the Real Estate Recovery Fund pursuant to Section 20-90(i) of the Act must file the appropriate motion or appeal with the Court that ordered the payment from the Fund.

Section 1450.266 Advisory Letters

a) The Division may issue advisory letters on issues dealing with the interpretation and application of the Real Estate License Act of 2000 and this Part.

b) A licensee is entitled to rely upon an advisory letter from the Division and will not be disciplined by the Division for actions taken in reliance on the advisory letter. An advisory letter may only be relied upon by the licensee seeking the advisory letter. However, the Division may change its position prospectively, at which time the licensee who sought the advisory letter will have to meet the new position or policy of the Division.

c) Although not binding on the Division, licensees other than the licensee who sought the advisory letter may refer to an advisory letter issued by the Division as the reason for a licensee's acts or omissions that result in the Division considering disciplinary action against the licensee. The Division will consider such arguments but will not be bound by the advisory letter except as to the licensee who actually sought the advisory letter from the Division.

d) Requests for advisory letters shall be submitted in writing to the Division. The request shall include at a minimum the following:

1) the name of the licensee on whose behalf the advisory letter is sought;

2) the factual situation or hypothetical factual situation on which the advisory letter is sought;

3) citations to any provisions of the Act, rules or cases that the licensee or the licensee's advisor believes is relevant to the issue as well as a discussion of the relevance of the cited material to the issue on which advice is sought; and

4) a statement of the issue or issues on which advice is sought.

e) Because advisory letters will be available through the Freedom of Information Act and may also be published by the Division, the party requesting the advisory letter should indicate whether the name of the licensee should be disclosed in the advisory letter. If the request for the advisory letter includes a request to keep the name of the licensee or other parties in the letter confidential, then the person requesting the advisory letter shall submit along with the request a second letter using generic business names, for example Licensee A, Company B, for the names to be kept confidential. If the Division receives such a request, then the published response will only use the generic names.

f) The Division shall respond to the licensee requesting the advisory letter within 60 days after receipt of the request by the Division. The response may be the advisory letter, an estimated time for providing an advisory letter, a request for clarification or additional information, or a statement that the Division declines to issue an advisory letter as requested with an indication of the reason for declining to issue the advisory letter. The Division shall provide a copy of all correspondence concerning a request for an advisory letter to the sponsoring broker, if any, of the licensee requesting the advisory letter.

SUBPART G: PRE-LICENSE AND CONTINUING EDUCATION RULES

Section 1450.270 Definition of Schools and School Branch (Repealed)

Section 1450.275 Pre-License Schools

a) In accordance with Section 30-5(a) of the Act, any person or entity seeking approval to provide pre-license education shall submit an application on forms provided by the Division along with the appropriate fee required by this Part. The

Division shall, after review by the Advisory Council, approve a pre-license school if it meets certain minimum requirements and pays the required fee as provided in the Act and this Part.

b) The program of education for a pre-license school shall:

1) Be approved by the school's governing and/or supervising body;

2) Use instructors who have a valid license as a pre-license instructor as set forth in the Act and Section 1450.278;

3) Have a curriculum that conforms to the standards of Section 1450.276;

4) Administer a final course examination as outlined in Section 1450.276.

c) Facilities

1) A pre-license school must provide an office in Illinois for the maintenance of all records, office equipment and office space necessary for customer service.

2) The premises, equipment and facilities of the pre-license school shall comply with all applicable community fire codes, building codes, and health and safety standards.

3) The pre-license school is subject to inspection prior to approval or at any time thereafter by authorized representatives of the Division. The inspection shall be during regular business hours, with at least 24 hours' advance notice of the inspection.

4) No pre-license school shall be maintained in a private residence.

5) Whenever a pre-license school intends to operate a branch location, an application shall be submitted to the Division for each branch location. Each application shall be accompanied by the fee as required by this Part.

6) No pre-license school shall allow the school premises or classrooms to be used during class time by anyone to directly or indirectly recruit students to become affiliated with a licensee. Instructors and school administrators

shall promptly report to the Division any such efforts to recruit students.

d) Administration

1) Pre-License schools shall use only licensed pre-license instructors.

2) No licensed pre-license school shall advertise that it is endorsed, recommended, or accredited by the Division. The pre-license school, however, may indicate that the school is licensed by and the course of study has been approved by the Division.

3) Every pre-license school shall submit to the Division, upon its request, a schedule of all courses to be taught and when and where they will be taught. The Division shall be notified of any changes to that schedule.

4) The pre-license school shall provide a prospective student prior to enrollment with information that specifies the course of study to be offered, the tuition to be charged, the school's policy regarding refund of unearned tuition when a student is dismissed or withdraws voluntarily or through hardship, any additional fee to be charged for supplies, materials or books that become the property of the student upon payment, and other matters that are material to the relationship between the school and the student.

5) Each pre-license school shall maintain for each student a record which shall include the course of instruction undertaken, dates of attendance, and areas of study completed satisfactorily. Each student's record shall be maintained by the pre-license school for a period of 5 years and shall be available for inspection by the student or by the Division or its designee during regular business hours.

6) A licensed pre-license school shall upon request give evidence of the financial resources available to equip and maintain the school, as documented by, e.g., a current balance sheet or an income statement.

7) The Division shall be reimbursed by any out-of-state pre-license school for all reasonable expenses incurred by the inspector to inspect its facilities.

e) The Division shall notify administrative officials of the applicant in writing within 15 days after its approval or disapproval. In the event the applicant is disapproved, the reasons will be detailed and the applicant advised that the applicant may request a hearing as provided for in Section 30-5 of the Act.

f) The Division shall be notified of all proposed changes in ownership of a pre-license school on forms provided by the Division 30 days prior to the change in ownership.

Section 1450.276 Curriculum for Pre-License Schools

a) Pre-license schools shall offer, at a minimum, the courses provided for in this Section.

b) The application for licensure as a pre-license school shall include a list of courses to be offered, an outline and course description for each course along with an examination and answer key. Each outline shall make reference to the textbook used and other material related to the course or subject matter, and shall conform to the approved curriculum outlines prepared by the Division.

c) Pre-license schools must provide the following courses:

1) Real Estate Transactions shall include a minimum of 45 class hours. The course shall include instruction in real estate law, types of interest and ownership in real estate, home ownership, legal descriptions, titles, liens, taxes, encumbrances, listing, advertising, appraisal, finance, closings, and professional code of ethics. This course shall be mandatory for all salesperson candidates.

2) Brokerage Administration shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates. The course shall include instruction in Illinois real estate law and licensure, listings, title search, forms for closing, contract forms, and the broker-salesperson relationship.

3) Contracts and Conveyances shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates. The course shall include instruction in deeds, fixtures, contracts, real estate closings, foreclosure and redemption, land use controls, landlord/tenant relationship, cooperatives and condominiums.

4) Advanced Principles 2000 shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates and shall include agency, disclosure, environmental issues, escrow, license law and other topics approved by the EAC and the Division.

d) Pre-license schools shall provide two or more of the following courses:

1) Appraisal shall consist of a minimum of 15 class hours. The course shall include instruction in the appraisal process, real property and value, economic trends, depreciation and land value.

2) Property Management shall consist of a minimum of 15 class hours. The course shall include, but not be limited to, instruction in fundamentals of tenant-management relationship, property modernization, property maintenance, leases, real property insurance, commercial property, industrial property and advertising.

3) Financing shall consist of a minimum of 15 class hours. The course shall include instruction in types of financing, sources of financing, mortgages, mortgage documents, closing a mortgage, interest, liens, foreclosure, real property insurance, mortgage risk, principles of property value for mortgage credit, mortgage analysis and construction loans.

4) Sales and Brokerage shall consist of a minimum of 15 class hours. The course shall include instruction in qualifications and functions of a real estate broker; land utilization; appraisal principles and methods; office organization; selection, training and supervision of salespersons and office personnel; compensation of salesperson listings; prospects; real estate markets; financial control; and government regulations.

5) Farm Property Management shall include a minimum of 15 class hours. The course shall include instruction in inventorying assets, determining method of operation, tenants, budgeting, crop and livestock production, marketing, tax planning and depreciation, government programs and regulations, insurance and ethics.

6) Real Property Insurance shall include a minimum of 15 class hours. The course shall include instruction in risk, functions of insurance, insurance contracts, types and purposes of insurance.

7) Other courses as approved from time to time by the Division. If additional elective courses are developed, they shall be approved by the Division prior to implementation. The courses shall be approved upon determination that the course is at least 15 clock hours (one clock hour equals 50 minutes) in length and constitutes real estate related material.

e) Examinations. Each course shall end in a mandatory proctored final examination consisting of at least 50 questions for each 15 classroom hours for which the minimum passing score shall be no less than 75%.

f) Attendance at all classes is mandatory; however, credit for absences not to exceed 10% of the class hours may be made up by attendance at make-up classes as provided in subsection (g). Missing any class hours after having the opportunity to make up class hours as provided in subsection (g) shall result in failure of the course.

g) Each school shall provide time and facilities for conducting make-up classes for students who were absent from the regularly scheduled class period.

Section 1450.277 Expiration Date and Renewal Period for Pre-License Schools

a) Every pre-license school and school branch license as well as their course approvals shall expire on June 30 of each odd numbered year.

b) Each pre-license school shall be responsible for submitting an application for renewal of the license on forms provided by the Division. Failure to receive a renewal form shall not constitute a valid reason for failure to submit a renewal application or pay the renewal fee or to renew the appropriate license.

c) The applicable fees shall be those set forth in Section 1450.95 of this Part.

d) As part of the renewal application each pre-license school shall submit a list of courses, an outline, course description and examination answer key for each course to be taught.

e) Operation of a pre-license school on an expired or inoperative license shall constitute the unlicensed or unauthorized practice and may be grounds for discipline.

f) Any pre-license school or school branch whose license under the Act has expired for more than two years shall not be eligible for renewal of that license. Any pre-license school whose license has been expired for less than two years may renew the license only after providing the Division with evidence that all qualifications of Section 1450.275 have been met and the required fees have been paid.

Section 1450.278 Pre-License Instructors

a) An applicant for a license as a pre-license instructor must be approved by the Division and meet the following criteria:

1) Except as provided in subsection (b), pass an examination approved by the Division with a minimum score of 75 percent, make application for the license within one year after receiving the necessary minimum score, have a real estate broker's license and been active as a real estate broker for at least the last 3 years; and

2) Be currently admitted to practice law by the Supreme Court of Illinois, and for at least 3 years have been engaged in the active practice of law in Illinois; or

3) Be a properly credentialed pre-license instructor of real estate courses who is or has been engaged in the practice of teaching for at least 3 years; or as evidenced by a professional designation such as, but not limited to, a designated real estate instructor (DREI); or approved by a college's or university's governing body to teach in a real estate degree program; or

4) Be properly licensed or certified to engage in the business of appraisal, finance and/or related real estate occupations and be a member of a nationally recognized association in that field, and for at least 3 years have been engaged in that practice; or

5) In the judgment of the Director, after receipt of a recommendation from the Advisory Council, the person is qualified by experience or education,

or both, to supervise a course of study pursuant to the provisions of this Section.

A) In determining whether a person is qualified to supervise a course of study under this Section, the Director shall consider:

i) The individual's teaching experience;

ii) The individual's real estate experience;

iii) Any real estate, business or legal education of the individual;

iv) The results of a personal interview with the individual. The personal interview may be conducted via telephone if it would be overly burdensome and unreasonable for the applicant to personally appear for the interview (e.g., applicant living out-of-state); and

v) The recommendation of the Advisory Council. The Advisory Council shall evaluate the application and make a recommendation to the Director for approval or disapproval of the applicant as a pre-license instructor.

B) The Division shall issue approval to the applicant or notify the applicant in writing why approval cannot be issued.

b) Previously approved pre-license instructors are exempt from taking the examination as long as they have maintained a valid instructor's license, and have no lapse in licensure greater than 2 years.

c) No approved pre-license instructor shall be seated for either the salesperson or broker licensure examination except for the purpose of securing a salesperson's or broker's license. Nothing in this provision shall prevent the Division from using pre-license instructors to monitor and evaluate the examination.

Section 1450.280 Expiration Date and Renewal Period for Pre-License Instructors

a) Pre-license instructor licenses expire on June 30 of each odd numbered year.

b) Each licensed pre-license instructor shall be responsible for submitting an application for renewal of the license on forms provided by the Division verifying that a pre-license course was taught during the pre-renewal period by the applicant or the applicant attended a Division approved instructor training program during the pre-renewal period. Failure to receive a renewal form shall not constitute a valid reason for failure to submit the renewal form or pay the required renewal fee.

c) The applicable fees shall be those set forth in Section 1450.95 of this Part.

d) Instructing courses on an expired or inoperative license shall constitute the unlicensed or unauthorized practice and may be grounds for discipline.

e) Restoration

1) Any licensed pre-license instructor whose license under the Act has expired is eligible to renew the license without paying any lapsed renewal fees or reinstatement fees provided that the license expired while the instructor was:

A) on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard, the State Militia called into the service or training of the United States; or

B) engaged in training or education under the supervision of the United States prior to induction into military service; or

C) serving as the Director or as an employee of the Division.

2) A pre-license instructor renewing his or her license in accordance with this subsection (e) may renew the license within a period of two years following the termination of service and is not required to retest or reapply.

f) Except as otherwise provided in this Section, any pre-license instructor whose license under the Act has expired for more than two years shall not be eligible for renewal of that license.

g) Any pre-license instructor whose license has been expired for less than two years may renew the license only after providing the Division with evidence that all qualifications of Section 1450.278 have been met, that the instructor taught at least one course within the period of licensure or has completed a Division approved instructor training program and the required fee is paid.

Section 1450.285 Continuing Education Schools

a) Approval of continuing education (CE) Schools. Those entities seeking approval as CE schools shall maintain an office in Illinois for maintenance of all records, office equipment and office space necessary for customer service.

1) The CE school's office may be subject to inspection by authorized representatives of the Division during regular working hours and upon at least 24 hours' notice when the Division has reason to believe that there is not full compliance with the Act or this Part and that this inspection is necessary to ensure full compliance.

2) The Division shall be reimbursed by any out-of-state CE school for all reasonable expenses incurred by the inspector to inspect its facilities.

3) Entities seeking licensure as CE schools shall file a CE school application, on forms provided by the Division, along with the required fee. The application shall include the following:

A) An agreement by the applicant that the applicant shall provide to the Division, upon request, a schedule including location, date, time, and name of instructor of each CE course to be offered;

B) The CE school's certification:

i) that all CE courses offered by the CE school for CE credit will comply with the criteria in the Act and this Part;

ii) that the CE school will be responsible for verifying attendance at each CE course and providing a certificate of completion signed by the CE school;

iii) that the CE school will maintain its records for not less than 5 years and shall make these records available for inspection by the Division or its designee during regular business hours;

iv) that upon request by the Division, the CE school will submit evidence to establish compliance with this Section and Sections 30-15 through 30-25 of the Act;

v) that the CE schools will only offer CE, other than distance education CE, in an environment that is conducive to learning (i.e., adequate lighting, seating) and does not jeopardize the health, safety, and welfare of the attendees;

vi) that financial resources are available to equip and maintain its office in a manner necessary to enable the CE school to comply with Article 30 of the Act, this Section and this Part, documented by a current balance sheet, an income statement or any similar evidence as requested by the Division; and

vii) that upon request the CE school will make available to a licensee who has taken one or more of the CE school's courses the records dealing with the licensee's participation in those courses.

4) Validly licensed pre-license schools seeking to offer CE courses qualify for a continuing education school license upon completion of the required application and submission of the required fee.

5) The Division shall issue approval to the CE school or notify the CE school, in writing, why approval cannot be issued.

b) Licensed CE schools shall comply with the following:

1) No licensed CE school shall allow the premises or classrooms utilized during CE courses to be used by anyone to directly or indirectly recruit students. CE schools and CE instructors shall report to the Division any efforts to recruit students.

2) No licensed CE school shall advertise that it is endorsed, recommended, or accredited by the Division. The CE school, however, may indicate that the school and the CE course have been approved by the Division.

3) Licensed CE schools shall utilize in the teaching of approved CE courses only CE instructors who have been licensed by the Division.

4) Licensed CE schools shall specify in any advertising promoting CE courses the number of CE hours that may be credited toward Illinois CE requirements for license renewal. Further, licensed CE schools shall specify the number of core or elective CE course hours that may be earned by successfully completing the course.

5) All CE courses given by licensed CE schools shall be open to all licensees and not be limited to members of a single organization or group.

c) Administration

1) All CE schools shall seek a certificate of registration for all CE courses they plan to offer and shall not offer any CE course until the Division has issued a certificate of registration for that course. All requests for registration of courses shall include a course description, course outline, examination and answer key.

2) Upon request all CE schools shall also notify the Division as to all CE instructors they plan to use.

3) The CE school shall be responsible for assuring verified attendance at each CE course or self-study examination. No renewal applicant shall receive CE credit for time not actually spent attending the CE course or when a passing score of 70% on the examination was not achieved.

4) Each licensed CE school shall submit to the Division, on or before the 15th of each month, a report of those licensees passing CE courses offered by it during the preceding calendar month.

A) The monthly reports shall, at a minimum, include the following information for each licensee:

i) the licensee's name, address, social security number, and license number;

ii) the CE school's name and license number;

iii) the CE course name, course license number, course category (core or elective), and credit hours; and

iv) such other information as may be required by the Division.

B) If no courses were given by a CE school during the preceding calendar month, that CE school shall report in writing that no courses were given.

C) The monthly reports shall be submitted on forms or in a computer readable format provided by the Division.

D) There is no processing fee for a monthly report submitted in the computer readable format specified by the Division. Each monthly report submitted on paper or in a format other than that specified by the Division shall be accompanied by a processing fee of $.50 per licensee, per course listed on the report, payable by check to the Department of Financial and Professional Regulation.

E) A monthly report received by the Division with a postmark after the day it is due (the 15th day of the month) shall be accompanied by an administrative fee of $200 in addition to the fees set forth in subsection (c)(4)(D).

F) If a CE school fails to file monthly reports or a statement saying that no CE courses were given, or fails to pay the required fees for three successive months, then the courses offered by that school may be disqualified pursuant to procedures set forth in Section 30-15of the Act until all delinquent reports, processing fees, and administrative fees as set forth in this Section have been submitted to and are received by the Division. The Division shall send notice to the school of an informal conference before the Advisory Council and of pending disqualification pursuant to Section 30-

15(d) of the Act by certified or registered mail, return receipt requested, or by other signature restricted delivery service.

Section 1450.286 Curriculum for Continuing Education Schools and Course Registration Process

a) The following are the subject matters for core (mandatory) courses subject to change by the Division, through its Advisory Council:

1) license law and escrow

2) fair housing

3) agency.

b) The following are the subject matters for elective courses subject to change by the Division, through its Advisory Council:

1) antitrust

2) appraisal

3) property management

4) residential brokerage

5) farm property management

6) rights and duties of sellers, buyers and brokers

7) commercial brokerage and leasing

8) real estate financing

9) environmental

10) technology.

c) Credit hours may be earned for self-study programs approved by the Advisory Council.

d) A broker or salesperson may earn credit for a specific continuing education course only once during the prerenewal period.

e) The Division shall issue certificates of registration for approved CE courses upon successful completion of the following process:

1) The person or entity seeking approval for the CE course shall complete and submit the application approved by the Division for a certificate of registration;

2) The CE course shall be identified as either "core" or "elective" by the applicant;

3) The CE course description, outline, examination and answer key is submitted along with the application;

4) The required fee as provided for in Section 1450.95 of this Part is submitted; and

5) The Advisory Council approves the application for registration of the CE course.

f) CE credit, which shall be limited to 3 hours, may be granted for pre-license courses but only after issuance of a certificate of registration by the Division following the process provided for in subsection (e) of this Section.

Section 1450.287 Expiration Date and Renewal Period for Continuing Education Schools

a) Every continuing education school license shall expire on June 30 of each even numbered year.

b) Every certificate of registration of a CE course shall expire on June 30 of each even numbered year.

c) Each licensed CE school shall be responsible for renewal of the license on forms provided by the Division. Failure to receive a renewal form shall not constitute a valid reason for failure to submit the proper application for renewal.

d) The applicable fees shall be those set forth in Section 1450.95 of this Part.

e) Each CE school shall submit the renewal application along with the proper fee and a list of courses to be taught, course descriptions, course outlines, examinations and answer keys.

f) Operation of a CE school on an expired or inoperative license shall constitute the unlicensed or unauthorized practice and shall be grounds for discipline under the Act.

g) Any continuing education school whose license under the Act has expired for more than two years shall not be eligible for renewal of that license. Any CE school whose license has been expired for less than two years may renew the license after providing the Division with evidence that all qualifications of Section 1450.285 have been met and the proper renewal fees have been paid.

Section 1450.288 Continuing Education Instructors

a) An applicant seeking approval from the Division to become a licensed CE instructor shall submit a completed application, on forms provided by the Division, along with the required fee as provided for in Section 1450.95 of this Part.

b) An individual applying to become a licensed CE instructor shall meet at least one of the following criteria:

1) Licensed and active in practice as a real estate broker for at least the last three years; or

2) Is currently admitted to practice law and for three years has been engaged in real estate related work as part of his or her active practice of law or has taught pre-licensure real estate courses; or

3) Is a properly credentialed instructor of real estate courses who is or has been engaged in the practice of teaching for at least three years; or as

evidenced by a professional designation, such as, but not limited to, a designated real estate instructor (DREI); or approved by a college's or university's governing body to teach in a real estate degree program; or

4) Is properly licensed or certified to engage in the business of appraisal, finance and/or related real estate occupations (not including real estate salespersons or leasing agents) and for at least three years has been engaged in that practice; or

5) Is qualified by experience or education as outlined in Section 30-15(b)(9) of the Act. In determining whether a person is qualified to teach CE under that Section, the Director shall consider the following:

A) The individual's teaching experience;

B) The individual's real estate experience;

C) Any real estate, business or legal education of the individual;

D) The results of a personal interview with the individual. The personal interview may be conducted via telephone if it would be overly burdensome and unreasonable for the applicant to personally appear for the interview (e.g., applicant living out-of-state); and

E) The recommendation of the Advisory Council. The Advisory Council shall make a recommendation to the Director for approval or disapproval of the applicant as a CE instructor.

c) Individuals validly licensed to teach salesperson and broker pre-license courses, pursuant to Section 1450.278 of this Part, are qualified as CE instructors as long as they submit an application to the Division for licensure as a CE instructor and pay the required fee.

d) The Division shall notify the applicant in writing within 15 days after its approval or disapproval. In the event the applicant is disapproved, the reasons will be detailed and the applicant advised that the applicant may request a hearing as provided for in Section 30-5 of the Act.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED REPEALER

Section 1450.290 Expiration Date and Renewal Period for Continuing Education Instructors

a) Every continuing education instructor license shall expire on June 30 of each even numbered year.

b) Each licensed CE instructor shall be responsible for renewal of the license on forms provided by the Division. Failure to receive a renewal form shall not constitute a valid reason to submit the proper application for renewal and for failure to pay the proper renewal fee.

c) The applicable fees shall be those set forth in Section 1450.95 of this Part.

d) Teaching CE courses on an expired license shall constitute the unlicensed or unauthorized practice and shall be grounds for discipline.

e) Restoration

1) Any licensed CE instructor whose license under the Act has expired is eligible to renew the license without paying any lapsed renewal fees or reinstatement fees provided that the license expired while the instructor was:

A) on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard, or the State Militia called into the service or training of the United States; or

B) engaged in training or education under the supervision of the United States prior to induction into military service; or

C) serving as the Director or as an employee of the Division.

2) A CE instructor renewing his or her license in accordance with this subsection (e) may renew the license within a period of two years following the termination of service and is not required to retest or reapply.

f) Any continuing education instructor whose license under the Act has expired for

more than two years shall not be eligible for renewal of that license. Any CE instructor whose license has been expired for less than two years may renew the license only after providing the Division with evidence that all qualifications of Section 1450.288 have been met and the proper renewal fee is paid.

g) Any CE instructor applying for renewal must verify he or she has taught at least one course within the period of licensure or has completed a Division approved instructor training program.

Section 1450.295 Distance Education Courses

Distance education courses are courses in which instruction does not take place in a traditional face to face classroom situation but rather when instruction takes place through other media. Distance education programs include but are not limited to those that are presented through on-line courses, interactive classrooms, video conferencing, audio tape, print media, video tape, compact disks and interactive computer. Distance education courses shall be affiliated with a licensed pre-license or CE school and meet the curriculum requirements set forth in Section 1450.276 and/or Section 1450.286 of this Part, as applicable.

a) Distance education courses must meet all requirements for pre-license or CE courses, whichever is applicable, and any additional requirements established by the Act and this Part.

b) Distance education courses shall be submitted to the Division for review and approval as provided for in Section 1450.276 or Section 1450.286, whichever is applicable.

c) Pre-license or CE schools providing distance education courses shall establish written policies and procedures for grading examinations and lessons, which shall include provisions for instructor comments, suggestions and written correction of errors. There shall also be written procedures for the prompt return of materials. Copies of these policies shall be provided to the Division upon request.

d) Schools providing distance education courses shall establish performance objectives for each course.

e) Pre-license schools offering distance education courses shall maintain an average passing rate of at least 40% for all students who take the licensure examination for the first time over a 6 month period, either January through June or July through

December.

f) Schools providing distance education courses shall provide for a valid licensed instructor to be available during normal business hours to answer student questions.

g) Each school offering distance education courses shall submit for approval by the Division the general plans for proctoring exams for distance education courses and each school shall be responsible for the security and integrity of course final examinations and the suitability of the sites and proctors utilized by the school.

h) Each school offering distance education shall provide appropriate technical support throughout the period the courses are offered.

Section 1450.300 Class Attendance Requirements (Repealed)

Section 1450.305 Recruitment at Test Center

Licensees shall not recruit test takers to become affiliated with a licensee at test facilities where the Illinois Real Estate Licensing Examination is being conducted before, during, or after the examination.

Section 1450.310 Withdrawal of Approval of Schools (Repealed)

Section 1450.315 Discipline of Schools or Instructors

a) The Advisory Council, after notice, can conduct an informal conference for the purpose of reviewing a school's or instructor's compliance with this Act and this Part. The Advisory Council may make a recommendation to the Board based upon its findings and conclusions resulting from that conference.

b) Upon written recommendation of the Board to the Director, the Division may refuse to issue or renew a license or certificate of registration, reprimand, fine, withdraw approval, place on probation, suspend, or revoke any license or otherwise discipline any license or certificate of registration, of any pre-license school, pre-license instructor, CE school, CE instructor, course, or applicant for the license or certificate of registration when, at any time:

1) The quality of the course, instruction or program fails to meet the

established criteria as set forth in the Act and this Part.

2) If the license approval was based upon false or deceptive information.

3) If any other professional license, accreditation, certification of the instructor or school is suspended, revoked or otherwise disciplined.

4) When the applicant or licensee has:

A) subverted or attempted to subvert the integrity of any exam or course, including through improper reproduction of an exam, providing an answer key to an exam, cheating, bribery or otherwise, or aids and abets an applicant or licensee to subvert the integrity of any exam or course;

B) made any substantial misrepresentation, misleading or untruthful advertising, including without limitation guaranteeing success or a "pass score" on any exam or in any course or using any trade name or insignia of membership in any educational or any real estate organization of which the applicant or licensee is not a member;

C) taught real estate courses without being qualified, including, but not limited to, being unapproved by the Division, being unlicensed, having a nonrenewed license or being uncertified, or aids and abets an unqualified individual to teach a real estate course;

D) failed to provide information to the Division as required under any provision of the Act or this Part; or

E) disregarded or violated any provision of the Act or this Part.

5) If any approved pre-license school fails to maintain an average passing rate of at least 40% for all students who take the licensure examination for the first time over a 6 month period, either January through June or July through December.

c) Disciplinary proceedings shall be conducted by the Board as provided for in the Act and Subpart F of this Part.

d) The Division may temporarily suspend without hearing the certificate of registration for a licensed CE school's courses for failure to comply with the Act or this Part upon recommendation of the Advisory Council. No CE credit shall be granted to any licensee for completing a CE course for which the certificate of registration has been temporarily suspended.

SUBPART H: GRANTING VARIANCES

Section 1450.320 Granting Variances

a) The Director may grant variances from this Part in individual cases in which he or she finds that:

1) the provision from which the variance is granted is not statutorily mandated;

2) no party will be injured by the granting of the variance; and

3) the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

b) The Director shall notify the Board of his or her intention to grant a variance, and the reasons for granting the variance, at a meeting of the Board, prior to granting the variance.

SUBPART J: TRANSITION RULES

Section 1450.325 Salesperson Applicants – Transition Provisions

a) Until March 31, 2000, an applicant for a salesperson license may be allowed to sit for the examination if the applicant submits either:

1) a course completion transcript verifying that, on or before December 30, 1999, the applicant completed the previously required 30 hour Real Estate Transactions course; or

2) proof of current Illinois attorney registration or a baccalaureate degree involving real estate as provided for under the Part, and otherwise meets the licensure requirements in effect on December 30, 1999, including the

age requirements.

b) If an applicant for a salesperson license eligible to sit for the examination under subsection (a) of this Section fails the salesperson examination three times, the applicant shall be allowed to sit for the examination on or before March 31, 2000, only upon completion of the 15 hour Salesperson Real Estate Transaction Supplemental Course.

Section 1450.330 Broker Applicants – Transition Provisions

a) Until March 31, 2000, an applicant for a broker's license may be allowed to sit for the examination if the applicant:

1) submits a course completion transcript verifying that, on or before December 30, 1999, the applicant completed the previously required 90 credit hours of broker pre-license courses; or

2) submits proof of current Illinois attorney registration or a baccalaureate degree involving real estate as provided for under this Part, and otherwise meets the licensure requirements in effect on December 30, 1999, including the salesperson pre-license course completion, salesperson experience and age requirements.

b) If an applicant for a broker license eligible to sit for the examination under subsection (a) of this Section fails the broker examination three times, the applicant shall be allowed to sit for the examination on or before March 31, 2000, only upon completion of the 15 hour Broker Administration course.

Section 1450.335 Continuing Education – Transition Provisions

a) As of February 1, 2000, CE schools may no longer provide a consolidated classroom curriculum of four CE course for twelve credit hours in a calendar day, and students may not earn more than six credit hours in a calendar day. CE course credit earned through a distance learning program is not subject to the maximum of six credit hours in a calendar day.

b) Renewal applicants may satisfy the CE core course requirements by the submission of completion of courses that had been approved at the time of completion as mandatory courses. The acceptance of mandatory courses in lieu of

core courses shall be permitted until:

1) April 30, 2001, for salesperson renewal applicants; and

2) April 30, 2000, for broker renewal applicants.

Section 1450.340 Education License Renewals – Transition Provisions

a) Pre-license. Every active pre-license school, pre-license school branch location, and pre-license instructor shall be granted written authority to continue to educate through June 30, 2000, as if the licenses had been renewed on December 31, 1999. A licensee offering educational services under this authority may be disciplined in the same manner as an active licensee practicing by authority of a renewed certificate. Every pre-license school, pre-license school branch location, and pre-license instructor license and every pre-license course registration shall expire on June 30, 2000, and may be renewed for a period to June 30, 2001 upon submission of the required forms and payment of the fee required by Section 1450.95. After June 30, 2001, the licenses will expire on June 30 of each odd numbered year.

b) CE. Every active license to a CE school, CE instructor, and restricted CE instructor under the Act shall be granted written authority to continue to educate through June 30, 2000, as if the licenses had been renewed on April 30, 2000. A licensee offering educational services under this authority may be disciplined in the same manner as an active licensee practicing by authority of a renewed certificate. Every CE school, CE instructor, and restricted CE instructor license and every CE course registration shall expire on June 30, 2000, and may be renewed for a two year period upon submission of the required forms and payment of the fee required by Section 1450.95. After June 30, 2000, the licenses will expire on June 30 of each even numbered year.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

1) Heading of the Part: Real Estate License Act of 2000

2) Code Citation: 68 Ill. Adm. Code 1450

3)

Section Numbers:	Proposed Action:
1450.100	New Section
1450.110	New Section
1450.120	New Section
1450.130	New Section
1450.140	New Section
1450.150	New Section
1450.200	New Section
1450.210	New Section
1450.220	New Section
1450.230	New Section
1450.240	New Section
1450.250	New Section
1450.260	New Section
1450.300	New Section
1450.310	New Section
1450.320	New Section
1450.330	New Section
1450.340	New Section
1450.400	New Section
1450.410	New Section
1450.420	New Section
1450.430	New Section
1450.440	New Section
1450.450	New Section
1450.500	New Section
1450.510	New Section
1450.520	New Section
1450.530	New Section
1450.540	New Section
1450.550	New Section
1450.600	New Section
1450.610	New Section
1450.700	New Section
1450.705	New Section

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

1450.710	New Section
1450.715	New Section
1450.720	New Section
1450.730	New Section
1450.735	New Section
1450.740	New Section
1450.745	New Section
1450.750	New Section
1450.755	New Section
1450.760	New Section
1450.765	New Section
1450.770	New Section
1450.775	New Section
1450.780	New Section
1450.785	New Section
1450.800	New Section
1450.810	New Section
1450.820	New Section
1450.830	New Section
1450.900	New Section
1450.905	New Section
1450.910	New Section
1450.915	New Section
1450.920	New Section
1450.925	New Section
1450.930	New Section
1450.935	New Section
1450.940	New Section
1450.945	New Section
1450.950	New Section
1450.955	New Section
1450.1000	New Section
1450.1100	New Section
1450.1105	New Section
1450.1110	New Section
1450.1115	New Section
1450.1120	New Section
1450.1125	New Section
1450.1130	New Section

1450.1135	New Section
1450.1140	New Section
1450.1145	New Section
1450.1150	New Section
1450.1155	New Section
1450.1160	New Section
1450.1165	New Section
1450.1170	New Section
1450.1200	New Section

4) Statutory Authority: Implementing the Real Estate License Act of 2000 [225 ILCS 454] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]

5) A Complete Description of the Subjects and Issues Involved: Public Act 96-856, signed into law on December 31, 2009, is the sunset reauthorization of the Real Estate License Act of 2000. As a result of these statutory changes, and changes requested by the industry, Part 1450 has been updated, reorganized and rewritten. At this time the Department will also repeal the original Part 1450, having brought the sustainable provisions over into this proposal.

Major changes in the Act will require existing licensees to be transitioned over to the new license categories by May 1, 2011. Among the major changes to the Act is that the current entry level license "salesperson" will require additional pre-license hours and will now be called a broker license. The existing salesperson license will be eliminated entirely. Also, a new managing broker license has been added to the Act which is intended to distinguish brokers who run an office and manage licensees from those who do not. This new category will likewise have unique transitional provisions for licensure and education.

In addition to the substantive changes noted above, these amendments also contain numerous non-substantive changes to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation.

6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking: None

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield, IL 62786

217/785/0813 Fax: 217/557-4451

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing real estate services.

B) Reporting, bookkeeping or other procedures required for compliance: Please refer to the various requirements of this Part.

C) Types of professional skills necessary for compliance: Skill and knowledge pertaining to the real estate business.

14) Regulatory Agenda on which this rulemaking was summarized: January 2010

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VIII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1450
REAL ESTATE LICENSE ACT OF 2000

SUBPART A: GENERAL

Section
1450.100 Definitions
1450.110 Sponsor Cards
1450.120 Assumed Name
1450.130 Fees
1450.140 Renewals
1450.150 Licensee Change of Information

SUBPART B: LICENSING AND EDUCATION FOR LEASING AGENT

Section
1450.200 Leasing Agent General Provisions
1450.210 Leasing Agent Examination Requirement
1450.220 Issuance of Leasing Agent License
1450.230 Leasing Agent Termination of Employment
1450.240 Leasing Agent 120 Day Permit
1450.250 Leasing Agent Continuing Education Requirements
1450.260 Approved Courses, Schools and Instructors for Leasing Agents

SUBPART C: LICENSING AND EDUCATION FOR SALESPERSON

1450.300 Salesperson Educational Requirements to Obtain a License
1450.310 Salesperson Examination
1450.320 Applications for Salesperson License by Examination
1450.330 Application for Salesperson License by Reciprocity
1450.340 Salesperson Continuing Education

SUBPART D: LICENSING AND EDUCATION FOR BROKER

1450.400 Broker Educational Requirements to Obtain a License
1450.410 Broker Post-License Educational Requirement

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

1450.420 Broker Examination
1450.430 Application for Broker License by Examination
1450.440 Application for Broker License by Reciprocity
1450.450 Broker Continuing Education

SUBPART E: LICENSING AND EDUCATION FOR MANAGING BROKER

1450.500 Managing Broker Educational Requirements to Obtain a License
1450.510 Managing Broker Examination
1450.520 Application for Managing Broker License by Examination
1450.530 Application for Managing Broker License by Reciprocity
1450.540 Managing Broker Continuing Education
1450.550 Managing Broker Licensee Transition Provision

SUBPART F: CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS AND LIMITED PARTNERSHIPS

1450.600 Corporations, Limited Liability Companies, Partnerships and Limited Partnerships
1450.610 Branch Offices

SUBPART G: COMPENSATION AND BUSINESS PRACTICES

Section
1450.700 Managing Broker Responsibilities
1450.705 Supervision
1450.710 Discrimination
1450.715 Advertising
1450.720 Internet Advertising
1450.725 Office Identification Signs
1450.730 Display of Licenses
1450.735 Employment Agreements
1450.740 Unlicensed Assistants
1450.745 Corporation for Indirect Payment
1450.750 Special Accounts
1450.755 Recordkeeping
1450.760 Disclosure of Compensation
1450.765 Disclosure of Licensee Status
1450.770 Brokerage Agreements and Listing Agreements

1450.775 Written Agreements
1450.780 Referral Fees and Affinity Relationships
1450.785 Rental Finding Services

SUBPART H: AGENCY RELATIONSHIPS

Section
1450.800 Confidentiality
1450.810 Failure to Disclose Information Not Affecting Physical Condition
1450.820 Licensee Serving as a Dual Agent in a Transaction in Which a Licensee is a Party to the Transaction
1450.830 Disclosure of Contemporaneous Offers

SUBPART I: DISCIPLINE RULES AND PROCEDURES

Section
1450.900 Unprofessional Conduct
1450.905 Temporary Suspension
1450.910 Otherwise Discipline
1450.915 Dissolution: Effect of Suspension or Revocation of Sponsoring Brokers or Managing Brokers
1450.920 Inspections and Audits
1450.925 Audits of Special Funds by Outside Auditors
1450.930 Case File Review Committee
1450.935 Peer Review Advisor
1450.940 Hearings
1450.945 Real Estate Recovery Fund
1450.950 Automatic Termination Upon Order to Pay Out from the Real Estate Recovery Fund
1450.955 Advisory Letters

SUBPART J: GRANTING VARIANCES

Section
1450.1000 Granting Variances

SUBPART K: PRE-LICENSE SCHOOLS AND CONTINUING EDUCATION POVIDERS

Section

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

1450.1100 Pre-License Schools
1450.1105 Curriculum for Pre-License Schools
1450.1110 Expiration Date and Renewal Period for Pre-License Schools
1450.1115 Pre-License Instructors
1450.1120 Administration of Proficiency Examinations and Eligibility to Take the Proficiency Exam and Transition Courses
1450.1125 Expiration Date and Renewal Period for Pre-License Instructors
1450.1130 Continuing Education Schools
1450.1135 Curriculum for Continuing Education Schools and Course Registration Process
1450.1140 Expiration Date and Renewal Period for Continuing Education Schools
1450.1145 Continuing Education Instructors
1450.1150 Expiration Date and Renewal Period for Continuing Education Instructors
1450.1155 Distance Education Courses
1450.1160 Recruitment at Test Center
1450.1165 Discipline of Schools or Instructors
1450.1170 Real Estate Advisory Council

SUBPART L: CONTINUING EDUATION TRANSITIONAL PROVISIONS

Section
1450.1200 Continuing Education Requirements for Transitioned Licensees

AUTHORITY: Implementing the Real Estate License Act of 2000 [225 ILCS 454] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Old Part repealed at 35 Ill. Reg. _____ and new Part adopted at 35 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 1450.100 Definitions

Unless otherwise clarified by this Part, definitions set forth in the Act also apply for purposes of this Part.

"Act" means the Real Estate License Act of 2000 [225 ILCS 454].

"Advisory Council" means the Real Estate Education Advisory Council created by Section 30-10 of the Act.

"Affidavit of Non-participation" means a sworn statement made by an unlicensed person associated with or an owner of a licensed real estate corporation, limited liability company, partnership or limited partnership attesting that the unlicensed person is not actively directing or engaging in real estate activities as part of that association or ownership.

"Board" means the Real Estate Administration and Disciplinary Board created by Section 25-10 of the Act.

"Certificate of registration" means the document issued by the Division indicating approval of a continuing education course for which CE credit can be granted.

"Compliance agreement" means an agreement entered into between a licensee and the Division in conjunction with an administrative warning letter.

"Credit hour" means classroom attendance for a minimum of 50 minutes of lecture or its equivalent through a distance education program approved by the Division.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Division of Professional Regulation with the authority delegated by the Secretary.

"Discipline" means a refusal to issue or renew a license, probation, suspension or revocation of a license, reprimand, fine or any other sanction explicitly provided for in the Act.

"Division" means the Department of Financial and Professional Regulation-Division of Professional Regulation.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record. [5 ILCS 175/5-105]

"Interactive delivery method" means live instruction and real time discussion via satellite, video, online via webcam or similar communication that occurs between

the instructor and students in real estate courses approved by the Real Estate Education Advisory Council. (See Section 5-27(a)(5) of the Act.)

"Managing broker" means, prior to May 1, 2011, a broker and, after April 30, 2011, a broker or licensed managing broker who has supervisory responsibilities for licensees in one or, in the case of a multi-office company, more than one office and who has been appointed as such by the sponsoring broker. All licensees acting as a managing broker or self-sponsored broker after April 30, 2012 must have a managing broker license or obtain one within 90 days after being named a managing broker. Refer to the definition of sponsoring broker.

"Moral turpitude" means conduct that is inherently base, depraved or vile.

"Office" means a real estate broker's place of business where the general public is invited to transact business, from which sponsored licensees work and where records may be maintained and licenses displayed, whether or not it is the broker's principal place of business. When determining whether an office exists, the following shall be considered by the Division:

An office is any business location or structure that is owned, controlled, operated or maintained by a person who, at that location or structure, is:

engaging in licensed activities;

offering real estate services to consumers;

holding out to the public that the person is engaged in the practice of real estate brokerage;

maintaining original real estate documents and records related to active or pending transactions;

maintaining current escrow records; or

meeting consumers for the purpose of engaging in real estate licensed activities.

The following places do not constitute an office:

a motor vehicle primarily used for transportation;

a place whose purpose is solely devoted to advertising real estate matters of a general nature or to making a sponsoring broker's business name generally known;

a place that a licensee uses solely for storage or archiving of records; or

a licensee's residence unless held out to the public as a location at which real estate brokerage services are available to the public.

A licensee engaged in the practice of real estate brokerage shall maintain an office. If the licensee is sponsored by another, then the office shall be the office of the sponsoring broker.

A post office box, mail drop location, or other similar facility shall not constitute an office, so long as none of the activities described in this definition take place at this facility.

"Proctor" means any person, including, but not limited to, an instructor, who has a written agreement to administer examinations fairly and impartially with a licensed pre-license school or a licensed continuing education school. Proctoring may be by electronic means.

"School branch" means a location where a pre-license school provides instruction other than the sponsoring school's principal location.

"Semester hours" shall be converted into quarter hours at a ratio of 2 semester hours to 3 quarter hours.

"Sole owner" when used to describe a licensee means a licensee who has a 100% ownership interest alone, has ownership as a joint tenant or tenant by the entirety, or holds 100% beneficial interest in a land trust.

"Sponsoring broker" means the broker or managing broker who has issued a sponsor card to a salesperson, a broker, a licensed managing broker or a leasing agent, or is self-sponsored.

There shall be only one sponsoring broker for any one real estate company. According to this definition, the sponsoring broker is the entity holding the company real estate license, whether the entity is an individual who operates as a sole proprietorship, partnership, limited liability company, corporation or registered limited liability partnership.

The entity that is the sponsoring broker for the real estate company may delegate its duties in accordance with company policy to appropriate company personnel authorized to act and sign on behalf of the sponsoring broker.

Some examples include, but are not limited to:

the sponsoring broker could authorize a managing broker for the company to sign sponsor cards in the name of the sponsoring broker;

the sponsoring broker could authorize a qualified company employee or independent contractor to oversee bookkeeping duties relative to the sponsoring broker's escrow account;

the sponsoring broker may delegate authorized signers for the escrow account to sign on behalf of the sponsoring broker; and

the sponsoring broker may delegate to authorized company personnel the ability to sign contracts entered into by the sponsoring broker in accordance with the sponsoring broker's company policy.

Section 1450.110 Sponsor Cards

a) Leasing Agent

1) Except for a person working under a 120 day leasing agent permit as provided in Section 1450.240, no leasing agent license applicant may engage in the activities of a licensed leasing agent until a valid sponsor card has been issued to the applicant.

2) A sponsoring broker shall prepare, upon forms provided by the Division, and deliver to each leasing agent employed by the broker a sponsor card certifying that the person whose name appears on the card is in fact employed by that broker, and that the applicant has not practiced under a 120 day leasing agent permit for more than 120 days.

3) A sponsor card properly issued pursuant to this Section shall serve as a temporary permit allowing the sponsored individual to engage in practice as a leasing agent until the applicant is issued a leasing agent license. An applicant may practice under a sponsor card temporary permit for a maximum of 45 days.

4) A sponsoring broker may issue a sponsor card to an individual only in the following circumstances:

A) upon presentation of a leasing agent examination pass score report stating that the broker may issue a sponsor card; or

B) upon presentation of an original leasing agent license that is endorsed by the broker by whom the leasing agent was previously employed.

5) The sponsoring broker shall, within 24 hours after issuance of the sponsor card, submit the following to the Division by regular mail or a signature restricted delivery service determined appropriate by the sponsoring broker.

A) For applicants for an initial leasing agent license:

i) a copy of the sponsor card and transcript, if applicable;

ii) a leasing agent examination pass score report stating that the broker may issue a sponsor card;

iii) a leasing agent license application that is signed by the applicant and on which all questions have been answered; and

iv) the license application fee required by Section 1450.130.

B) For persons already holding a leasing agent license:

i) a copy of the sponsor card; and

ii) the properly endorsed leasing agent license and pocket card of the sponsored licensee.

6) A sponsoring broker issuing a sponsor card shall retain a copy of the sponsor card until such time as the leasing agent license is received and properly displayed in the broker's office.

b) Salesperson (before March 15, 2011), Broker and Managing Broker

1) A properly issued sponsor card shall serve as a temporary permit allowing the sponsored individual to engage in the practice of real estate for a maximum of 45 days only for the sponsoring broker named on the sponsor card.

2) The sponsoring broker shall issue a sponsor card to an individual only in the following instances:

A) Upon presentation of a real estate examination pass score report stating that the sponsoring broker may issue a sponsor card;

B) Upon presentation of an original license endorsed by the sponsoring broker by whom the licensee was previously employed or with whom the licensee was previously associated; or

C) Upon presentation of a license expired for less than 2 years.

3) Upon issuance of a sponsor card, the issuing sponsoring broker shall, within 24 hours after issuance, submit the following to the Division by regular mail or a signature restricted delivery service determined appropriate by the sponsoring broker:

A) For Licensees

i) a copy of the sponsor card and transcript, if applicable;

ii) appropriate sponsor card fee as set forth in Section 1450.130; and

iii) one of the following:

- the properly endorsed real estate license and pocket card of the sponsored licensee; or

- an expired license of the sponsored licensee along with the fee required by Section 1450.130 and proof of education, if applicable, as required by Section 5-50 of the Act; or

- the pocket card of the licensee and a sworn statement by the licensee explaining why the license is not submitted; or

- if neither the license nor pocket card is available, the status of the license as verified by the Director or his or her designee.

B) For Salesperson, Broker and Managing Broker Applicants

i) a copy of the sponsor card and transcript, if applicable;

ii) a real estate pass score report stating that the sponsoring broker may issue a sponsor card; and

iii) other documentation as required by Section 1450.320.

E) Should an applicant be found not to have completed all the requirements, the applicant's sponsor card shall be void, the applicant shall be considered to have never been authorized to practice, and the applicant shall be subject to disciplinary action in accordance with Section 20-20 of the Act and Section 1450.900 of this Part.

4) A licensed real estate broker, prior to May 1, 2012, or a managing broker may practice as a sole proprietor, partnership, corporation or limited liability company provided that, prior to doing business, the broker complies with the licensing requirements for partnerships, corporations or limited liability companies set forth in Section 1450.600 and submits the following to the Division by regular mail or a signature restricted delivery service:

A) a copy of the sponsor card issued to himself or herself;

B) the appropriate sponsor card fee required by Section 1450.130; and

C) one of the following:

i) Prior to May 1, 2012, his or her properly endorsed real estate broker or managing broker license and pocket card. After April 30, 2012, his or her managing broker license and pocket card; or

ii) Prior to May 1, 2012, an expired broker license, or, after April 30, 2012, an expired managing broker license along with the fee required by Section 1450.130 and proof of education, if applicable, as required by Section 5-50 of the Act; or

iii) the pocket card and a sworn statement by the licensee explaining why the license is not submitted. If neither the license nor the pocket card is available, the status of the license shall be verified by the Director or his or her designee; or

iv) a completed consent to audit and examine special accounts form if one is not already on file.

5) The Division shall, within 30 days after receipt of the sponsor card, appropriate fees and appropriate documentation, issue a license to the sponsored licensee or notify the applicant why the license cannot be issued.

6) Expiration of the Sponsor Card. A sponsor card shall be valid for a period of 45 days from issue date unless extended for an additional 45 days by the Division for good cause.

A) Good cause shall be limited to those instances in which the Division has unnecessarily delayed the processing of a license.

B) The request for extension shall be considered granted only upon written notice from the Division.

7) The sponsoring broker shall retain a copy of the sponsor card until the license is received.

8) Upon termination of a licensee, a sponsoring broker shall immediately:

A) Endorse the licensee's license as provided for on that document;

B) Submit a photocopy of the endorsed license to the Division within 2 business days after termination by regular mail or a signature restricted delivery service determined appropriate by the sponsoring broker;

C) Retain a copy of the endorsed license at least until the expiration date printed on that license; and

D) Give the original endorsed license to the licensee.

9) Once a license has been endorsed, the licensee is prohibited from practicing real estate until the licensee is issued a properly completed sponsor card.

10) Each licensee shall carry either a properly issued sponsor card or a valid pocket card at all times and shall display same upon demand.

Section 1450.120 Assumed Name

a) If a sponsoring broker acting as a sole proprietor operates under any name other than that appearing on his or her license, the sponsoring broker shall submit to the Division a certified copy of the broker's registration under the Assumed Business

Name Act [805 ILCS 405]. The assumed business name registration shall be obtained in each county in which the assumed business name is used. Any corporation, limited partnership, general partnership or limited liability company operating under any name other than that appearing on its application for a license shall provide to the Division a copy of the filing or certificate authorizing it to do business under an assumed name. Sponsored licensees, including groups of licensees commonly referred to as "teams", may not operate under an assumed business name other than that of their sponsoring broker.

b) The licensee shall submit the information to the Division within 30 days after use of the assumed name.

Section 1450.130 Fees

a) License of a Leasing Agent

1) The application fee for an initial leasing agent license shall be $75.

2) The application fee to renew a leasing agent license shall be $50 per year.

3) The late renewal fee for leasing agent licenses renewed after the expiration date of the license shall be $50.

4) The fee for issuing a 120 day leasing agent permit shall be $25.

b) License of Real Estate Salesperson

1) The fee for an initial license as a salesperson is $125. The fee must accompany the application to determine the applicant's fitness to receive a license.

2) The fee for renewal of a salesperson's license that has been expired for not more than 2 years, as provided for in Section 5-50 of the Act, is the sum of all lapsed renewal fees plus $50. However, no salesperson license will be renewed after April 30, 2011.

c) License of Broker

1) The fee for an initial license as a broker is $125. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for the renewal of a broker's license that has not expired shall be calculated at the rate of $75 per year.

3) The fee for the renewal of a broker's license that has been expired for not more than 2 years, as provided for in Section 5-50 of the Act, is the sum of all lapsed renewal fees plus $50.

d) License of Managing Broker

1) The fee for an initial license as a managing broker is $150. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for the renewal of a managing broker's license that has not expired shall be calculated at the rate of $100 per year.

3) The fee for the renewal of a managing broker's license that has been expired for not more than 2 years, as provided for in Section 5-50 of the Act, is the sum of all lapsed renewal fees plus $50.

e) License of Partnership, Limited Liability Company or Corporation

1) The fee for an initial license for a partnership, limited liability company or corporation is $125. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for the renewal of a license for a partnership, limited liability company or corporation shall be calculated at the rate of $75 per year.

3) The fee for the renewal of a license for a partnership, limited liability company or corporation that has been expired is the sum of all lapsed renewal fees plus $50.

f) License for Branch Office

1) The fee for an initial license for a branch office is $125. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for the renewal of a branch office license shall be calculated at the rate of $75 per year.

3) The fee for the renewal of a branch office license that has been expired is the sum of all lapsed renewal fees plus $50.

g) Pre-License School, Instructor and Course Fees

1) The fee for an application for initial approval of a pre-license school is $1,025. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for renewal of approval of a pre-license school shall be calculated at the rate of $525 per year.

3) The fee for the renewal of approval of a pre-license school that has been expired is the sum of all lapsed renewal fees plus $50.

4) The fee for an application for initial approval of a branch for a pre-license school is $175 per branch. The fee must accompany the application to determine an applicant's fitness to receive approval.

5) The fee for renewal of approval of a branch for a pre-license school shall be calculated at the rate of $125 per branch per year.

6) The fee for the renewal of approval of a branch for a pre-license school that has been expired is the sum of all lapsed renewal fees plus $50.

7) The fee for transferring a branch location shall be $25 per transfer.

8) The fee for application for initial approval of a pre-license instructor is $125. The fee must accompany the application to determine the applicant's fitness for approval.

9) The fee for renewal of approval of a pre-license instructor shall be calculated at the rate of $125 per year.

10) The fee for the renewal of approval of a pre-license instructor that has been expired is the sum of all lapsed renewal fees plus $50.

11) The fee for application for initial approval of a pre-license course is $125. The fee must accompany the application for approval.

12) The fee for renewal of approval of a pre-license course shall be calculated at the rate of $50 per year.

13) The fee for the renewal of approval of a pre-license course that has been expired is the sum of all lapsed renewal fees plus $50.

h) Continuing Education School, Instructor and Course Fees

1) The fee for an application for initial approval as a continuing education (CE) school shall be $2,025. The fee must accompany the application to determine an applicant's fitness for approval.

2) The fee for renewal of approval as a CE school shall be $2,025 per year.

3) The fee for renewal of approval as a CE school which has expired shall be all lapsed renewal fees plus $50.

4) The fee for an application for initial approval as a CE instructor shall be $75. The fee must accompany the application to determine an applicant's fitness to receive approval.

5) The fee for renewal of approval as a CE instructor shall be $75 per year.

6) The fee for the renewal of approval as a CE instructor that has been expired shall be all lapsed renewal fees plus $50.

7) The fee for an application for initial approval of a CE course shall be $125. The fee must accompany the application for approval.

8) The fee for renewal of approval of a CE course shall be $50 per year.

9) The fee for renewal of approval of a CE course that has expired shall be all lapsed renewal fees plus $50.

i) General

1) All fees paid pursuant to the Act and this Section are non-refundable.

2) The fee for the issuance of a duplicate license or pocket card, for the issuance of a replacement license or pocket card for a license or pocket card that has been lost or destroyed, for the issuance of a license with a change of name or address other than during the renewal period, or for the issuance of a license with a change of location of business, is $25.

3) The fee for a certification of a licensee's record for any purpose is $25.

4) The fee for a wall license showing registration shall be the cost of producing the license.

5) The fee for a roster of persons licensed under the Act or for a list of licensees sponsored by the sponsoring broker shall be the cost of producing the roster.

6) Applicants for an examination as a leasing agent, broker, salesperson or instructor shall be required to pay a fee covering the cost of providing the examination. If a designated testing service is utilized for the examination, the fee shall be paid directly to the designated testing service. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged, shall result in the forfeiture of the examination fee.

7) The fee for requesting a waiver of continuing education requirements pursuant to Section 5-70(b) of the Act, or obtained while out-of-state pursuant to Section 5-75 of the Act, shall be $25.

8) The fee for processing a sponsor card other than at the time of original licensure is $25.

9) The fee for a copy of a transcript of the proceedings under Section 20-62 of the Act shall be the cost of a copy of the transcript. A copy of the balance of the record will be provided at the Division's cost for producing the record.

10) The fee for certifying the record referred to in Section 20-73 of the Act is $1 per page of the record.

11) The Division may charge an administrative fee not to exceed $500, as a part of a compliance agreement issued with an administrative warning letter pursuant to Section 20-20 of the Act .

12) Each university, college, community college or school supported by public funds shall be exempt from the school licensure fees provided each university, college, community college or school meets the following criteria and certifies to the Division that:

A) the facility is supported by public funds;

B) the instructors are considered full-time faculty and are supported by public funds or if the administrator of the real estate school/program/curricula is considered full-time with exclusive responsibility for the administration of the real estate school/program/curricula and is supported by public funds;

C) the program, pre-license and/or continuing education revenues are deposited into the general fund of the university, college, community college or school, as are other appropriated public funds; and

D) the program, pre-license and/or continuing education is not a for-profit division of the university, college, community college or school.

Section 1450.140 Renewals

a) Every leasing agent license issued under the Act shall expire on July 31 of each even-numbered year.

b) Every salesperson's license issued under the Act shall expire on April 30, 2012.

c) Every broker's license issued under the Act shall expire on April 30 of each even-numbered year. Sponsoring brokers shall also submit a properly completed consent to audit and examine special accounts form.

d) Every managing broker's license issued under the Act shall expire on April 30 of each odd-numbered year; except that the initial managing broker renewal after the transition period found in Section 5-47 of the Act will be on April 30, 2013.

e) Every license issued to a corporation, limited liability company, partnership, limited partnership or branch office under the Act shall expire on October 31 of each even-numbered year. The holder of the license shall submit the following:

1) A properly completed consent to audit and examine special accounts form; and

2) A properly completed change of business information form as provided for in Section 1450.150.

f) Renewal applications shall be submitted on forms provided by the Division. All renewals shall include the name and license number of the sponsoring broker. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.

g) Practicing or offering to practice on an expired or inoperative license shall constitute unlicensed or unauthorized practice and shall be grounds for discipline pursuant to Section 20-20 of the Act.

h) Any leasing agent, salesperson, broker or managing broker whose license under the Act has expired is eligible to renew the license without paying any lapsed renewal fees or reinstatement fee, provided that the license expired while the licensee was:

1) on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard, the State Militia called into the service or training of the United States; or

2) engaged in training or education under the supervision of the United States

prior to induction into military service; or

3) serving as an employee of the Division. A licensee renewing his or her license in accordance with this subsection (h)(3) may renew the license within a period of 2 years following the termination of service and is not required to take a refresher course or a retest. After April 30, 2011 an individual renewing his or her license pursuant to this subsection (h)(3) shall be issued a license equivalent to the license held when employed by the Division.

i) In accordance with Section 5-50 of the Act, any licensee whose license has expired for more than 2 years shall not be eligible for renewal of that license. Any licensee whose license has been expired for less than 2 years may renew the license at any time by complying with the requirements of this Part, by paying the fees required by Section 1450.130 and by providing the Division with evidence that the licensee has satisfactorily completed the required continuing education courses, including 6 hours per year for each year during which the license was expired. However, no salesperson license will be renewed after April 20, 2011.

j) In accordance with Section 5-50 of the Act, upon request, the Division shall prepare and mail or deliver electronically to the sponsoring real estate broker a listing of licensees who, according to the records of the Division, are sponsored by that broker. The sponsoring broker shall notify the Division concerning any inaccuracies in the listing within 30 days after its receipt.

k) A notice of renewal shall be sent to all sponsoring brokers, by mail or electronic means, for all of the sponsored licensees for the sponsoring broker.

Section 1450.150 Licensee Change of Information

a) It is the responsibility of each licensee to immediately notify the Division of any change of name, address or office location. For example, if the licensee has had a name change either by court order or due to a change in marital status, the licensee shall notify the Division of the name change together with a copy of the marriage certificate or portions of the court order relating to the name change, and indicate under which name the license shall issue. If the licensee regularly practices under a diminutive of his or her first name (e.g., Meg for Margaret or Mark for Mariusz or Sam for Shamim), last name or a middle name instead of the licensee's full legal name, the licensee shall notify the Division of the alternate

name. To help ensure proper credit, the licensee shall ensure that all continuing education certificates are issued under the name of licensure.

b) It is the responsibility of each sponsoring broker to immediately notify the Division of any change of business information.

1) When a licensee acquires or transfers any interest in a corporation, limited liability company, partnership or limited partnership licensed under the Act, the sponsoring broker shall submit to the Division a notice prescribed by the Department.

2) When a licensee becomes an officer or manager of a corporation, limited liability company, partnership or limited partnership licensed under the Act, the sponsoring broker shall submit to the Division a notice prescribed by the Department. Any changes in managing brokers, branch or principal offices shall be reported in writing to the Division within 15 days after the change.

SUBPART B: LICENSING AND EDUCATION FOR LEASING AGENT

Section 1450.200 Leasing Agent General Provisions

a) A licensed leasing agent shall not engage in any licensed activities other than those activities relating to the leasing of residential real property. A licensed leasing agent may not offer or negotiate the sale or exchange of real estate, or engage in any other activities described in Section 1-10 of the Act not relating to the leasing of residential real estate.

b) No person other than a duly authorized managing broker, broker, salesperson or leasing agent or an individual working under a 120 day leasing agent permit shall engage in, for compensation, residential leasing activities for which a license is required under the Act.

c) No leasing agent licensee may accept compensation for the performance of leasing agent activities except from the sponsoring broker by whom the licensee is employed.

Section 1450.210 Leasing Agent Examination Requirement

a) The Division or its designated testing service shall conduct the examinations at times and places as the Division shall approve.

b) If a person who has received a passing score on the examination fails to file an application and meet all requirements for a leasing agent license within one year after receiving a passing score on the examination, credit for the examination shall terminate. The person thereafter may make a new application for examination.

c) If an individual has failed the examination four times, the individual must repeat the education requirement set forth in Section 5-10 of the Act prior to taking the examination again.

Section 1450.220 Issuance of Leasing Agent License

a) The Division shall, within 30 days after receipt of the copy of the sponsor card and other documentation submitted by the issuing broker, issue a leasing agent license and a pocket card to the sponsored licensee or notify the applicant why the license cannot be issued.

b) A leasing agent license shall be readily available to the public as provided for in Section 1450.730. Each licensee shall carry on the his or her person the pocket card or, if a pocket card has not yet been issued, a properly issued sponsor card, when engaging in any licensed activity. The licensee shall display the pocket card or sponsor card upon demand.

Section 1450.230 Leasing Agent Termination of Employment

a) Upon termination of employment of a leasing agent licensee, the sponsoring broker shall immediately:

1) endorse the leasing agent's license as provided on that document;

2) submit a photocopy of the endorsed license to the Division within 2 days after termination by regular mail or a signature restricted delivery service determined appropriate by the sponsoring broker;

3) retain a copy of the endorsed license at least until the expiration date printed on that license; and

4) give the original endorsed license indicating the termination to the licensee.

b) Once a license is endorsed, the leasing agent licensee is prohibited from practicing until the licensee is again issued a properly completed sponsor card.

Section 1450.240 Leasing Agent 120 Day Permit

a) Pursuant to Section 5-5(d) of the Act, a person engaging in practice under the provisions of this Section may first obtain a 120 day leasing agent permit. A permit holder shall comply with all provisions of the Act and this Subpart as if the permit holder were a licensee, and shall be subject to standards of practice and disciplinary provisions as if the permit holder were a licensee. A managing broker supervising a permit holder shall be responsible for the activities and actions of a permit holder as if the permit holder were a leasing agent licensee. A student leasing agent may only be sponsored by one sponsoring broker during the 120 day period.

b) Within 24 hours after employing a permit holder, a broker shall submit the following information to the Division on forms provided by the Division:

1) the name, address and other information requested by the Division to identify the permit holder;

2) certification by the permit holder that the applicant has not been a leasing agent licensee within the past 2 years and that the applicant has not been a permit holder within the past 2 years;

3) certification that the permit holder is at least 18 years of age;

4) certification that the permit holder has successfully completed a 4 year course of study in a high school or secondary school or an equivalent course of study approved by the Illinois State Board of Education (e.g., GED); and

5) certification that the permit holder is at the time of application, or will be within a period of 90 days, enrolled in a leasing agent course of instruction approved by the Division.

c) Upon expiration of the 120 day leasing agent permit period, the permit holder shall immediately cease engaging in leasing agent activities unless the person has been issued a leasing agent sponsor card or a leasing agent license.

d) A person shall not practice under a 120 day leasing agent permit more than once in any 24 month period. A person who has been a leasing agent licensee within the past 24 month period shall not practice as a 120 day permit holder.

Section 1450.250 Leasing Agent Continuing Education Requirements

a) Each leasing agent licensee shall complete during the pre-renewal period prior to that renewal a minimum of 6 hours of continuing education (CE) that is relevant to leasing residential real property and is approved by the Advisory Council. Approved courses shall, at a minimum, cover recent changes in the Act and other laws affecting the leasing of residential real estate and material regarding fair housing laws relating to the leasing of residential real property.

b) A renewal applicant is not required to comply with these requirements for the first renewal following the original issuance of the applicant's leasing agent license.

c) Continuing education schools, instructors and courses must be approved by the Division as provided in Section 1450.1130.

d) Licensee compliance with CE requirements shall be certified pursuant to the following provisions:

1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements of this Section.

2) The Division may, in the context of compliance audits, require additional evidence demonstrating compliance with the CE requirements (e.g., a certificate of attendance). It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

3) In the context of a compliance audit, the Division shall accept verification (e.g., original transcript, certificate of attendance) submitted directly from a school on behalf of a renewal applicant as proof of CE compliance.

4) When there appears to be a lack of compliance with CE requirements, a licensee shall be subject to discipline pursuant to this Part and the Act.

e) The Division shall conduct audits pursuant to Section 1450.920 to verify compliance with this Section.

Section 1450.260 Approved Courses, Schools and Instructors for Leasing Agents

All pre-license education courses, continuing education courses, schools and instructors relating to leasing agent licensure must be approved by the Advisory Council and licensed pursuant to Sections 1450.1100 and 1450.1130.

SUBPART C: LICENSING AND EDUCATION FOR SALESPERSON

Section 1450.300 Salesperson Educational Requirements to Obtain a License

An applicant for a salesperson's license must have successfully completed 45 credit hours of instruction in an approved Real Estate Transaction Course as outlined in Section 1450.1105.

Section 1450.310 Salesperson Examination

a) Each applicant for a salesperson's license shall file an application for examination as determined by the designated testing service. The application shall include:

1) Certification that the applicant is 21 years of age, or 18 if the applicant has attained the education required by Section 5-26 of the Act. Forty-eight semester hours shall meet the minimum requirements of Section 5-26.

2) Certification of graduation from high school or its equivalent (e.g., GED).

3) The required fee as provided in Section 1450.130.

4) Proof of one of the following:

A) Currently admitted to practice law by the Supreme Court of Illinois;

B) Completion of at least 45 class hours of instruction in real estate courses approved by the Advisory Council;

C) Completion of a distance education course approved by the Advisory Council in accordance with Section 1450.1155.

b) If an applicant has failed an examination 4 times, the applicant must repeat the pre-license education in order to be readmitted to sit for the examination.

c) Pursuant to Section 5-35(c) of the Act, the 4 year time period does not apply to high school or its equivalent (e.g., GED) education.

d) The salesperson exam will no longer be administered after March 15, 2011.

Section 1450.320 Applications for Salesperson License by Examination

a) Each applicant for a salesperson's license shall submit to the Division:

1) An application signed by the applicant and on which all questions have been answered;

2) The fee required by Section 1450.130;

3) Proof of successful completion of the examination authorized by the Division;

4) A properly completed sponsor card issued in accordance with Section 1450.110; and

5) Transcript, if applicable.

b) An applicant shall have one year from the date of receipt of a passing score on the examination to file an application with the Division and to meet all of the requirements for licensure.

Section 1450.330 Application for Salesperson License by Reciprocity

a) Prior to May 1, 2011, a salesperson's license by reciprocity may be issued to a real estate salesperson under the following conditions:

1) That the salesperson is the holder of an active license by examination in a

state that has a reciprocal agreement with the Division;

2) That the standards of that state for licensing as a salesperson are substantially equivalent to or greater than the minimum standards in Illinois; and

3) The salesperson files an application on forms furnished by the Division, along with the required fee and:

A) a properly completed 45 day sponsor card form;

B) a statement bearing the seal of the licensing authority from each state in which the applicant is licensed, showing:

i) that he or she has an active license as a salesperson in that state;

ii) that the license is in good standing; and

iii) any disciplinary action taken against the salesperson;

C) proof of passing an approved test on Illinois specific real estate brokerage laws; and

D) if the salesperson's sponsoring broker does not maintain a definite office or place of business within the State of Illinois, a written statement that:

i) appoints the Director to act as the salesperson's agent upon whom all judicial and other process may be served;

ii) acknowledges and agrees to abide by all of the provisions of the Act with respect to all of the salesperson's activities within and relating to the State of Illinois; and

iii) assents to jurisdiction of the Division.

b) Any licensee who renews a license granted under a reciprocal agreement thereby assents to jurisdiction without regard to the location of the licensee's domicile or

principal business location or office locations.

c) All requirements for licensure by reciprocity shall be met within one year after the date of original application or the application shall be denied and the fee forfeited. Thereafter, to be reconsidered for licensure, the applicant shall file a new application and fee.

Section 1450.340 Salesperson Continuing Education

a) Continuing Education Hour Requirements

1) The CE requirement for a salesperson submitting a late renewal for the April 30, 2009 renewal period is 12 hours of CE approved by the Advisory Council.

2) The Division shall conduct random audits to verify compliance with this Section.

b) Approved Continuing Education

1) CE credit may be earned for verified attendance at or participation in a course offered by an approved CE school that meets the requirements set forth in Section 1450.1130.

2) CE credit may also be earned for completion of a distance education course that is offered by an approved CE school that meets the requirements set forth in Section 1450.1155.

3) Pursuant to Section 5-70 of the Act, the CE in a curriculum approved by the Advisory Council requirement shall be satisfied by successful completion of the following:

A) Core Category. A minimum of 6 hours of CE in a curriculum approved by the Advisory Council. Standardized outlines or syllabi for these courses will be provided to CE schools and instructors by the Division.

B) Elective Category. A maximum of 6 hours of CE in CE courses approved by the Advisory Council.

4) Pursuant to Section 5-70(g) of the Act, CE credit may be earned by an approved instructor for teaching an approved CE course. Credit for teaching an approved CE course may only be earned one time per course during a prerenewal period. One hour of teaching is equal to one hour of CE.

5) As provided for in Section 5-75 of the Act, if licensees have earned CE hours offered in another state or territory for which they will be claiming credit toward full compliance in Illinois, each applicant shall submit an application along with a $25 processing fee within 90 days after completion of the CE course and prior to expiration of the license. The Advisory Council shall review and recommend approval or disapproval of the CE course provided the CE school and CE course are substantially equivalent to those approved in Illinois and provided that the course included the successful completion of a proctored examination. In determining whether the CE school and CE course are substantially equivalent, the Advisory Council shall use the criteria in Sections 5-70 through 5-85 of the Act and this Section.

6) CE credit shall not be given for CE courses taken in Illinois from schools not pre-approved by the Division.

7) Except for distance education CE courses, no more than 6 hours of CE may be taken in any calendar day.

8) CE credit shall not be given for pre- and post-licensing education courses except as specifically provided for in Section 5-70(1) of the Act.

c) Certification of Compliance with CE Requirements

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

2) The Division may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of completion, transcript, etc.). It is the responsibility of each renewal applicant to provide proof of CE completed.

3) When, during an audit or compliance review, the Division determines that a licensee may be deficient in complying with CE requirements, the Division will notify the licensee, and the sponsoring broker of the licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery service, of the possible deficiency. The licensee shall have 60 days from the date the deficiency notification is mailed to submit to the Division evidence of compliance with CE requirements.

A) If satisfactory evidence of compliance with CE requirements set forth in subsection (c)(2) is submitted, the Division shall notify the licensee by first class mail, that the licensee is in compliance.

B) If the licensee has certified compliance with CE requirements on the licensee's most recent renewal application pursuant to subsection (c)(1), but cannot submit evidence of having been in compliance on the date the licensee made the certification, the licensee may, during the 60 days notice period, submit evidence of having attained compliance with CE requirements after the date the certification was made. The submission of evidence of post-certification completion must be accompanied by a non-refundable administrative fee of $25 per course credit hour completed after the date the licensee originally certified compliance. The submission of evidence will not be reviewed or considered if the proper fee does not accompany the submission. Upon submission of the evidence and appropriate fee, the evidence will be reviewed. If the evidence is found to be satisfactory, the Division shall notify the licensee and the sponsoring broker of the licensee that the licensee is in compliance. Any credit hours submitted for post-certification course completion and found satisfactory may not be used as credit for the next renewal requirements.

C) If the licensee fails to submit within the 60 day notice period satisfactory evidence of compliance with CE requirements, the failure shall be evidence of a violation of Section 20-20 of the Act regarding false or fraudulent representation to obtain a license and the continuing education requirements of Article 5 of the Act. The Division shall send notice pursuant to Section 20-60 of the Act indicating the commencement of disciplinary proceedings. A copy

of this notice shall be sent to the sponsoring broker of the licensee.

SUBPART D: LICENSING AND EDUCATION FOR BROKER

Section 1450.400 Broker Educational Requirements to Obtain a License

a) Prior to May 1, 2011, 120 credit hours of instruction in approved courses are required for broker applicants. Credit shall be given for class hours successfully completed in the following manner:

1) 45 credit hours for a Real Estate Transactions course;

2) 15 credit hours for a Brokerage Administration course;

3) 15 credit hours for Contracts and Conveyances;

4) 15 credit hours of mandatory course work as established by the Education Advisory Council and the Division;

5) Credit for the remaining 30 class hours may be obtained by completing at least 2 of the following courses listed:

A) Appraisal;

B) Property Management;

C) Financing;

D) Sales and Brokerage;

E) Farm Property Management;

F) Real Property Insurance.

b) Prior to May 1, 2011, an applicant for a broker license who is licensed as an Illinois real estate salesperson is presumed to have completed a 45 credit hour Real Estate Transactions course provided that the license has not been nonrenewed for the preceding 2 years or more. Having received 45 class hours credit as a licensed real estate salesperson, an additional 45 class hours credit

cannot be earned by taking a Real Estate Transactions course.

c) After April 30, 2011, an applicant for a broker license must have completed 90 credit hours of instruction as set forth in Section 1450.1105.

d) Subsection (c) does not apply to applicants who hold an active license as a salesperson or broker on April 30, 2011 and who successfully apply for licensure under the transition provisions in Sections 5-46 and 5-47 of the Act.

Section 1450.410 Broker Post-License Educational Requirement

a) Brokers first licensed after April 30, 2011 shall be required to complete a 30-hour post-license course and pass a provider administered exam prior to their first renewal of that license. This course is intended to deal with the practical application of these topics to the practice of real estate brokerage as set forth in Section 1450.1105(f).

b) Those taking the 30 hour post-license broker course during their first renewal cycle shall not be required to complete any other continuing education during that pre-renewal cycle.

Section 1450.420 Broker Examination

a) Each applicant for a broker's license shall file an application for examination as determined by the designated testing service. The application shall include:

1) Certification that the applicant is 21 years of age, or 18 if the applicant has attained the education required by Section 5-27 of the Act. Forty-eight semester hours shall meet the requirements of Section 5-27;

2) Certification of graduation from high school or its equivalent (e.g., GED);

3) The fee required by Section 1450.130;

4) Proof of one of the following:

A) Currently admitted to practice law by the Supreme Court of Illinois; or

B) Completion of at least 120 hours, prior to May 1, 2011 and, after April 30, 2011, 90 hours of instruction in real estate courses approved by the Advisory Council in accordance with Section 1450.1105.

b) An applicant who has failed an examination 4 times must repeat the pre-license education in order to be readmitted to sit for the examination.

c) Pursuant to Section 5-35(c) of the Act, the 4 year time period does not apply to high school or its equivalent (e.g., GED) education.

Section 1450.430 Application for Broker License by Examination

a) Each applicant for a broker's license shall submit to the Division:

1) A signed application on which all questions have been answered;

2) The fee required by Section 1450.130;

3) Proof of successful completion of the examination authorized by the Division;

4) A properly completed sponsor card form issued in accordance with Section 1450.110;

5) Transcript, if applicable; and

6) If the applicant will be a sponsoring broker, a properly completed consent to audit and examine special accounts form.

b) An applicant shall have one year from the date of receipt of a passing score on the examination to file an application with the Division and to meet all of the requirements for licensure.

Section 1450.440 Application for Broker License by Reciprocity

a) A broker's license by reciprocity shall be issued to a real estate broker, which, for the purposes of this subsection (a), shall include a real estate salesperson after April 30, 2011, under the following conditions:

1) That the broker is the holder of an active broker's license, or equivalent by examination in a state that has a reciprocal agreement with the Division;

2) That the standards of that state for licensing as a real estate broker are substantially equivalent to or greater than the minimum standards in Illinois;

3) That the broker maintains a definite place of business in his or her state of licensure and, if the application is made prior to May 1, 2012, that the broker has been actively engaged in the real estate business as a broker in the broker's state of licensure during the immediately preceding 2 years; and

4) That the broker files an application, on forms furnished by the Division, along with the required fee and:

A) a statement bearing the seal of the licensing authority from each state in which he or she is licensed, showing:

i) that he or she has an active license as a broker in that state;

ii) that the license is in good standing; and

iii) any disciplinary action taken against the broker;

B) proof of passing an approved test on Illinois specific real estate brokerage laws;

C) if the broker does not maintain a definite office or place of business within the State of Illinois, a written statement that:

i) appoints the Director to act as the broker's agent upon whom all judicial and other process may be served;

ii) acknowledges and agrees to abide by all of the provisions of the Act with respect to all of the broker's activities within and relating to the State of Illinois; and

iii) assents to jurisdiction of the Division;

D) a properly completed 45 day sponsor card form.

b) Any licensee who renews a license granted under a reciprocal agreement thereby assents to jurisdiction without regard to the location of the licensee's domicile or principal business location or office locations.

c) All requirements for licensure by reciprocity shall be met within one year after the date of original application or the application shall be denied and the fee forfeited. Thereafter, to be reconsidered for licensure, the applicant shall file a new application and fee.

Section 1450.450 Broker Continuing Education

a) Continuing Education Hour Requirements

1) Pursuant to Section 5-70 of the Act, each broker, except as otherwise provided in Section 5-70(b), is required to complete 6 hours of continuing education (CE) for each year of the pre-renewal period in courses approved by the Advisory Council. Licensees who complete CE after the expiration of a license are eligible for approval of CE only upon payment of all fees required by this Part and completion of the necessary forms. In addition to the CE required in this subsection (a)(1), any broker filing a late renewal for the pre-renewal period ending April 30, 2010 must complete a 6 hour broker management continuing education course.

2) A renewal applicant is not required to complete CE requirements for the first renewal following original licensure if the initial license was issued less than 90 days prior to the expiration date.

3) Brokers licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section, unless they are exempt pursuant to Section 5-70(b) of the Act.

4) The Division shall conduct random audits to verify compliance with this Section.

b) Approved Continuing Education

1) CE credit may be earned for verified attendance at or participation in a course offered by an approved CE school that meets the requirements set forth in Section 1450.1130.

2) CE credit may also be earned for completion of a distance education course that is offered by an approved CE school that meets the requirements set forth in Section 1450.1155.

3) Pursuant to Section 5-70 of the Act, the CE in a curriculum approved by the Advisory Council shall be satisfied by successful completion of the following:

   A) Core Category. A minimum of 6 hours of CE in a curriculum approved by the Advisory Council. Standardized outlines or syllabi for these courses will be provided to CE schools and instructors by the Division.

   B) Elective Category. A maximum of 6 hours of CE in CE courses approved by the Advisory Council.

4) Pursuant to Section 5-70(g) of the Act, CE credit may be earned by an approved instructor for teaching an approved CE course. Credit for teaching an approved CE course may only be earned one time per course during a pre-renewal period. One hour of teaching is equal to one hour of CE.

5) As provided for in Section 5-75 of the Act, if licensees have earned CE hours offered in another state or territory for which they will be claiming credit toward full compliance in Illinois, each applicant shall submit an application, along with a $25 processing fee, within 90 days after completion of the CE course and prior to expiration of the license. The Advisory Council shall review and recommend approval or disapproval of the CE course provided the CE school and CE course are substantially equivalent to those approved in Illinois and provided that the course included the successful completion of a proctored examination. In determining whether the CE school and CE course are substantially equivalent, the Advisory Council shall use the criteria in Sections 5-70 through 5-85 of the Act and this Section.

6) CE credit shall not be given for CE courses taken in Illinois from schools not pre-approved by the Division.

7) Except for distance education CE courses, no more than 6 hours of CE may be taken in any calendar day.

8) CE credit shall not be given for pre- and post-licensing education courses except as specifically provided for in Section 5-70(1) of the Act.

c) Certification of Compliance with CE Requirements

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

2) The Division may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of completion, transcript, etc.). It is the responsibility of each renewal applicant to provide proof of CE completed.

3) When during an audit or compliance review, the Division determines that a licensee may be deficient in complying with CE requirements, the Division will notify the licensee, and the sponsoring broker of the licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery service, of the possible deficiency. The licensee shall have 60 days from the date the deficiency notification is mailed to submit to the Division evidence of compliance with CE requirements.

A) If satisfactory evidence of compliance with CE requirements set forth in subsection (c)(2) is submitted, the Division shall notify the licensee, by first class mail, that the licensee is in compliance.

B) If the licensee has certified compliance with CE requirements on the licensee's most recent renewal application pursuant to subsection (c)(1), but cannot submit evidence of having been in compliance on the date the licensee made the certification, the licensee may, during the 60 days notice period, submit evidence of having attained compliance with CE requirements after the date the

certification was made. The submission of evidence of post-certification completion must be accompanied by a non-refundable administrative fee of $25 per course credit hour completed after the date the licensee originally certified compliance. The submission of evidence will not be reviewed or considered if the proper fee does not accompany the submission. Upon submission of the evidence and appropriate fee, the evidence will be reviewed. If the evidence is found to be satisfactory, the Division shall notify the licensee and the sponsoring broker of the licensee that the licensee is in compliance. Any credit hours submitted for post-certification course completion and found satisfactory may not be used as credit for the next renewal requirements.

C) If the licensee fails to submit within the 60 day notice period satisfactory evidence of compliance with CE requirements, the failure shall be evidence of a violation of Section 20-20 of the Act regarding false or fraudulent representation to obtain a license and the continuing education requirements of Article 5 of the Act. The Division shall send notice pursuant to Section 20-60 of the Act indicating the commencement of disciplinary proceedings. A copy of this notice shall be sent to the sponsoring broker of the licensee.

SUBPART E: LICENSING AND EDUCATION FOR MANAGING BROKER

Section 1450.500 Managing Broker Educational Requirements to Obtain a License

a) After April 30, 2011, an applicant for a managing broker license must have completed 165 credit hours of instruction as set forth in Section 1450.1105.

b) An applicant for a managing broker license that obtained an Illinois real estate broker license prior to May 1, 2011, or obtained an Illinois real estate broker license after April 30, 2011, by transitioning from a salesperson pursuant to Section 5-46 of the Act, is presumed to have completed the 120 credit hour requirement for a broker license and needs to only complete the 45 credit hour managing broker education as set forth in Section 1450.1105(g).

c) Subsection (a) does not apply to an applicant who holds an active license as a broker on April 30, 2011 and who successfully applies for licensure under the transition provisions in Section 5-47 of the Act.

Section 1450.510 Managing Broker Examination

a) Each applicant for a managing broker's license shall file an application for examination as determined by the designated testing service. The application shall include:

1) Certification that the applicant is 21 years of age;

2) Certification of graduation from high school or its equivalent (e.g., GED);

3) The fee required by Section 1450.130;

4) Proof of one of the following:

A) Currently admitted to practice law by the Supreme Court of Illinois; or

B) Completion of at least 165 hours of instruction in real estate courses approved by the Advisory Council in accordance with Section 1450.1100.

b) An applicant who has failed an examination 4 times must repeat the pre-license education in order to be readmitted to sit for the examination.

c) Pursuant to Section 5-35(c) of the Act, the 4 year time period does not apply to high school or its equivalent (e.g. GED) education.

Section 1450.520 Application for Managing Broker License by Examination

a) Each applicant for a managing broker's license shall submit to the Division:

1) A signed application on which all questions have been answered;

2) The fee required by Section 1450.130;

3) Proof of successful completion of the examination authorized by the Division;

4) A properly completed sponsor card form issued in accordance with Section 1450.110;

5) Transcript, if applicable;

6) If the applicant will be a sponsoring broker, a properly completed consent to audit and examine special accounts form; and

7) A certification that the applicant has been actively licensed for 2 of the last 3 years, and any other appropriate documentation prescribed by the Division.

b) An applicant shall have one year from the date of receipt of a passing score on the examination to file an application with the Division and to meet all of the requirements for licensure.

Section 1450.530 Application for Managing Broker License by Reciprocity

a) Effective May 1, 2011, a managing broker license by reciprocity shall be issued to a person licensed as a managing broker, or its equivalent, under the following conditions:

1) That the broker is the holder of an active managing broker's license, or its equivalent, by examination in a state that has a reciprocal agreement with the Division;

2) That the standards of that state for licensing as a real estate managing broker are substantially equivalent to or greater than the minimum standards in Illinois;

3) That the managing broker maintains a definite place of business in his or her state of licensure and has been actively engaged in the real estate business as a managing broker, broker or salesperson during the immediately preceding 2 years; and

4) That the managing broker files an application, on forms furnished by the Division, along with the required fee and:

A) a statement bearing the seal of the licensing authority from each

state in which he or she is licensed, showing:

i) that he or she has an active license as a managing broker in that state;

ii) that the license is in good standing; and

iii) any disciplinary action taken against the managing broker.

B) proof of passing an approved test on Illinois specific real estate brokerage laws;

C) if the broker does not maintain a definite office or place of business within the State of Illinois, a written statement that:

i) appoints the Director to act as the broker's agent upon whom all judicial and other process may be served;

ii) acknowledges and agrees to abide by all of the provisions of the Act with respect to all of the broker's activities within and relating to the State of Illinois; and

iii) assents to jurisdiction of the Division;

D) a properly completed 45 day sponsor card form.

b) Any licensee who renews a license granted under a reciprocal agreement thereby assents to jurisdiction without regard to the location of the licensee's domicile or principal business location or office locations.

c) All requirements for licensure by reciprocity shall be met within one year after the date of original application or the application shall be denied and the fee forfeited. Thereafter, to be reconsidered for licensure, the applicant shall file a new application and fee.

Section 1450.540 Managing Broker Continuing Education

a) Continuing Education Hour Requirements

1) Pursuant to Section 5-70 of the Act, each managing broker, except as otherwise provided in Section 5-70(b), is required to complete 6 hours of continuing education (CE) for each year of the prerenewal period in courses approved by the Advisory Council. Licensees who complete CE after the expiration of a license are eligible for approval of CE only upon payment of all fees required by this Part and completion of the necessary forms.

2) In addition to the CE required in subsection (a)(1), all managing brokers renewing must complete a 12 hour broker management CE course. This 12 hour broker management CE course must be completed in the classroom or by other interactive delivery method. In approving courses under this Section, the Advisory Council shall review for uniformity and consistency amongst the courses.

3) A renewal applicant is not required to complete CE requirements for the first renewal following original licensure if the initial license was issued less than 90 days prior to the expiration date.

4) Managing brokers licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section, unless they are exempt pursuant to Section 5-70(b) of the Act.

5) The Division shall conduct random audits to verify compliance with this Section.

b) Approved Continuing Education

1) CE credit may be earned for verified attendance at or participation in a course offered by an approved CE school that meets the requirements set forth in Section 1450.1130.

2) CE credit may also be earned for completion of a distance education course that is offered by an approved CE school that meets the requirements set forth in Section 1450.1155.

3) Pursuant to Section 5-70 of the Act, the CE in a curriculum approved by the Education Advisory Council shall be satisfied by successful completion of the following:

A) Core Category. A minimum of 6 hours of CE in a curriculum approved by the Advisory Council. Standardized outlines or syllabi for these courses will be provided to CE schools and instructors by the Division.

B) Elective Category. A maximum of 6 hours of CE in other CE courses approved by the Advisory Council (e.g., real estate tax laws).

4) Pursuant to Section 5-70(g) of the Act, CE credit may be earned by an approved instructor for teaching an approved CE course. Credit for teaching an approved CE course may only be earned one time per course during a pre-renewal period. One hour of teaching is equal to one hour of CE.

5) As provided for in Section 5-75 of the Act, if licensees have earned CE hours offered in another state or territory for which they will be claiming credit toward full compliance in Illinois, each applicant shall submit an application, along with a $25 processing fee, within 90 days after completion of the CE course and prior to expiration of the license. The Advisory Council shall review and recommend approval or disapproval of the CE course provided the CE school and CE course are substantially equivalent to those approved in Illinois and provided that the course included the successful completion of a proctored examination. In determining whether the CE school and CE course are substantially equivalent, the Advisory Council shall use the criteria in Sections 5-70 through 5-85 of the Act and this Section.

6) CE credit shall not be given for CE courses taken in Illinois from schools not pre-approved by the Division.

7) Except for distance education CE courses, no more than 6 hours of CE may be taken in any calendar day.

8) CE credit shall not be given for pre- and post-licensing education courses except as specifically provided for in Section 5-70(1) of the Act.

c) Certification of Compliance with CE Requirements

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

2) The Division may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of completion, transcript, etc.). It is the responsibility of each renewal applicant to provide proof of CE completed.

3) When, during an audit or compliance review, the Division determines that a licensee may be deficient in complying with CE requirements, the Division will notify the licensee, and the sponsoring broker of the licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery service, of the possible deficiency. The licensee shall have 60 days from the date the deficiency notification is mailed to submit to the Division evidence of compliance with CE requirements.

A) If satisfactory evidence of compliance with CE requirements set forth in subsection (c)(2) is submitted, the Division shall notify the licensee, by first class mail, that the licensee is in compliance.

B) If the licensee has certified compliance with CE requirements on the licensee's most recent renewal application pursuant to subsection (c)(1), but cannot submit evidence of having been in compliance on the date the licensee made the certification, the licensee may, during the 60 days notice period, submit evidence of having attained compliance with CE requirements after the date the certification was made. The submission of evidence of post-certification completion must be accompanied by a non-refundable administrative fee of $25 per course credit hour completed after the date the licensee originally certified compliance. The submission of evidence will not be reviewed or considered if the proper fee does not accompany the submission. Upon submission of the evidence and appropriate fee, the evidence will be reviewed. If the evidence is found to be satisfactory, the Division shall notify the licensee and the sponsoring broker of the licensee that the licensee is in compliance. Any credit hours submitted for post-certification course completion and found satisfactory may not be used as credit

for the next renewal requirements.

C) If the licensee fails to submit within the 60 day notice period satisfactory evidence of compliance with CE requirements, the failure shall be evidence of a violation of Section 20-20 of the Act regarding false or fraudulent representation to obtain a license and the continuing education requirements of Article 5 of the Act. The Division shall send notice pursuant to Section 20-60 of the Act indicating the commencement of disciplinary proceedings. A copy of this notice shall be sent to the sponsoring broker of the licensee.

Section 1450.550 Managing Broker Licensee Transition Provision

a) Prior to May 1, 2011, each managing broker shall have an active license as a broker. Any licensee named as a managing broker by the sponsoring broker after April 30, 2012 shall have, or obtain within 90 days after being named as a managing broker, a managing broker license. The transition period for those licensees who are brokers as of April 30, 2011 shall be the one year period from May 1, 2011 to April 30, 2012.

b) A salesperson transitioning to a broker is not eligible to transition to a managing broker license.

SUBPART F: CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS AND LIMITED PARTNERSHIPS

Section 1450.600 Corporations, Limited Liability Companies, Partnerships and Limited Partnerships

a) Persons who desire to practice real estate in this State in the form of a corporation, limited liability company or partnership shall, in accordance with Section 5-15 of the Act, file an application with the Division, on forms provided by the Division, together with the following:

1) If an assumed name is to be used, a copy of the assumed name certificate;

2) A Federal Employer Identification Number (FEIN);

3) A properly completed Consent to Examine and Audit Special Accounts form;

4) A properly completed real estate corporation/limited liability company/partnership information form;

5) The fee required by Section 1450.130.

b) All requirements for a license to practice as a corporation, limited liability company or partnership shall be met within one year after the date of original application or the application shall be denied and the fee forfeited. Thereafter, to be considered for licensure, the applicant shall file a new application and fee.

c) Corporations, in addition to the items listed in subsection (a), shall submit the following:

1) The name of the corporation and its registered address, a list of all officers, and the license number for each officer who is licensed as a real estate broker or managing broker;

2) A copy of the Articles of Incorporation bearing the seal of the office, in the jurisdiction in which the corporation is organized, whose duty it is to register corporations under the laws of that jurisdiction. If it is a foreign corporation, a copy of the certificate of authority to transact business in this State is also required;

3) All unlicensed officers shall submit affidavits of non-participation with the corporation application. Licensed salespersons or leasing agents shall not be officers of the corporation even if they submit an affidavit of non-participation; and

4) A list of all shareholders, the number of shares of the corporation owned and the license number for each shareholder who is a licensee.

d) Limited Liability Companies

1) Limited liability companies, in addition to the items listed in subsection (a), shall submit the following:

A) The name of the limited liability company and its registered address, a list of all members, and the license number for each member who has an Illinois real estate license. If a member of the limited liability company is a business entity, the applicant shall identify any licensees who are owners, officers, managers or partners of the business entity;

B) A list of all managers and their broker or managing broker license numbers;

C) A copy of the Articles of Organization filed with the Secretary of State or, if it is a foreign limited liability company, a copy of the application for admission endorsed by the Secretary of State.

2) All unlicensed members shall submit with the limited liability company application affidavits of non-participation. Licensed salespersons or leasing agents shall not be managers of the limited liability company even if they submit an affidavit of non-participation.

e) Partnerships, in addition to the items listed in subsection (a), shall submit the following:

1) An application containing the name of the partnership and its business address and the names of all general partners, and the broker license number of each general partner. Licensed salespersons or leasing agents shall not be general partners.

2) An affidavit stating that the partnership has been legally formed.

f) Limited partnerships, in addition to the items listed in subsection (a), shall submit the following:

1) A letter of authority from the Secretary of State's Limited Partnership Department or, if it is a foreign limited partnership, a copy of the application for admission endorsed by the Secretary of State;

2) A listing of all general partners and, if any general partner is a real estate licensee, the broker or managing broker license number for each licensed general partner;

3) All unlicensed general partners must submit with the partnership application affidavits of non-participation; and

4) If the general partner is an entity, the identity and license number of any brokerage licensees who are owners, managers, members or partners of the entity.

g) In assessing the restrictions against a salesperson or leasing agent, or group of salespersons or leasing agents, owning, or directly or indirectly controlling, more than 49% of a corporation, limited liability company or partnership, pursuant to Section 5-15(e) of the Act, the following may be considered:

1) Corporations: the Division may consider the role of any salespersons or leasing agents in any limited liability company or partnership that may have an interest in the corporation.

2) Limited Liability Companies: the Division may consider the role of any salespersons or leasing agents in any corporation or partnership that may serve as a member or manager of the limited liability company.

3) Partnerships: the Division may consider the role of any salespersons or leasing agents in any corporation or limited liability company that may serve as a limited partner. Additional information may be requested by the Division as necessary to determine compliance with this restriction.

h) Upon receipt of the required documents and review of the application, the Division shall issue a license authorizing the corporation, limited liability company or partnership to engage in the practice of real estate, or shall notify the applicant of the reason for the denial of the license.

Section 1450.610 Branch Offices

a) A sponsoring broker wanting to operate a real estate branch office shall, in accordance with Section 5-45 of the Act, file an application with the Division, on forms provided by the Division, together with the following:

1) A properly completed Consent to Examine and Audit Special Accounts form;

2) The name and license number of the managing broker of the branch office; and

3) All required fees under Section 1450.130.

b) Upon receipt of the required documents and review of the application, the Division shall issue a license authorizing the sponsoring broker to engage in real estate activities at that branch office or shall notify the applicant of the reason for the denial of the license.

c) The name of the branch office shall be the same as that of the main office, or shall clearly delineate the branch office's relationship with the main office (e.g., affiliated with, associated with, subsidiary of).

d) The sponsoring broker shall not open a branch office or have licensees working from a branch office until after the branch office license number has been issued.

SUBPART G: COMPENSATION AND BUSINESS PRACTICES

Section 1450.700 Managing Broker Responsibilities

a) The sponsoring broker shall inform the Division in writing of the name and certificate number of all managing brokers employed by the sponsoring broker and the office or branch offices each managing broker is responsible for managing.

b) The sponsoring broker shall be responsible for issuing sponsor cards. However, the sponsoring broker may delegate that responsibility to one or more managing brokers.

c) Upon written request from the sponsoring broker, within 15 days after the loss of a managing broker who will not be replaced, or upon written request after the death or disability of a sole proprietor, the Division shall issue a written authorization to allow the continuing operation of a licensed office or branch office, provided that the sponsoring broker or representative under a duly executed power of attorney assumes responsibility, in writing, for the operation of the office and agrees to personally supervise the operations. No authorization shall be valid for more than 60 days unless extended by the Division for good

cause and upon written request by the sponsoring broker. Good cause includes such circumstances as sales under contract pending closing, loss of livelihood for sales associates, and undue hardship caused to sellers.

d) When a managing broker receives a renewal application from the Division for a licensee supervised by the managing broker or employed by the sponsoring broker of the manager, he or she shall notify the licensee of the receipt, personally within 7 days or by certified or registered mail or other signature restricted delivery service within 10 days. The notice shall also inform the licensee that any unprocessed renewal form will be returned to the Division by the managing broker. When a managing broker receives a renewal application from the Division for a licensee not supervised by the managing broker or employed by the sponsoring broker of the managing broker, the renewal form shall immediately be returned to the Division.

e) All managing brokers shall notify the Division on business letterhead of any change of business address of the offices they manage within 24 hours after any change. Change of address is required for all offices and branch offices. A license returned to the Division for the reason described in this subsection shall remain in good standing until the new licenses are issued and in the possession of the licensee.

f) The Division will honor the order of a court of competent jurisdiction appointing a legal representative for the sole purpose of closing out the affairs of a deceased broker or a broker who has been adjudicated disabled, who was a sole proprietor, until the real estate brokerage is closed, but not to actively engage in the brokerage business as defined in Section 1-10 of the Act.

g) Effective May 1, 2012, those licensees holding a managing broker license and named as a managing broker with the Division shall indicate that status in any marketing or advertising that includes their name. Those licensees holding a managing broker license and not named as a managing broker with the Division shall not represent or hold themselves out as a managing broker, but only as a broker.

h) After April 30, 2012, a licensee doing business as a sole proprietor must have a managing broker license.

Section 1450.705 Supervision

a) A managing broker shall exercise supervision over the activities of licensees and unlicensed assistants working in those offices managed by the managing broker. This supervision of activities includes, but is not limited to:

1) the implementation of and communication to sponsored licensees of office policies and procedures established by the sponsoring broker;

2) training of licensees or unlicensed assistants;

3) supervise and assist licensees in real estate transactions;

4) supervising those special (escrow) accounts over which the sponsoring broker has delegated responsibility to the managing broker in order to ensure compliance with the special (escrow) account provisions of the Act and this Part;

5) supervising all advertising, in any media, of any service for which a license is required;

6) familiarizing sponsored licensees with the requirements of federal and State laws and local ordinances relating to the practice of real estate; and

7) compliance with this Part for licensees and offices under his/her supervision.

b) The sponsoring broker shall establish a written office policy and remain ultimately responsible for compliance with this Part. The sponsoring broker shall name a managing broker for every office.

c) Any violation of the provisions of the Act on the part of any licensees employed by a sponsoring broker or associated by written agreement with the sponsoring broker, or unlicensed employee of a sponsoring broker, shall not be cause for suspension or revocation of the license of the sponsoring broker or a managing broker of the sponsoring broker, unless the sponsoring broker or managing broker had knowledge of the violation of the Act. However, failure to provide an appropriate company policy or failure to properly supervise shall be cause for discipline, including suspension or revocation, of the license of the sponsoring broker or one or more managing brokers.

Section 1450.710 Discrimination

a) No licensee shall enter into a listing agreement that prohibits the sale or rental of real estate to any person because of race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, sexual orientation, unfavorable discharge from the military service, order of protection status or any other class protected by Article 3 of the Illinois Human Rights Act [775 ILCS 5/Art. 3].

b) No licensee shall act or undertake to act as a real estate broker or real estate salesperson with respect to any property the disposition of which is prohibited to any person because of race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, sexual orientation, unfavorable discharge from the military service, order of protection status or any other class protected by Article 3 of the Illinois Human Rights Act.

Section 1450.715 Advertising

a) Deceptive and misleading advertising includes, but is not limited to, the following:

1) advertising a property that is subject to an exclusive listing agreement with a sponsoring broker other than the licensee's own without the permission of and identifying that listing broker;

2) failing to remove advertising of a listed property within a reasonable time, given the nature of the advertising, the licensee's control over the removal or stopping of the advertising, the ease of removing or stopping the advertising, knowledge that the advertising was continuing and any other pertinent criteria after the earlier of the closing of a sale on the listed property or the expiration or termination of the listing agreement;

3) advertising a property at auction as an absolute auction or auction without reserve, when there is a minimum bid or opening bid required;

4) advertising a property in a manner that creates a reasonable likelihood of confusion regarding the permitted use of the property. Examples of such advertising would be advertising a property zoned single family as

appropriate for multi-dwelling use by using words or phrases such as "apartment", "two units", or "separate living arrangement", unless that use is permitted by the zoning ordinance, a variance from the zoning ordinance, a conditional permitted use or an existing legal non-conforming use; and

5) use of URL, domain name, metatag, keyword or other device or method intended to deceptively direct, drive or divert internet traffic or mislead consumers.

b) For the purposes of this Section and Section 1450.720 (Internet Advertising), listing information available on a sponsoring broker's or licensee's website, extranet or similar site but behind a firewall or similar device requiring a password, registration or other type of security clearance to access that information shall not be considered advertising.

c) For the purposes of this Section and Section 1450.720, unsolicited marketing of a licensee's real estate brokerage services and farming (prospecting) shall be considered advertising.

d) Nothing in Section 10-30 of the Act shall require a sponsoring broker to include the name of one of its sponsored licensees on signs or other general advertising of the sponsoring broker.

Section 1450.720 Internet Advertising

a) Definitions. For the purposes of this Section, these terms shall be defined as follows:

1) Advertising or Marketing Real Property: An Internet site that consists of information regarding properties that have been listed with a real estate brokerage company, the identity of that real estate brokerage company or licensee for each property and information related to those properties.

2) Advertising or Marketing of Real Estate Brokerage Services: An Internet site that includes an offer or solicitation to provide services related to marketing or identifying real property for sale or lease.

3) Page: Each html document. This can include several screens of information that are viewed by scrolling down to the end of the document.

4) Frame: This refers to that portion of the Web page that does not change when the user links to a different site or moves to different pages.

5) Scraping: This term refers to using or altering existing listing information or keywords that are copied from one Internet site and posted or displayed for the benefit of the general public in front of a firewall at another site without written or electronic authorization and disclosure of ownership.

b) Sponsoring Broker's Advertising or Marketing

1) A sponsoring broker that has authorized advertising or marketing real property must include on the page on which the company's or firm's advertisement or marketing appears the following data:

A) the city or geographic area in which the property being advertised or marketed is located;

B) the company's name as registered with the Division or the assumed name it has registered with the Division (commonly recognized abbreviations are permitted); and

C) if the sponsoring broker does not hold a real estate brokerage license for the jurisdiction where the property is located, the regulatory jurisdictions in which the sponsoring broker does hold a real estate brokerage license.

2) If this information is contained on the frame on the sponsoring broker's site, it does not have to be included on every page of the site.

c) Sponsoring Broker's HomePage

1) A sponsoring broker advertising or marketing real estate brokerage services must include on the company's home page or on a clearly identified link appearing on that page the following data:

A) the company or firm's name registered with the Division or the assumed name it has registered with the Division (commonly recognized abbreviations are permitted); and

B) the city and state in which the company's principal office is located.

2) If this information is contained on the frame on the sponsoring broker's site, it does not have to be included on every page of the site.

d) Licensee's Advertising or Marketing

1) Any licensee who has authorized advertising or marketing real property must include on the page of the site on which the licensee's advertisement or information appears the following data:

A) the licensee's name;

B) the city or geographic area in which the property being advertised or marketed is located;

C) the name of the company with which the licensee is affiliated as that company name is registered with the Division or the assumed name it has registered with the Division (commonly recognized abbreviations are permitted);

D) if the licensee does not hold a real estate broker or salesperson license for the jurisdiction in which the property is located, the regulatory jurisdictions in which the licensee does hold a real estate broker or salesperson license.

2) If this information is contained on the frame on the licensee's site, it does not have to be included on every page of the site.

e) Licensee's Home Page

1) A licensee advertising or marketing real estate brokerage services must include on his or her home page the following data:

A) the licensee's name;

B) the name of the company with which the licensee is affiliated as that company name is registered with the Division or the assumed name it has registered with the Division (commonly recognized abbreviations are permitted); and

C) the city and state in which the licensee's office is located.

2) If this information is contained on the frame on the licensee's site, it does not have to be included on every page of the site.

f) Sponsoring Broker − E-commerce or Electronic Communications

1) A sponsoring broker using e-commerce or electronic communications, such as e-mail, e-mail discussion groups and bulletin boards for marketing or transactional purposes, must include on the first or last page of all communications the following data:

A) the company or firm's name as registered with the Division or the assumed name it has registered with the Division (commonly recognized abbreviations are permitted); and

B) the city and state in which the sponsoring broker's main office or the office from which the communication originated is located.

2) This subsection (f) shall not apply to communications between a sponsoring broker and a member of the public provided that the member of the public has sent a communication to the licensed company and that the sponsoring broker's initial communication contained the information required in this subsection (f).

g) Licensee − E-commerce or Electronic Communication

1) Any licensee using e-commerce or electronic communications, such as e-mail, e-mail discussion groups, and bulletin boards, for marketing or transactional purposes, must include on the first or last page of all communications the following data:

A) the licensee's name;

B) the name of the company with which the licensee is affiliated as that company name is registered with the Division (commonly recognized abbreviations are permitted); and

C) the city and state in which the licensee's office is located.

2) This subsection (g) shall not apply to communications between a licensee and a member of the public provided that the member of the public has sent a communication to the licensee and that the licensee's initial communication contained the information required in this subsection (g).

h) It will be considered to be a violation of the Act and this Part if a licensee or sponsoring broker scrapes, as defined in this Section, listing information from another site. Listing information obtained from another Internet site and placed behind a firewall or other device that is password protected or requires registration by the consumer in order to access that information need not identify the original listing broker.

i) A sponsoring broker or licensee may link to listing information from another Internet site without approval unless the owner of the site linked to specifically requires consent. Any link must be done in a way that does not mislead or deceive the public as to the ownership of any listing information.

j) All licensees, including sponsoring brokers, shall periodically review the advertising and marketing information on their site and update as necessary to assure that the information is current and not misleading.

Section 1450.725 Office Identification Signs

a) An identification sign on the outside of an office shall be of a size and nature that it will be reasonably readable by the public and semi-permanent or affixed to the office. Listings within building directories fulfill the requirements of this Section.

b) Office identification signs must be professional in appearance and meet all applicable zoning restrictions and applicable restrictive covenants.

c) The identification sign must be plainly visible from an area accessible to the

public.

Section 1450.730 Display of Licenses

a) The original licenses of all licensees must be readily available to the public in the principal office of the licensee's sponsoring broker.

b) "Readily available" may include, but is not limited to:

1) being visible on a wall of a public waiting or reception area; or

2) being available for viewing at the sponsoring broker's principal office upon request.

c) Managing brokers assigned to manage more than one office shall have copies of their license readily available in those offices they manage, but that are not the primary office out of which the manager works.

Section 1450.735 Employment Agreements

a) Every sponsoring broker, other than sole proprietors with no additional sponsored licensees, shall have a written employment agreement with every sponsored licensee.

b) The employment agreement shall be dated and signed by the parties. The agreement shall include, at a minimum, the employment or independent contractor relationship terms, including, but not limited to, supervision, duties, compensation, duration and termination. The term "duration", as used in this subsection, is not intended to require a specific termination date, but rather to allow the parties to negotiate the term of the agreement, such as "at will" or a specific length of time, and how the agreement is renewed or terminated. These provisions shall be included in the agreement.

c) The sponsoring broker shall give to every employee and independent contractor a copy of the employment agreement and any modifications.

Section 1450.740 Unlicensed Assistants

a) Licensees under the Act may employ, or otherwise utilize the services of, unlicensed assistants to assist them with administrative, clerical or personal activities for which a license under the Act is not required. Compensation for unlicensed personal assistants cannot be transaction based.

b) An unlicensed assistant, on behalf of and under the direction of a licensee, may engage in the following administrative, clerical or personal activities without being in violation of the licensing requirements of the Act. The following list is intended to be illustrative and declarative of the Act and is not intended to increase or decrease the scope of activities for which a license is required under the Act. An unlicensed assistant of a licensee may:

1) answer the telephone, take messages and forward calls to a licensee;

2) submit listings and changes to a multiple listing service;

3) follow up on a transaction after a contract has been signed;

4) assemble documents for a closing;

5) secure public information from a courthouse, sewer district, water district or other repository of public information;

6) have keys made for a company listing;

7) draft advertising copy and promotional materials for approval by a licensee;

8) place advertising;

9) record and deposit earnest money, security deposits and rents;

10) complete contract forms with business and factual information at the direction of and with approval by a licensee;

11) monitor licenses and personnel files;

12) compute commission checks and perform bookkeeping activities;

13) place signs on property;

14) order items of routine repair as directed by a licensee;

15) prepare and distribute flyers and promotional information under the direction of and with approval by a licensee;

16) act as a courier to deliver documents, pick up keys, etc.;

17) place routine telephone calls on late rent payments;

18) schedule appointments for the licensee (this does not include making phone calls, telemarketing or performing other activities to solicit business on behalf of the licensee);

19) respond to questions by quoting directly from published information;

20) sit at a property for a broker tour that is not open to the public;

21) gather feedback on showings;

22) perform maintenance, engineering, operations or other building trades work and answer questions about that work;

23) provide security;

24) provide concierge services and other similar amenities to existing tenants;

25) manage or supervise maintenance, engineering, operations, building trades and security; and

26) perform other administrative, clerical and personal activities for which a license under the Act is not required.

c) An unlicensed assistant of a licensee may not perform the following activities for which a license under the Act is required. The following list is intended to be illustrative and declarative of the Act and is not intended to increase or decrease the scope of activities for which a license is required under the Act. An unlicensed assistant of a licensee may not:

1) host open houses, kiosks, or home show booths or fairs;

2) show property;

3) interpret information on listings, titles, financing, contracts, closings or other information relating to a transaction;

4) explain or interpret a contract, listing, lease agreement or other real estate document with anyone outside the licensee's company;

5) negotiate or agree to any commission, commission split, management fee or referral fee on behalf of a licensee; or

6) perform any other activity for which a license under the Act is required.

d) Any licensee who employs an unlicensed assistant shall be responsible for the actions of the unlicensed assistant taken while under the supervision of, or at the direction of, the licensee.

e) Any licensee who is responsible for the actions of an unlicensed assistant by statute, regulation, contract or office policy and who permits, aids, assists or allows an unlicensed assistant to perform any activity for which a license under the Act is required shall be in violation of the Act.

f) Stenographic, clerical, maintenance, engineering, building trades, security or office personnel not directly engaged in the practice of real estate brokerage as defined in Section 1-10 of the Act are not required to be licensed.

g) A licensee is prohibited from acting as an unlicensed assistant, as provided for in this Section, for any licensee other than his or her sponsoring broker or a licensee sponsored by the sponsoring broker.

Section 1450.745 Corporation for Indirect Payment

a) Every sponsored licensee who forms a corporation pursuant to Section 10-20(e) of the Act, for the purpose of receiving the sponsored licensee's compensation, shall file with the Licensing Section of the Division a copy of the certificate of incorporation issued by the Secretary of State.

b) A corporation formed pursuant to Section 10-20(e) of the Act may only receive compensation earned by the licensee. The corporation may not be licensed under the Act and shall not be used by the licensee to perform real estate activities, sponsor, employ or associate itself with other licensees, hold itself out to the public, or advertise to the public under the corporation's name.

c) A corporation formed pursuant to Section 10-20(e) of the Act may receive compensation earned by the licensee arising out of activities unrelated to the practice of real estate.

Section 1450.750 Special Accounts

a) Escrow Moneys Defined

1) "Escrow moneys" means all moneys, promissory notes or any other type or manner of legal tender or financial consideration deposited with any person for the benefit of the parties to the transaction. A transaction exists once an accepted real estate contract is signed or lease agreed to by the parties. Escrow moneys include without limitation earnest moneys and security deposits, except those security deposits in which the person holding the security deposit is also the sole owner of the property being leased or sold and for which the security deposit is being held.

2) Pursuant to the terms of a written agreement between a licensee and a client, such as a property management agreement, rent moneys paid to a licensee for transmittal to the licensee's client (e.g., the owner) shall not be considered to be "escrow moneys". In addition, other moneys held in a custodial account by a licensee for transmittal to a licensee's client, pursuant to the terms of a written agreement, such as a contract for deed, shall not be subject to these escrow rules.

3) Earnest money constitutes escrow moneys whether in the form of personal checks, cashier's checks, money orders, cash or any other forms of legal tender.

b) Escrow Accounts. Pursuant to Section 20-20(a)(17) of the Act, sponsoring brokers who accept escrow moneys shall maintain and deposit in a special account (hereinafter referred to as an escrow account), separate and apart from

personal or other business accounts, all escrow moneys entrusted to them while acting as the real estate brokers, escrow agents or as the temporary custodians of the funds of others.

1) Such escrow account shall be non-interest bearing, unless the character of the deposit is such that payment of interest on the escrow account is otherwise required by law or unless the principals to the transaction specifically require, in writing, that the deposit be placed in an interest bearing account.

2) If an interest bearing account is required, the recipient of the interest shall be specifically indicated, in writing, by the principals of the transaction.

3) A sponsoring broker may maintain more than one escrow account.

4) An escrow account must be maintained by a sponsoring broker who receives escrow moneys entrusted to him or her while acting as a real estate broker, or as escrow agent, or as temporary custodian of the funds of others.

5) Every escrow account, whether interest bearing or non-interest bearing, shall be maintained at a federally insured depository.

6) Commingling Prohibited. Each sponsoring broker shall deposit only escrow moneys received in connection with any real estate transaction in an escrow account. The sponsoring broker shall not deposit personal funds in an escrow account, except he or she may deposit from his or her own personal funds, and keep in any escrow account, an amount sufficient to avoid incurring service charges relating to the escrow account. The sum shall be specifically documented as being for service charges and the sponsoring broker shall have proof available that the amount of his or her own funds in the escrow account does not exceed the minimum amount required by the depository to maintain the account without incurring service charges. Transfer of funds as provided for in subsection (i)(4) of this Section shall not constitute commingling.

c) The sponsoring broker shall provide a receipt to the payor of any cash constituting escrow funds and shall retain a copy of the receipt.

d) Time of Deposit of Escrow Moneys. All escrow moneys accepted by a sponsoring broker shall be placed in the sponsoring broker's escrow account not later than the next business day following the transaction. A transaction exists once an accepted real estate contract is signed or lease agreed to by the parties. If the funds are received on a day prior to a bank holiday or any other day on which the bank or savings and loan association is closed, the funds shall then be deposited on the next business day upon which the depository is open.

e) A sponsoring broker serving as escrow agent shall notify all principals in writing if a principal fails to tender escrow moneys, when a principal's payment as escrow moneys is dishonored by the financial institution on which it was drawn, or when there appears on the face of the governing contract to be a deficiency in the amount on deposit.

f) Maintenance of Escrow Moneys on Deposit in Escrow Account. The sponsoring broker shall keep all escrow moneys on deposit in an escrow account until a transaction is consummated or terminated, except to the extent that such escrow moneys, or any part of the escrow moneys, shall be disbursed according to the provisions set forth in subsection (g).

g) Disbursement of Escrow Moneys. Pursuant to Section 20-20(a)(17) of the Act, the sponsoring broker shall disburse escrow moneys according to the following requirements; however, a sponsoring broker may not disburse funds until they have been honored by the payor's depository.

1) The sponsoring broker must disburse escrow moneys upon consummation or termination of the transaction. Such disbursement must be according to the terms of the contract and must be made not later than the next business day following the sponsoring broker's receipt of notice of the consummation or termination, or otherwise in accordance with the written direction of all principals to the transaction or their duly authorized agents.

A) Commissions and/or fees earned by a sponsoring broker in any transaction shall be disbursed by that broker from the funds deposited in an escrow account no earlier than the day the transaction is consummated or terminated and not later than the next business day after the transaction is consummated or terminated, or otherwise in accordance with the written direction of all principals to the transaction or their duly authorized agents.

B) Authorized disbursements are those that are made on behalf of, and at the written direction of, all principals to the transaction or their duly authorized agents.

C) A sponsoring broker shall not withhold, for any period of time, an authorized disbursement of escrow moneys due to any claim for a commission or compensation to any licensee.

D) Transfer of escrow moneys to the closing agent for the transaction may be made up to 2 business days prior to the scheduled closing.

2) Pursuant to Section 20-20(a)(17)(A)of the Act, if prior to the consummation or termination of the transaction, the sponsoring broker receives written direction from all of the principals to the transaction or their duly authorized agents agreeing to a disbursement of the escrow moneys, that broker must disburse the escrow moneys according to the written directions. Such disbursement must be made not later than the next business day following the sponsoring broker's receipt of the last required written direction.

3) The sponsoring broker may release escrow moneys pursuant to Section 20-20(a)(17)(A) of the Act that allows a sponsoring broker to disburse escrow moneys prior to the consummation or termination of the transaction in accordance with directions providing for the release, payment, or distribution of escrow moneys contained in any written contract signed by the principals to the transaction or their duly authorized agents. An example of this would be the parties to a transaction signing a contract to purchase that includes language allowing the earnest money to be disbursed by the sponsoring broker if a transaction does not close as provided for in the contract so long as the sponsoring broker:

A) provides written notice to the parties as required by the contract at least 14 days prior to the intended disbursement of the earnest moneys; and indicates how the sponsoring broker intends to disburse the earnest money; and indicates the date by which any written objection from a party to the proposed disbursement must be received by the sponsoring broker.

B) In any such case, the actual terms of the contract concerning the release of the escrow moneys shall be adhered to by the sponsoring broker holding these escrow moneys.

4) Pursuant to Section 20-20(a)(17)(A)(iii) of the Act and notwithstanding any other requirements or responsibilities in this Part, if the sponsoring broker receives an order from a court of competent jurisdiction providing for the disbursement of the escrow moneys, that broker must disburse the escrow moneys according to the terms of the order.

5) For the purposes of this Section, "duly authorized agent" shall mean an attorney-in-fact, an attorney-at-law who represents that he or she is acting on behalf of one of the principals to the transaction, or any other person the licensee can prove was authorized to act on behalf of a principal to the transaction.

h) Disputes Regarding Escrow Moneys

1) In the event of a dispute in writing over the return or forfeiture of any escrow moneys held by the sponsoring broker or if a sponsoring broker has actual knowledge that any party to a transaction contests or disagrees with an anticipated disbursement of escrow moneys held by that broker, he or she shall continue to hold the deposit in his or her escrow account:

A) until he or she has a written release from all parties or their duly authorized agents consenting to the disposition, in which case the escrow moneys must be disbursed according to the terms of the written direction no later than the next business day after the sponsoring broker's receipt of the last required written release;

B) until a civil action is filed, by either the sponsoring broker or one of the parties, to determine its disposition, at which time payment may be made into court;

C) until the funds are turned over to the State Treasurer or such other appropriate State agency or officer designated pursuant to the Act or the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025], because of inactivity of the account or inability to locate the parties, or inability of the parties to reach a resolution.

2) If an interpleader action is filed by the sponsoring broker, and the broker is authorized by real estate contract to withdraw from the escrow account those amounts as may be necessary to reimburse the sponsoring broker for costs and reasonable attorney's fees associated with that action, excluding costs and attorney's fees associated with that broker's attempt to collect a commission or fee.

i) Escrow Records. Each sponsoring broker who accepts earnest money shall maintain, in his or her office or place of business, a bookkeeping system in accordance with sound accounting principles, and without limiting the foregoing, the system shall consist of at least the following escrow records as further described below:

1) Journal. A journal shall be maintained for each escrow account. The journal shall show the chronological sequence in which funds are received and disbursed by the sponsoring broker.

A) For funds received, the journal shall include the date the funds were received, the name of the person on whose behalf the funds are delivered to that broker and the amount of the funds so delivered.

B) For fund disbursement, the journal shall include the date, the payee, the check number and the amount disbursed.

C) A running balance shall be shown after each entry (receipt or disbursement).

2) Ledger. A ledger shall be maintained for each transaction. The ledger shall show the receipt and the disbursement of funds affecting a single particular transaction such as between buyer and seller, or landlord and tenant, or the respective parties to any other relationship. The ledger shall include the names of all parties to a transaction, the amount of funds received by the sponsoring broker and the date of receipt. The ledger shall show, in connection with the disbursements of funds, the date of disbursement, the payee, the check number and the amount disbursed. The ledger shall segregate one transaction from another transaction. There shall be a separate ledger or separate section of each ledger, as the broker

shall elect, for each of the various kinds of real estate transactions (e.g., lease). If the ledger is computer generated from the same data entry from which the journal is generated, the sponsoring broker must maintain copies of the bank deposit slips, bank disbursement slips, or other bank receipts, to account for the data on the ledger.

3) Monthly Reconciliation Statement. Each sponsoring broker shall reconcile, within 10 days after receipt of the monthly bank statement, each escrow account maintained by the broker except when there has been no transactional activity during the previous month. Reconciliation shall include a written work sheet comparing the balances as shown on the bank or savings and loan association statement, the journal and the ledger, respectively, in order to insure agreement between the escrow account and the journal and the ledger entries with respect to the escrow account. Each reconciliation shall be kept for at least 5 years from the last day of the month covered by the reconciliation.

4) If escrow moneys are transferred from an escrow account to another account for disbursement, the sponsoring broker must maintain a copy of all records reflecting a disbursement from the other account.

5) Master Escrow Account Log. Each sponsoring broker shall maintain a Master Escrow Account Log identifying all escrow bank account numbers, and the name and address of the bank where the escrow accounts are located. The Master Escrow Account Log must specifically include all bank account numbers opened for individual transactions, even if account numbers fall under another umbrella account number.

6) A sponsoring broker may employ a more sophisticated bookkeeping system based on sound accounting principles, including a system of electronic data processing equipment. However, any such system must contain or produce printed records containing the information required by this Section, although it need not be in the same format as provided for in this Section.

7) The Division shall have available for distribution, on request, samples of an approved journal, ledger, monthly reconciliation statement and Master Escrow Account Log.

8) Pursuant to Section 20-20(a)(18) of the Act, the sponsoring broker shall make available to the real estate enforcement personnel of the Division all escrow records and related documents maintained in connection with the practice of real estate and located in the office pursuant to Section 1450.750(i)(10) within 24 hours after a request.

9) Copies of all Escrow Money Instruments. Except as otherwise provided by law, the broker shall retain copies of all escrow money instruments received from a principal as part of a transaction, including copies of all personal checks, cashier's checks, certified checks, money orders, promissory notes or other financial instruments. The broker shall also retain copies and/or documentation of all disbursements or transfers into or out of an escrow account.

10) Escrow records shall be retained for 5 years. The escrow records for the immediate prior 2 years shall be available in the office location and shall be produced within 24 hours after request pursuant to Section 1450.750(i)(8). The balance of the records can be available at another location and are subject to request by the Division pursuant to Section 20-20 (a)(19) of the Act as soon as available, but no later than within 30 days after the request per Section 1450.755(a)(2) .

11) If escrow records are lost, stolen or destroyed due to fire, flood or any other circumstances, the broker must report the loss to the Division's enforcement division within 30 days by signature restricted delivery. The broker must also immediately obtain copies of monthly bank statements, deposit and disbursement receipts, and any other available records, to reconstruct the loss of escrow records.

12) A sponsoring broker may delegate the bookkeeping duties under this Part to another person, including a managing broker, a bookkeeper, certified public accountant, unlicensed assistant, licensed assistant or sponsored licensee. However, compliance with the bookkeeping duties remains the responsibility of the sponsoring broker. The sponsoring broker is ultimately responsible for the proper administration of the escrow account pursuant to this Part.

j) Sponsored Licensees. Sponsoring brokers shall institute office policies to ensure that the sponsored licensees tender escrow moneys received in compliance with

this Part. Sponsored licensees, whether salespersons, brokers or leasing agents, may not maintain their own escrow accounts.

k) Branch Offices. Branch offices may maintain escrow accounts in compliance with this Part or may transmit all escrow moneys received to the main office, but not to another branch office, for compliance with this Part.

1) If the branch office does maintain escrow accounts, all of the requirements of this Part apply, including maintaining all required escrow records, and submitting to the Division all required escrow forms.

2) If the branch office does not maintain escrow accounts but instead transmits all escrow moneys received to the main office, all escrow moneys must be transmitted by the branch office to the main office not later than the next business day following the transaction. A transaction exists once an agreement has been reached and an accepted real estate contract signed or lease agreed to by the parties. Even if the branch office transmits all escrow moneys received to the main office, the branch office must maintain records showing the date the escrow moneys were transferred to the main office. The funds received at the main office from a branch office shall be placed in the sponsoring broker's escrow account not later than the next business day following receipt of the funds from the branch office.

l) Escrow Requirements for Property Management Activities. Security deposits shall be maintained in an escrow account for the duration of the lease, unless the tenant waives this requirement in writing. The waiver, if included in the lease, shall appear in bold print.

m) Notification to the Division of Identity of Escrow Accounts. Consent to Audit All Accounts.

1) Each sponsoring broker shall, at the time of the original application for licensure and at the time of renewal of licensure, on forms provided by the Division, file with the Division the name of the banks, savings and loan associations or other recognized depositories in which each escrow account is maintained, and the name of each account, and the names of the persons authorized to withdraw funds from such accounts, and shall, as a condition of licensure, consent on those forms to the examination and

audit of all escrow accounts, notwithstanding whether the account is identified on the form, by the Division.

2) A new form shall be executed by the sponsoring broker and filed with the Division within 10 days after the time of a change of depository, method of doing business or persons authorized to make withdrawal. A new form shall also be executed each time a new escrow account is opened. However, a new form shall not be required each time a new escrow account is opened for an individual transaction and when the account falls under an umbrella account that has already been identified in a prior form. The identity of each of these individual escrow accounts, however, must be included in the Master Escrow Account Log pursuant to subsection (i)(5).

n) Violations. Any licensee who violates any of the provisions of this Part may be deemed to have endangered the public interest pursuant to Section 20(a)(21) of the Act and may be subject to a temporary suspension pursuant to Section 20-65 of the Act.

Section 1450.755 Recordkeeping

a) A sponsoring broker shall keep, or cause to be kept, escrow records, transaction records, employment agreements and records reflecting the payment of compensation, as further described in this Section.

1) Escrow Records for Each Interest Bearing and Non-interest Bearing Escrow Account or Account into which Escrow Funds Have Been Deposited. These records shall include:

A) Journals as defined in Section 1450.750(i)(1).

B) Monthly bank statements.

C) Ledgers as defined in Section 1450.750(i)(2).

D) Monthly reconciliations as defined in Section 1450.750(i)(3).

E) Master Log of Escrow Accounts as defined in Section 1450.750(i)(5).

2) The escrow records required by subsection (a)(1) shall be maintained for 5 years. The broker shall ensure that the escrow records for the immediate prior 2 year period are maintained in the office location and shall be produced within 24 hours after request pursuant to Section 1450.175(i)(8). Any escrow records more than 2 years old and stored at a location other than the office, whether in hard copy or electronically, shall be made available for inspection during normal business hours as soon as available, but no later than within 30 days after the request.

3) Records relating to transactions shall be retained by the sponsoring broker either in hard copy or electronically.

A) These records might include copies of the following:

i) Residential Property Transactions: Signed contracts, including offers and counteroffers, written release of escrow funds, Dual Agency Authorization, notices of designated agency or no agency, written direction for deposit into interest bearing special account, power of attorney, disclosures (e.g., lead paint, radon, seller disclosure), closing statements and other transaction records required to be retained by the Act.

ii) Property Management/Leasing: Any rental finding agreement, leases, periodic accounting or statement to the owner regarding the receipts and disbursements and any other documents referred to in subsection (a)(3)(A)(i) that are pertinent to the transaction .

iii) Commercial Representation: Tenant or owner representation agreement, letters of intent, leases, any written modifications to an executed lease and any other documents referred to in subsection (a)(3)(A)(i) that are pertinent to the transaction.

B) The documents listed in subsection (a)(3) are not intended to be all inclusive; rather, they are intended to be examples of pertinent documents to be retained. Any similar documents pertinent to a

particular transaction shall also be retained. Any information contained on the outside of a transaction file shall be considered part of that file.

C) Transaction records shall be maintained for 5 years. The sponsoring broker shall ensure that any transaction records involving any active or pending transaction or representation, or any transaction in which escrow funds or moneys belonging to others were received and have not yet been disbursed for the immediate prior 2 years shall be maintained in the office location. All transaction records maintained at the office location shall be made available for inspection and audit during normal business hours by the Division staff no later than 24 hours after a request for escrow records and related documents. Any transaction records stored at a location other than the office, whether hard copy or electronic copy, shall be made available for inspection during normal business hours as soon as available within 30 days after the request.

D) Sponsoring brokers may allow their sponsored licensees to maintain a duplicate of the transaction records.

4) Employment agreements, as required by Section 10-20 of the Act, shall be maintained for 5 years after the sponsored licensee is no longer affiliated with the sponsoring broker. The broker shall maintain the written employment agreement for every licensee who is employed by or affiliated with the sponsoring broker. A copy of the employment agreement for each sponsored licensee at a branch office shall be maintained at the respective branch office.

5) Records reflecting the payment of compensation for the performance of licensed activities shall be maintained for 5 years.

b) All records may be kept either in hard copy or electronically. If the records are kept electronically, the sponsoring broker shall ensure that a back up is made at reasonable intervals so as to protect the data but no less frequent than monthly. Backups can be kept either at the sponsoring broker's office or offsite. The escrow journal shall be reduced to hard copy at least monthly and kept at the office of the sponsoring broker for 60 days.

c) Any disclosure required by the Act or this Part can be made in a paper or, if agreed to by both parties, an electronic format and may use electronic signatures. Copies of all disclosures, whether electronic or in paper, must be retained by the sponsoring broker.

Section 1450.760 Disclosure of Compensation

Pursuant to Section 10-10(b) of the Act, a licensee shall disclose, in writing, any compensation the licensee expects to receive or that he or she knows the licensee's sponsoring broker will receive, arising out of a referral to any person or entity whose services are related to the transaction, including any financial institution, insurance broker, mortgage broker, home inspector or any other third party. The disclosure shall indicate the relationship between the licensee or the licensee's sponsoring broker and the referred person or entity, and any interest the licensee or the licensee's sponsoring broker may have in the referred person or entity.

Section 1450.765 Disclosure of Licensee Status

A licensee is "selling, leasing or purchasing any interest", directly or indirectly, for purposes of Section 10-27 of the Act, when the licensee:

a) is selling, leasing or seeking to purchase property as sole owner;

b) is selling or seeking to purchase property as a joint tenant or tenant by the entirety;

c) holds a beneficial interest in a land trust selling, leasing or seeking to purchase an interest in the subject property;

d) is a general partner in a partnership selling, leasing or seeking to purchase an interest in the subject property;

e) is an officer, director, majority or controlling shareholder of a corporation selling, leasing or seeking to purchase an interest in the subject property; or

f) is a manager or majority or controlling member of a limited liability company selling, leasing or seeking to purchase an interest in the subject property.

Section 1450.770 Brokerage Agreements and Listing Agreements

a) All exclusive brokerage agreements, including all exclusive listing agreements and exclusive buyer brokerage agreements, shall be in writing and shall indicate the minimum services that must be provided as indicated in Section 15-75 of the Act. Failure to include language in a brokerage agreement providing for minimum services as specified in Section 15-75 of the Act or language in the brokerage agreement waiving those minimum services provided for in Section 15-75 of the Act will, under the definition of "exclusive brokerage agreement" in Section 1-10 of the Act, result in the brokerage being considered to be non-exclusive.

b) All written buyer brokerage agreements, whether exclusive or non-exclusive, shall contain the following:

1) the agreed basis or amount of compensation and time of payment;

2) the duration of the buyer brokerage agreement clearly set forth;

3) the name of the sponsoring broker and the buyer;

4) the signatures of the buyers and an authorized signator on behalf of the sponsoring broker;

5) the duties of the buyer's broker.

c) All written listing agreements, whether exclusive or non-exclusive, shall contain the following:

1) the list price;

2) the agreed basis or amount of commission and the time of payment of the commission;

3) the duration of the listing agreement, with a definite termination date clearly set forth;

4) the name of the sponsoring broker and seller;

5) the identification of property involved (address or legal description);

6) the signatures of the owners and an authorized signator on behalf of the sponsoring broker;

7) the duties of the listing broker.

d) Pursuant to Section 10-25 of the Act, no licensee shall obtain any written brokerage agreement containing a clause automatically extending the period of the contract. Any written brokerage agreement not containing such a provision for automatic expiration shall be void.

e) Every written brokerage agreement shall expressly provide that no amendment or alteration to the terms, with respect to the amount of commission or with respect to the time of payment of commission, shall be valid or binding unless made in writing and signed by the parties.

f) No licensee shall use real estate contract forms to change previously agreed commission payment terms.

g) If a listing agreement provides that, in the event of a default by a buyer, the broker's full commission or fees will be paid out of an earnest money deposit, with the remainder of the earnest money to be paid to the seller, the provision shall appear in the listing agreement in letters larger than those generally used in the listing agreement.

h) Each brokerage agreement shall clearly state that it is illegal for either the owner or the broker to refuse to display or sell to any person because of one's membership in a protected class, e.g., race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, sexual orientation, unfavorable discharge from the military service, order of protection status or any other class protected by Article 3 of the Illinois Human Rights Act.

i) Each brokerage agreement for a residential property of 4 units or less that provides for a protection period subsequent to its termination date shall also provide that no commission or fee will be due and owing pursuant to the terms of the brokerage agreement if, during the protection period, a valid, written brokerage agreement is entered into with another licensed real estate broker.

j) A broker may discuss a possible future brokerage agreement with a consumer whose property is exclusively listed with another broker or who is subject to a written exclusive buyer brokerage agreement only under the following conditions:

1) when the consumer initiates the contact; or

2) when the current broker, upon request, fails to provide, within 10 calendar days, the type and expiration date of the brokerage agreement between the consumer and the current broker. The request and response shall be in writing and mailed return receipt requested. If the above information is not received within 14 calendar days, the broker may then contact the consumer only if this information cannot be obtained from another source of shared broker information.

Section 1450.775 Written Agreements

a) No licensee shall solicit, accept or execute any contract or other document relating to a real estate transaction that contains any blanks with the intention of filling them in after signing or initialing the contract or other document.

b) No licensee shall make any addition to, deletion from or alteration of any signed contract or other document relating to a real estate transaction without the written, telefax or telegraphic consent or direction from all signatories. No licensee shall process any contract or other document that has been altered after being signed, unless each addition, deletion or alteration is signed or initialed by all signatories at the time of the addition, deletion or alteration.

c) A true copy of the original or corrected contract or other document relating to a real estate transaction shall be delivered or mailed within 24 hours after the time of signing or initialing the original or correction to the person signing or initialing the contract or other document.

d) All forms used by licensees intended to become binding real estate contracts shall clearly state that fact in the heading in large bold type. No licensee shall use a form designated Offer to Purchase when it is intended that the form shall be a binding real estate contract.

Section 1450.780 Referral Fees and Affinity Relationships

a) No licensee may pay a referral fee to an unlicensed person who is not a principal to the transaction. In order to meet the license requirement, the person receiving the referral fee may be duly licensed as a real estate broker in either Illinois or the person's state or country of domicile. If the person's country of domicile does not have a licensing statute for real estate agents, then, in order to receive a referral fee, the person must comply with the laws, if any, of his or her country concerning the practice of real estate brokerage business.

b) Request of Referral Fee

1) No licensee may request a referral fee unless reasonable cause for payment of the referral fee exists. Reasonable cause for payment of a referral fee means that:

A) an actual introduction of a client has been made to a licensee; or

B) a contractual referral fee relationship exists with the licensee.

2) The fact that reasonable cause to demand a referral fee exists does not necessarily mean that a legal right to the referral fee exists.

3) A licensee is prohibited from interfering with the agency relationship of another licensee or attempting to induce a client to break a listing or an exclusive representation agreement with another licensee for the purpose of replacing that agreement with a new listing or representation agreement in order to obtain a referral fee. For purposes of this Section, an agency relationship shall be deemed to exist when a written, exclusive agency agreement (either a listing or buyer representation agreement) is entered into. Interfering with the agency relationship of another licensee includes, but is not limited to:

A) demanding a referral fee from another licensee without reasonable cause;

B) threatening to take harmful action against the client of another licensee because of their existing agency relationship and in order to obtain a referral fee; or

C) counseling the client of another licensee on how to terminate or

amend an existing agency contract in order to obtain a referral fee.

4) Any activities that involve the communication of corporate relocation policies or benefits to a transferring employee, as long as that communication does not involve advice or encouragement on how to terminate or amend an existing agency contract, shall not be considered interference under subsection (b)(3).

Section 1450.785 Rental Finding Services

a) Definition – Application

1) A rental finding service is any business that finds, attempts to find or offers to find, for any person who pays or is obligated to pay a fee or other valuable consideration, a unit of rental real estate or a lessee to occupy a unit of rental real estate not owned or leased by the business.

2) Any person, corporation, limited liability company, partnership or limited partnership that operates a rental finding service shall be considered a broker or salesperson as defined in the Act, shall obtain a license pursuant to the Act and shall comply with the provisions of this Section.

3) The provisions of this Section shall not apply to those exempted under Section 5-20 of the Act.

b) Contract. A rental finding service shall, prior to accepting a fee or other valuable consideration for the services, enter into a written contract with the person for whom services are to be performed and deliver to the individual a copy of the contract. The contract shall include, in the case of a rental finding service that finds, offers or attempts to find a unit of rental real estate for an individual, at a minimum, the following provisions:

1) The term of the contract;

2) The total amount to be paid for the services to be performed and a clear designation of the amount paid in advance of the performance of the services;

3) A statement regarding the refund or nonrefund of the fee paid in advance that shall include:

A) the precise conditions, if any, upon which a refund is based;

B) the fact that the conditions shall occur within 90 days from the date of the contract;

C) the fact that the refund shall be paid no later than 10 days after demand, provided the check has been honored;

4) The statements required by subsection (b)(3) shall be uniform in type of a size larger than that used for the balance of the contract;

5) The type of rental unit desired, the geographical area requested, and the rent the prospective tenant is willing to pay;

6) A detailed statement of rental finding services to be performed by the licensee, which shall include, at a minimum, the delivery to the prospective tenant of all rental information listed in subsection (c);

7) A statement that the contract shall be null and void if information concerning possible rental units or locations furnished by the licensee is not current or accurate with respect to the type of rental unit desired and described in subsection (b)(5). A listing for a rental unit that has not been available for rent for over 2 days shall be prima facie proof of not being current;

8) A statement that information furnished by the licensee concerning possible rental units may be up to 2 days old;

9) A statement requiring the licensee to refund all fees paid in connection with the contract if the contract is null and void for any reason. The licensee shall not impose any condition for the refund, and the contract shall state when the refund will be paid.

c) Disclosure. Pursuant to subsection (b)(6), the following written information for each rental unit shall be provided to the person with whom the contract is entered:

1) The name, address and the telephone number of the owner of each rental unit or the owner's authorized agent;

2) A description of the rental unit;

3) The amount of rent requested;

4) The amount of security deposit required;

5) A statement describing utilities that are located in the rental unit and included in the rent;

6) The occupancy date and the term of lease;

7) A statement setting forth the source of the rental information (i.e., owner, agent);

8) All other information that may reasonably be expected to be of concern to the prospective tenant.

d) Permission of Owner. A rental finding service shall not list or advertise any rental unit without the express written authority of the owner or agent of each unit.

SUBPART H: AGENCY RELATIONSHIPS

Section 1450.800 Confidentiality

Licensees in receipt of confidential information shall take reasonable steps to safeguard that information from unauthorized disclosure.

Section 1450.810 Failure to Disclose Information Not Affecting Physical Condition

No cause of action shall arise against a licensee for the failure to disclose:

a) that an occupant of that property was afflicted with Human Immunodeficiency Virus (HIV) or any other medical condition;

b) that the property was the site of an act or occurrence that had no effect on the physical condition of the property or its environment or the structures located on

that property (Section 15-20 of the Act). These acts shall include, but are not limited to, murder or suicide;

c) fact situations on property that is not the subject of the transaction; or

d) physical conditions located on property that is not the subject of the transaction that do not have a substantial adverse effect on the value of the real estate that is the subject of the transaction. This provision is intended to apply to actions taken by the Division under the Act as well as to all civil actions in Illinois.

Section 1450.820 Licensee Serving as a Dual Agent in a Transaction in Which a Licensee is a Party to the Transaction

A licensee shall not serve as a dual agent in any transaction to which he or she, or an entity in which he or she has an ownership interest, is a party to the transaction.

Section 1450.830 Disclosure of Contemporaneous Offers

"Contemporaneous offers" under Section 15-15(b) of the Act shall be offers to purchase or lease on behalf of 2 or more clients represented by the same designated agent for the same real estate parcel or unit that the designated agent knows or has known or has reason to know will be taken under consideration by the owners or owners' representative at the same time. If there are contemporaneous offers from 2 or more clients of a designated agent the written disclosure shall be provided to the clients of the designated agent and referrals made to other designated agents, if requested by the client.

SUBPART I: DISCIPLINE RULES AND PROCEDURES

Section 1450.900 Unprofessional Conduct

Conduct that constitutes dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public includes, but is not limited to:

a) Failure to act in the best interests of a client.

b) Deliberately misleading a client as to the market value of the property.

c) Failing to advertise the property as obligated by the listing agreement.

d) Deliberately misrepresenting to prospective purchasers or their agents the condition of the property or the availability of access to show the property.

e) Purchasing or transferring of the property through an intermediary in order to conceal the purchase by the licensee.

f) Inducing a seller to list the property through false representations.

g) Inducing a seller through false representations or false promises to transfer the property to the licensee.

h) Taking unfair advantage of a client's or customer's age, disability or lack of understanding of the English language.

i) Engaging in conduct with the public or other real estate licensees in the practice of real estate in a manner that is abusive, harassing or lewd.

j) Representing oneself as a sponsoring broker or managing broker without providing the actual supervision and management of the real estate business.

k) Failing to reasonably safeguard confidential information or improperly using confidential information.

l) Obstructing an inspection, audit, investigation, examination or disciplinary proceeding.

m) Violation of Section 1450.750, Special Accounts.

n) Assisting or inducing a licensee to violate the Act or this Part.

o) Any conduct that constitutes a breach of duty to the client, and caused, or is likely to cause, harm to the client in the future.

Section 1450.905 Temporary Suspension

The Secretary may temporarily suspend the license of a licensee without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 20-61 of the Act, if the Secretary finds that the evidence indicates that the public interest, safety, or welfare imperatively requires emergency action. [225 ILCS 454/20-65] Emergency action is

imperatively required when a licensee's conduct poses a threat that the public's or another licensee's money will be stolen or defalcated or that the continued licensure of a licensee will be a threat to the safety of the public or another licensee.

a) The Division may consider any one or more of the acts committed by a licensee including, but not limited to:

1) Failure to account for or to remit any moneys or documents that belong to others, as set forth in Section 20-20(a)(16) of the Act;

2) Failure to maintain and deposit in a special or escrow account, separate and apart from personal and other business accounts, all escrow moneys belonging to others entrusted to a licensee while acting as a real estate broker, escrow agent or temporary custodian of the funds of others, as set forth in Section 20-20(a)(17) of the Act;

3) Failure to make available to real estate enforcement personnel of the Division during normal business hours all escrow records and related documents for the immediate prior 2 years and located in the office and maintained in connection with the practice of real estate, within 24 hours after a request for those documents by Division personnel, as set forth in Section 20-20(a)(18) of the Act and Section 1450.755 of this Part; however, this action in and of itself shall not be sufficient grounds for a temporary suspension; and

4) Failure to make available to real estate enforcement personnel of the Division during normal business hours all escrow records more than 2 years old and stored in a location other than the office, whether in hard copy or electronically, as soon as available, but no later than within 30 days after the request; and

5) Commingling money or property of others with the licensee's own, as set forth in Section 20-20(a)(22) of the Act.

b) A petition for temporary suspension shall:

1) State the statutory basis for the action petitioned;

2) Allege facts, supported by evidence or affidavit sufficient for temporary

suspension; and

3) Be presented to the Director either in person or by telephone and in the presence of a court reporter.

c) An order for temporary suspension shall:

1) Contain sufficient notice regarding the basis for the action;

2) Recite the statutory basis for the action;

3) Demand immediate surrender of the license; and

4) Be signed by the Director.

d) A notice of temporary suspension shall accompany the order and shall:

1) Set a hearing date within 30 days after the date on which the order takes effect;

2) Identify the location where the hearing will take place; and

3) Provide information as to where the licensee may obtain the Division's rules for Practice in Administrative Hearings.

Section 1450.910 Otherwise Discipline

Non-disciplinary action may include, but is not limited to:

a) Restricting a licensee's access to escrow funds;

b) Requiring the successful completion of any approved real estate course, including courses for those licensees who would otherwise not be required to complete continuing education pursuant to Section 5-70 of the Act;

c) Requiring the licensee to provide any report, record or document regarding real estate activity the Division deems relevant and appropriate;

d) Imposition of an administrative fee; or

e) Require a mental or physical exam pursuant to Section 20-20 of the Act.

Section 1450.915 Dissolution: Effect of Suspension or Revocation of Sponsoring Brokers or Managing Brokers

a) Suspension or Revocation of Sponsoring Broker
Upon the effective date of a temporary or other suspension or revocation of the license of a sponsoring broker corporation, limited liability company, partnership or sole proprietorship and their respective principal or sponsoring broker, unless an interim sponsoring broker or receiver is appointed by the real estate brokerage company or its representative, and subject to approval by the Division:

1) The licenses of all respective sponsored licensees are automatically inoperative. Each broker may resume the practice of real estate only upon securing a properly completed 45 day sponsor card, signed either as a self sponsored broker or by another sponsoring broker. Each salesperson or leasing agent may resume the practice of real estate only upon securing a properly completed 45 day sponsor card signed by an active sponsoring broker.

2) All brokerage agreements with the sponsoring broker, including listing agreements, are deemed expired pursuant to Section 10-25 of the Act, unless a new sponsoring broker is named within 7 business days. Unless a new sponsoring broker is named within 7 days, the suspended or revoked sponsoring broker shall notify, in writing, all clients with whom the sponsoring broker has an active brokerage agreement, and advise that the brokerage agreement expired as of the date that is 7 business days after the suspension or revocation, and that the clients are legally authorized to enter into another brokerage agreement with any active broker.

3) Suspensions or revocations of a sponsoring broker shall not have an effect on the enforceability of any pending, executed real estate contracts.

A) The suspended or revoked sponsoring broker shall send a written notice to all clients with a pending, executed real estate contract explaining the suspensions or revocations, and that the suspensions or revocations shall not have an effect on the enforceability of the pending, executed real estate contracts. The notice shall also

identify the name, address and telephone number of the person in control of the escrow money. To the extent that the clients require additional real estate services, the notice shall provide that the clients may seek those services from another active broker.

B) A suspension or revocation shall not preclude the receipt of any commission or other compensation earned by the suspended or revoked sponsoring broker or other formerly sponsored licensee prior to the effective date of a suspension or revocation of the sponsoring broker.

4) A broker shall not be entitled to compensation if the suspension or revocation directly relates to the transaction for which the compensation was earned. If the broker has already received compensation related to the transaction leading to the suspension or revocation of the license, the Department or Board may consider that fact in issuing the discipline and/or fine.

b) Suspension or Revocation of Managing Broker
In the event of a suspension or revocation of a managing broker, the offices and branch offices managed by that managing broker may resume the practice of real estate upon securing a replacement managing broker. Consistent with Section 5-45(e) of the Act, if a replacement managing broker is unable to be secured immediately after a suspension or revocation of the managing broker, the entity may continue to practice real estate for the first 15 days after the suspension or revocation. If, after 15 days, a replacement managing broker has not been secured, the office may only continue to practice real estate upon securing the written authorization of the Division as provided for in Section 5-45(e) of the Act.

c) In the event of the voluntary retirement or the voluntary dissolution of a sponsoring broker, the sponsoring broker shall, at a reasonable time prior to the voluntary retirement or voluntary dissolution, provide written notice to all sponsored licensees to allow the sponsored licensees to secure new sponsoring brokers, and shall provide written notice to all active clients to allow the clients to secure brokerage agreements with new brokers.

Section 1450.920 Inspections and Audits

a) Inspections

1) The Division is authorized to inspect those areas of a sponsoring broker's office open and generally available to the public at any time during normal business hours, with or without the sponsoring broker's consent. With the sponsoring or responsible managing broker's consent or, if no consent is given, then upon 24 hours notice, the Division may conduct a visual and physical inspection of the non-public areas of a sponsoring broker's office and interview any person, including any licensee or non-licensee, who may have knowledge or information about the licensee's practice of real estate. The licensee may have an attorney present if he or she so chooses. The Division's action will not be postponed due to an unreasonable delay in the ability of the licensee's attorney to be present.

2) Except as provided in subsection (b), upon any written or oral request by Division personnel for written documentation, a licensee shall produce the requested documentation within 30 days after the request.

b) Escrow Audits
The Division is authorized to audit special accounts, escrow records and documents related to any escrow accounts maintained by the licensee. Escrow audits may be conducted at any time with the sponsoring broker's consent or without consent with at least 24 hours notice. The licensee may have an attorney present if he or she so chooses. The Division's action will not be postponed due to an unreasonable delay in the ability of the licensee's attorney to be present. Escrow audits may include:

1) A review and examination of all required, original escrow records as set forth in this Part.

2) A review and examination of any document, including originals, related to a licensee's escrow accounts.

3) Interviews of any person, including any licensee or non-licensee, who may have knowledge or information about the licensee's practices for maintaining and administering his or her escrow accounts.

c) Pursuant to Section 20-20(a)(18) and (27) of the Act, the Division is authorized to obtain a licensee's original records, which would include hard copy or electronic records, for the purposes of inspection, audit and reproduction. The Division shall

promptly return all original documents or records to the licensee.

Section 1450.925 Audits of Special Funds by Outside Auditors

a) General Rule. The Division may cause audits of special accounts of sponsoring brokers to be conducted by licensed certified public accountants under the circumstances and as provided for in this Section.

b) Basis for Audit. Upon receipt of a complaint from one or more members of the public, information from another regulatory or law enforcement agency, or evidence developed by the Division, any of which causes the Division to reasonably believe that escrow moneys required to be kept in a special account have been misappropriated, the Division may contract with a licensed certified public accountant for the purpose of auditing the special accounts of the sponsoring broker responsible for the accounts in question.

c) Definitions. The following terms shall have the meanings set forth in this Section:

1) Reasonable Belief. The complaints, information or evidence available to the Division are of a nature or have sufficient credibility that a prudent person in the exercise of good judgment would reasonably rely or act upon that information or evidence.

2) Misappropriated or Misappropriation. The use of escrow moneys for a purpose other than that for which the escrow moneys were deposited or that is permitted by the Real Estate License Act of 2000, this Part or the agreements providing for the handling of the escrow moneys. The mere failure to follow the provisions of Section 1450.750 dealing with the deposit and accounting for escrow moneys shall not constitute misappropriation.

3) Escrow Moneys. Shall have the same definition as set forth in Section 1-10 of the Act.

d) Notice of Audit. The Division shall notify in writing the sponsoring broker responsible for the special accounts to be audited that an auditor has been retained to audit those special accounts, the identity of the auditor or auditing firm and the

fact that the sponsoring broker shall submit all pertinent records for audit within 30 days after receipt of the written notice.

e) Procedures for Audit. The auditor or the Division shall contact the sponsoring broker responsible for the special accounts for the purpose of scheduling the audit of the special accounts. The sponsoring broker shall provide the records requested at the scheduled time and location or as otherwise agreed by the sponsoring broker and the auditor or the Division.

f) Written Report. Any licensed certified public accountant performing an audit for the Division under the provisions of this Section and the Act shall provide a written report to the Division, with a copy to the sponsoring broker, detailing the findings of the auditor with specific reference to compliance with the special account requirements of the Act and this Part.

g) Noncompliance and Cost of Audit. The sponsoring broker shall be liable for the cost of the audit if an order is issued by the Director, pursuant to Section 20-60 of the Act, finding that escrow moneys were misappropriated by the sponsoring broker or his, her, or its employees, independent contractors, agents or designees.

Section 1450.930 Case File Review Committee

a) The Department and the Board may appoint a Case File Review Committee that shall be composed of at least 2 voting members of the Real Estate Administration and Disciplinary Board, the Real Estate Coordinator, the Real Estate Chief of Investigations and the Real Estate Chief of Prosecutions or their designees. The Case File Review Committee members may take the action as set forth in this Section without meeting in person, but through other means of communication.

b) The Case File Review Committee may exercise the following duties and responsibilities:

1) Recommend whether a case file be closed or refer the case file to Investigations or Prosecutions for further review and action.

2) Recommend that cases of similar types of allegations be offered a standard disposition within a range recommended by the Board. A recommendation of an offer of standard disposition shall not restrict the Board from hearing an individual case at a hearing and issuing a recommendation based upon

the individual facts and evidence in rebuttal, mitigation or aggravation in the individual matter nor shall a prior recommendation of standard disposition restrict the Case File Review Committee from recommending a different disposition in individual cases;

3) Review reports and files submitted to the Case File Review Committee;

4) Request and review any investigation or prosecution files that the Department may have closed;

5) Meet, concurrently or independently on an as needed basis and at the discretion of the Department, with members of the regulatory staff or Board members of related professions, including but not limited to Auctioneers or Land Sales, Time Share, Appraisal or Mortgage Brokers, to discuss interrelated professional matters as needed.

c) The Department shall prepare a monthly report to be presented to the Case File Review Committee indicating the following information:

1) Number of investigation files closed;

2) Number of prosecution files closed;

3) Number of pending files in the Department's Investigation Unit;

4) Number of pending files in the Department's Prosecution Unit;

5) Number of reports and copies of any reports received from any peer review advisors used by the Department during the preceding month.

d) The Case File Review Committee shall report a summary of its actions and findings at each Real Estate Administration and Disciplinary Board meeting.

e) The Case File Review Committee in determining what action to recommend or take or whether to recommend that the Department proceed with a formal complaint, investigation and/or prosecution of a case file, shall consider factors including, but not limited to:

1) the effect on the public's health, safety and welfare;

2) any indication of fraud;

3) commingling or embezzlement;

4) evidence of escrow account shortages or discrepancies;

5) refusal to provide escrow account records or related documents within the required time period; or

6) prosecutorial merit.

f) Disqualification of a Case File Review Committee member:

1) A Case File Review Committee Board member shall be recused from consideration of a case file when a conflict of interest or prejudice would prevent that Committee Board member from being fair and impartial.

2) Participation in the initial stages of the handling of a case file, including participation on the Case File Review Committee and in informal conferences, shall not bar a Case File Review Committee Board member from later participating in decision making relating to that case file as a formal complaint or prosecution.

g) Any meetings of the Case File Review Committee are an exception to the Open Meetings Act and shall be closed to the public, in accordance with 5 ILCS 120/2(c)(15).

h) Nothing is this Section shall require the Department to utilize the services of the Case File Review Committee to close any file; however, the Department shall be required, as set forth in this Section, to advise the Case File Review Committee of such actions that are taken by the Department.

Section 1450.935 Peer Review Advisor

a) In accordance with Section 25-21 of the Act, the Department may, in its discretion, contract with a licensee to act as an advisor to the Department regarding public complaints and alleged violations forwarded by the Department to the Peer Review Advisor.

b) The Department shall not be bound by any recommendation or advice provided by a Peer Review Advisor.

c) The Peer Review Advisor shall only be referred matters by the Department that involve the actions of an unlicensed person or a licensee at the same or lower level of licensure held by the Peer Review Advisor.

d) The Peer Review Advisor shall issue any recommendation or findings to the Department in writing unless expressly waived by the Department.

Section 1450.940 Hearings

All disciplinary hearings brought before the Board under Article 20 of the Act shall be conducted in accordance with the Rules of Practice in Administrative Hearings in 68 Ill. Adm. Code 1110.

Section 1450.945 Real Estate Recovery Fund

a) Necessity of Notice
When any person commences, in the civil courts, an action for a judgment that may result in collection from the Real Estate Recovery Fund, that person shall notify the Division in writing at the time of commencement of the action.

b) Time of Notice
"Time of the commencement of the action" shall be construed to mean within 7 days after:

1) the plaintiff in a civil action files a Complaint or an Amended Complaint in the Circuit Court or the Federal District Court; or

2) the aggrieved party files a proof of claim or an adversary action regarding nondischargeability of the debt in a bankruptcy matter.

c) Place and Manner of Notice
Notice required by Section 20-90 of the Act or by this Section shall be sent by certified mail, return receipt requested, or shall be delivered by hand, to the Division in Chicago, Illinois, Attention: Docket Clerk.

d) Contents of Notice

Every notice required by Section 20-90 of the Act or by this Section shall include:

1) a copy of the Court document:

A) the complaint showing the "Filed" stamp of the Clerk of the Court in which the complaint was filed; or

B) the proof of claim or an adversary complaint regarding nondischargeability in a bankruptcy matter.

2) copies of relevant documents available to the claimant, including:

A) real estate sales contract, lease, closing statement, disbursement directions or other evidence of title to real property on which the claim is based, or if the claimant does not possess title, evidence of the interest in real property on which the claim is based (evidence includes documents such as title policy, deed or lease);

B) proof of any check or money order regarding earnest money or security deposit, other negotiable instruments or dishonored checks issued by the licensee;

3) an itemized statement of losses of actual cash money that the claimant alleges occurred as a result of conduct identified in Section 20-85 of the Act by a licensed broker, salesperson, leasing agent or unlicensed employee of a broker. When no itemized statement is possible, the claimant must state under oath that his or her losses are estimated and that his or her calculation of estimated losses is as accurate as circumstances permit him or her to make.

e) Necessity of Natural Person as a Defendant
No notice of claim will be recognized or accepted when the underlying complaint does not name at least one natural person (a licensed broker, salesperson, leasing agent or unlicensed employee of a broker) as a defendant.

Section 1450.950 Automatic Termination Upon Order to Pay Out from the Real Estate Recovery Fund

A licensee who desires to contest an automatic termination for payment out of the Real Estate

Recovery Fund pursuant to Section 20-90(i) of the Act must file the appropriate motion or appeal with the Court that ordered the payment from the Fund.

Section 1450.955 Advisory Letters

a) The Division may issue advisory letters on issues dealing with the interpretation and application of the Real Estate License Act of 2000 and this Part.

b) A licensee is entitled to rely upon an advisory letter from the Division and will not be disciplined by the Division for actions taken in reliance on the advisory letter. An advisory letter may only be relied upon by the licensee seeking the advisory letter. However, the Division may change its position prospectively, at which time the licensee who sought the advisory letter will have to meet the new position or policy of the Division.

c) Although not binding on the Division, licensees other than the licensee who sought the advisory letter may refer to an advisory letter issued by the Division as the reason for a licensee's acts or omissions that result in the Division considering disciplinary action against the licensee. The Division will consider these arguments but will not be bound by the advisory letter except as to the licensee who actually sought the advisory letter from the Division.

d) Requests for advisory letters shall be submitted in writing to the Division. The request shall include at a minimum the following:

1) the name of the licensee on whose behalf the advisory letter is sought;

2) the factual situation or hypothetical factual situation on which the advisory letter is sought;

3) citations to any provisions of the Act, rules or cases that the licensee or the licensee's advisor believes is relevant to the issue, as well as a discussion of the relevance of the cited material to the issue on which advice is sought; and

4) a statement of the issue or issues on which advice is sought.

e) Because advisory letters will be available through the Freedom of Information Act and may also be published by the Division, the party requesting the advisory

letter should indicate whether the name of the licensee should be disclosed in the advisory letter. If the request for the advisory letter includes a request to keep the name of the licensee or other parties in the letter confidential, then the person requesting the advisory letter shall submit, along with the request, a second letter using generic business names, for example, Licensee A, Company B, for the names to be kept confidential. If the Division receives such a request, then the published response will only use the generic names.

f) The Division shall respond to the licensee requesting the advisory letter within 60 days after receipt of the request by the Division. The response may be the advisory letter, an estimated time for providing an advisory letter, a request for clarification or additional information, or a statement that the Division declines to issue an advisory letter as requested with an indication of the reason for declining to issue the advisory letter. The Division shall provide a copy of all correspondence concerning a request for an advisory letter to the sponsoring broker, if any, of the licensee requesting the advisory letter.

SUBPART J: GRANTING VARIANCES

Section 1450.1000 Granting Variances

a) The Director may grant variances from this Part in individual cases in which he or she finds that:

1) the provision from which the variance is granted is not statutorily mandated;

2) no party will be injured by the granting of the variance; and

3) the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

b) The Director shall notify the Board of his or her intention to grant a variance, and the reasons for granting the variance, at a meeting of the Board, prior to granting the variance.

SUBPART K: PRE-LICENSE SCHOOLS AND CONTINUING EDUCATION PROVIDERS

Section 1450.1100 Pre-License Schools

a) In accordance with Section 30-5(a) of the Act, any person or entity seeking approval to provide pre-license education, including the 30 hour post-license course needed to retain a broker license, shall submit an application on forms provided by the Division along with the appropriate fee required by this Part. The Division shall, after review by the Advisory Council, approve a pre-license school if it meets certain minimum requirements and pays the required fee as provided in the Act and this Part.

b) The program of education for a pre-license school shall:

1) Be approved by the school's governing and/or supervising body;

2) Use instructors who have a valid license as a pre-license instructor as set forth in the Act and Section 1450.1115;

3) Have a curriculum that conforms to the standards of Section 1450.1105;

4) Administer a final course examination as outlined in Section 1450.1105.

c) Facilities

1) A pre-license school must provide an office in Illinois for the maintenance of all records, office equipment and office space necessary for customer service.

2) A pre-license school must provide telephone call assistance for customer service.

3) The premises, equipment and facilities of the pre-license school shall comply with all applicable community fire codes, building codes and health and safety standards.

4) The pre-license school is subject to inspection prior to approval or at any time thereafter by authorized representatives of the Division. The inspection shall be during regular business hours, with at least 24 hours advance notice of the inspection.

5) No pre-license school shall be maintained in a private residence.

6) Whenever a pre-license school intends to operate a branch location, an application shall be submitted to the Division for each branch location. Each application shall be accompanied by the fee as required by this Part.

7) No pre-license school shall allow the school premises or classrooms to be used during class time by anyone to directly or indirectly recruit students to become affiliated with a licensee. Instructors and school administrators shall promptly report to the Division any efforts to recruit students.

d) Administration

1) Pre-license schools shall use only licensed pre-license instructors.

2) No licensed pre-license school shall advertise that it is endorsed, recommended or accredited by the Division. The pre-license school, however, may indicate that the school is licensed by and the course of study has been approved by the Division.

3) Every pre-license school shall submit to the Division, upon its request, a schedule of all courses to be taught and when and where they will be taught. The Division shall be notified of any changes to that schedule.

4) The pre-license school shall provide a prospective student prior to enrollment with information that specifies the course of study to be offered, the tuition to be charged, the school's policy regarding refund of unearned tuition when a student is dismissed or withdraws voluntarily or through hardship, any additional fee to be charged for supplies, materials or books that become the property of the student upon payment, and other matters that are material to the relationship between the school and the student.

5) Each pre-license school shall maintain for each student a record that shall include the course of instruction undertaken, dates of attendance and areas of study completed satisfactorily. Each student's record shall be maintained by the pre-license school for a period of 5 years and shall be available for inspection by the student or by the Division or its designee during regular business hours.

6) A licensed pre-license school shall certify on the initial application that the financial resources are available to equip and maintain the school, as documented by, for example, a current balance sheet or an income statement.

7) The Division shall be reimbursed by any out-of-state pre-license school for all reasonable expenses incurred by the inspector to inspect its facilities.

e) The Division shall notify administrative officials of the applicant in writing within 15 days after its approval or disapproval. In the event the applicant is disapproved, the reasons will be detailed and the applicant advised that the applicant may request a hearing as provided for in Section 30-5 of the Act.

f) The Division shall be notified of all proposed changes in ownership of a pre-license school on forms provided by the Division 30 days prior to the change in ownership.

g) Upon successful completion of a pre-license course, a pre-license school shall issue a student transcript on forms provided by the Division. Each transcript shall be affixed with the school's seal.

Section 1450.1105 Curriculum for Pre-License Schools

a) Pre-license schools shall offer, at a minimum, the courses provided for in this Section.

b) The application for licensure as a pre-license school shall include a list of courses to be offered, an outline and course description for each course along with an examination and answer key. Each outline shall make reference to the textbook used and other material related to the course or subject matter, and shall conform to the standardized curriculum outlines and syllabi prepared by the Division.

c) Prior to May 1, 2011, a pre-license school must provide the following courses:

1) Real Estate Transactions shall include a minimum of 45 class hours. The course shall include instruction in real estate law, types of interest and ownership in real estate, home ownership, legal descriptions, titles, liens, taxes, encumbrances, listing, advertising, appraisal, finance, closings and

professional code of ethics. This course shall be mandatory for all salesperson candidates.

2) Brokerage Administration shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates. The course shall include instruction in Illinois real estate law and licensure, listings, title search, forms for closing, contract forms and the broker-salesperson relationship.

3) Contracts and Conveyances shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates. The course shall include instruction in deeds, fixtures, contracts, real estate closings, foreclosure and redemption, land use controls, landlord/tenant relationship, cooperatives and condominiums.

4) Advanced Principles 2000 shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates and shall include agency, disclosure, environmental issues, escrow, license law and other topics approved by the EAC and the Division.

d) Prior to May 1, 2011, a pre-license school shall provide 2 or more of the following courses:

1) Appraisal shall consist of a minimum of 15 class hours. The course shall include instruction in the appraisal process, real property and value, economic trends, depreciation and land value.

2) Property Management shall consist of a minimum of 15 class hours. The course shall include, but not be limited to, instruction in fundamentals of tenant-management relationship, property modernization, property maintenance, leases, real property insurance, commercial property, industrial property and advertising.

3) Financing shall consist of a minimum of 15 class hours. The course shall include instruction in types of financing, sources of financing, mortgages, mortgage documents, closing a mortgage, interest, liens, foreclosure, real property insurance, mortgage risk, principles of property value for mortgage credit, mortgage analysis and construction loans.

4) Sales and Brokerage shall consist of a minimum of 15 class hours. The course shall include instruction in qualifications and functions of a real estate broker; land utilization; appraisal principles and methods; office organization; selection, training and supervision of salespersons and office personnel; compensation of salesperson listings; prospects; real estate markets; financial control; and government regulations.

5) Farm Property Management shall include a minimum of 15 class hours. The course shall include instruction in inventorying assets, determining method of operation, tenants, budgeting, crop and livestock production, marketing, tax planning and depreciation, government programs and regulations, insurance and ethics.

6) Real Property Insurance shall include a minimum of 15 class hours. The course shall include instruction in risk, functions of insurance, insurance contracts, types and purposes of insurance.

7) Other courses as approved from time to time by the Division. If additional elective courses are developed, they shall be approved by the Division prior to implementation. The courses shall be approved upon determination that the course is at least 15 clock hours (one clock hour equals 50 minutes) in length and constitutes real estate related material.

e) After April 30, 2011, pre-license schools must provide the following broker courses:

1) A 75 credit hour course including, but not limited to, the following topics: Introduction to License Law, Real Property, State and Federal Law, Real Estate Transactions, and Real Estate Career Paths.

2) A 15 credit hour Applied Real Estate Principles course presented in the classroom or by an interactive delivery method. The course shall consist of any or a combination of the following: Situational and Case Studies, Role Playing and Demonstration of Real Estate Activities primarily dealing with the application of the topics listed above to the practice of real estate brokerage.

f) After April 30, 2011, pre-license schools must provide the following post-license courses for brokers:

1) A 15 credit hour course covering License Law, State/Federal Laws and Agency and Real Estate Transactions.

2) A 15 credit hour Applied Real Estate Practices course presented in the classroom or by an interactive delivery method consisting of any or a combination of the following: Situational and Case Studies, Role Playing and Demonstration of Real Estate Activities primarily dealing with the application of the topics listed above to the practice of real estate brokerage.

g) After April 30, 2011, pre-license schools must provide the following managing broker courses:

1) A 30 credit hour Licensing, Operations, Escrow and Management course.

2) A 15 credit hour Applied Management and Supervision course presented in the classroom or by an interactive delivery method consisting of Situational and Case Studies. The course shall consist of any combination of the following: Dispute Resolution Simulations, Supervision Situations, Escrow and Discipline Case Studies primarily dealing with the application of the topics listed above to the practice of real estate brokerage.

h) The 30 credit hour course in subsection (f) shall be used to comply with the transition education required for a salesperson transitioning to a broker license pursuant to Section 5-46(a)(1) of the Act.

i) The 45 credit hour course in subsection (g) shall be used to comply with the transition education required for a broker transitioning to a managing broker license pursuant to Section 5-47(a)(1) of the Act.

j) Examinations. Each course, including transition courses, shall end in a mandatory proctored final examination prepared and provided by the approved pre-license school consisting of at least 25 questions for each 15 classroom hours for which the minimum passing score shall be no less than 75%. The examination shall be provided by the pre-license school either at the completion of each 15 classroom hours, or at the conclusion of the course. The pre-license school shall indicate in its registration material if the examination will be provided electronically, or in paper format, or both.

k) Attendance at all classes is mandatory; however, credit for absences not to exceed 10% of the class hours may be made up by attendance at make-up classes as provided in subsection (l). Missing any class hours after having the opportunity to make up class hours as provided in subsection (l) shall result in failure of the course.

l) Each school shall provide time and facilities for conducting make-up classes for students who were absent from the regularly scheduled class period.

m) The Division will supply a recommended detailed timed outline for schools to use as a guide in establishing the new curriculum, as of May 1, 2011. The Division will seek input and recommendation of the Advisory Council in formulating this outline.

n) The Advisory Council shall consider and may approve courses that incorporate various real estate brokerage disciplines in order to make courses such as the Managing Broker course or Post-License course for Broker under this Section more pertinent and helpful to licensees engaged in various disciplines of the real estate brokerage industry.

o) One hour of approved classroom based pre-license education shall include at least 50 minutes of instruction and shall be exclusive of any time devoted to taking the examination as set forth in subsection (j).

Section 1450.1110 Expiration Date and Renewal Period for Pre-License Schools

a) Every pre-license school and school branch license, as well as their course approvals, shall expire on June 30 of each odd-numbered year.

b) Each pre-license school shall be responsible for submitting an application for renewal of the license on forms provided by the Division. Failure to receive a renewal form shall not constitute a valid reason for failure to submit a renewal application or pay the renewal fee or to renew the appropriate license.

c) The applicable fees shall be those set forth in Section 1450.130.

d) As part of the renewal application each pre-license school shall submit a list of courses, an outline, course description and examination answer key for each course to be taught.

e) Operation of a pre-license school on an expired or inoperative license shall constitute unlicensed or unauthorized practice and may be grounds for discipline.

f) Any pre-license school or school branch whose license under the Act has expired for more than 2 years shall not be eligible for renewal of that license. Any pre-license school whose license has been expired for less than 2 years may renew the license only after providing the Division with evidence that all qualifications of Section 1450.1100 have been met and the required fees have been paid.

Section 1450.1115 Pre-License Instructors

a) An applicant for a license as a pre-license instructor must meet the following criteria:

1) After April 30, 2011, attend and successfully complete a 12 hour, instructor training program administered over 2 or more days approved by the Advisory Council. Six hours, shall be devoted to instructor training and development and 6 hours shall be devoted to teaching the core content of the pre-license classes to be taught.

2) Pass an examination provided and approved by the Division with a minimum score of 75%.

3) Demonstrate expertise in the areas to be taught by virtue of:

A) being a broker or managing broker;

B) being admitted to the practice of law by the Supreme Court of Illinois;

C) prior teaching experience; or

D) professional background and experience.

b) In order to renew a license, a pre-license instructor must have maintained a valid instructor's license, have no lapse in licensure greater than 2 years and either have taught at least one course during the period of licensure, or successfully completed the instructor training program approved by the Advisory Council.

c) No approved pre-license instructor shall be seated for any of the salesperson, broker or managing broker licensure examinations except for the purpose of securing a salesperson, broker or managing broker license. Nothing in this subsection shall prevent the Division from using pre-license instructors to monitor and evaluate the examination.

Section 1450.1120 Administration of Proficiency Examinations and Eligibility to Take the Proficiency Exam and Transition Courses

a) Administration of Proficiency Examinations

1) The proficiency exams provided for in Sections 5-46 and 5-47 of the Act shall be prepared by the Department's real estate testing service and shall be administered and proctored by any approved pre-license school, either in electronic or paper format, acting in accordance with guidelines for delivery and security established by the testing service and the Department. The pre-license school shall indicate in its proficiency examination registration whether the proficiency examination will be provided electronically, or in paper format, or both.

2) The examination shall be administered at the school's address of record or at a licensed school branch location. Schools may also administer and proctor the proficiency examination at an unlicensed location that has been pre-approved by the Department. Schools must comply with any terms and conditions set by the Department.

3) Failure to comply with the requirements of subsections (a)(1) and (2) shall subject the school to discipline under the Act and this Part.

4) A licensee may only take one proficiency exam. The passing score for the proficiency exams shall be 75%.

b) Anyone licensed as a broker and eligible to be a managing broker on April 30, 2011 may, upon successful completion of the managing broker proficiency

examination or the managing broker transition course, file an application to meet the requirements of Section 5-47 of the Act and this Part.

c) Proficiency exams shall be administered prior to March 16, 2012. After this date, transitioning licensees must take the applicable transition course required in 1450.1105.

Section 1450.1125 Expiration Date and Renewal Period for Pre-License Instructors

a) Pre-license instructor licenses expire on June 30 of each odd-numbered year.

b) Each licensed pre-license instructor shall be responsible for submitting an application for renewal of the license on forms provided by the Division verifying that a pre-license course was taught during the pre-renewal period by the applicant or the applicant attended a Division approved instructor training program pursuant to Section 1450.1115(c) during the pre-renewal period. Failure to receive a renewal form shall not constitute a valid reason for failure to submit the renewal form or pay the required renewal fee.

c) The applicable fees shall be those set forth in Section 1450.130.

d) Instructing courses on an expired or inoperative license shall constitute the unlicensed or unauthorized practice and may be grounds for discipline.

e) Restoration

1) Any licensed pre-license instructor whose license under the Act has expired is eligible to renew the license without paying any lapsed renewal fees or reinstatement fees provided that the license expired while the instructor was:

A) on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard, the State Militia called into the service or training of the United States; or

B) engaged in training or education under the supervision of the United States prior to induction into military service; or

C) serving as the Director or as an employee of the Division.

2) A pre-license instructor renewing his or her license in accordance with this subsection (e) may renew the license within a period of 2 years following the termination of service and is not required to retest or reapply.

f) Except as otherwise provided in this Section, any pre-license instructor whose license under the Act has expired for more than 2 years shall meet the new applicant requirements found in Section 1450.1115.

g) Any pre-license instructor whose license has been expired for less than 2 years may renew the license only after providing the Division with a certification that all qualifications of Sections 1450.1115 and this Section have been met, that the instructor taught at least one course within the period of licensure or has completed a Division approved instructor training program and the required fee is paid.

Section 1450.1130 Continuing Education Schools

a) Approval of Continuing Education (CE) Schools. Those entities seeking approval as CE schools shall maintain an office in Illinois for maintenance of all records, office equipment and office space necessary for customers. The CE school must provide phone call assistance for customer service.

1) The CE school's office may, at any time, be subject to inspection by authorized representatives of the Division during regular working hours and upon at least 24 hours notice when the Division has reason to believe that there is not full compliance with the Act or this Part and that this inspection is necessary to ensure full compliance.

2) The Division shall be reimbursed by any out-of-state CE school for all reasonable expenses incurred by the inspector to inspect its facilities.

3) Entities seeking licensure as CE schools shall file a CE school application, on forms provided by the Division, along with the required fee. The application shall include the following:

A) An agreement by the applicant that the applicant shall provide to the Division, upon request, a schedule including location, date,

time and name of instructor of each CE course to be offered;

B) The CE school's certification that:

i) all CE courses offered by the CE school for CE credit will comply with the criteria in the Act and this Part;

ii) the CE school will be responsible for verifying attendance at each CE course and providing a certificate of completion signed by the CE school;

iii) the CE school will maintain its records for not less than 5 years and will make these records available for inspection by the Division or its designee during regular business hours;

iv) upon request by the Division, the CE school will submit evidence to establish compliance with this Section and Sections 30-15 through 30-25 of the Act;

v) the CE school will only offer CE, other than distance education CE, in an environment that is conducive to learning (i.e., adequate lighting, seating) and does not jeopardize the health, safety and welfare of the attendees;

vi) financial resources are available to equip and maintain its office in a manner necessary to enable the CE school to comply with Article 30 of the Act, this Section and this Part, documented by a current balance sheet, an income statement or any similar evidence as requested by the Division;

vii) upon request the CE school will make available to a licensee who has taken one or more of the CE school's courses the records dealing with the licensee's participation in those courses; and

viii) the CE school will provide a closed book exam (unless excused by the Advisory Council) and a proctor for the

exam, or an electronic means of proctoring the exam.

4) Validly licensed pre-license schools seeking to offer CE courses shall qualify for a CE school license upon completion of the required application and submission of the required fee.

5) The Division shall issue approval to the CE school or notify the CE school, in writing, why approval cannot be issued.

b) Licensed CE schools shall comply with the following:

1) No licensed CE school shall allow the premises or classrooms utilized during CE courses to be used by anyone to directly or indirectly recruit students. CE schools and CE instructors shall report to the Division any efforts to recruit students.

2) No licensed CE school shall advertise that it is endorsed, recommended or accredited by the Division. The CE school, however, may indicate that the school and the CE course have been approved by the Division.

3) Licensed CE schools shall utilize, in the teaching of approved CE courses, only CE instructors who have been licensed by the Division.

4) Licensed CE schools shall specify in any advertising promoting CE courses the number of CE hours that may be credited toward Illinois CE requirements for license renewal. Further, licensed CE schools shall specify the number of core or elective CE course hours that may be earned by successfully completing the course.

5) Provide core CE courses according to the standardized syllabi provided by the Division with the approval of the Advisory Council.

c) Administration

1) All CE schools shall seek a certificate of registration for all CE courses they plan to offer and shall not offer any CE course until the Division has issued a certificate of registration for that course. All requests for registration of courses shall include a course description, course outline, learning objectives, examination and answer key.

2) Upon request all CE schools shall also notify the Division as to all CE instructors they plan to use.

3) The CE school shall be responsible for assuring verified attendance at each CE course or distance education examination. No renewal applicant shall receive CE credit for time not actually spent attending the CE course or when a passing score of 70% on the examination was not achieved.

4) Each licensed CE school shall submit to the Division, on or before the 15th of each month, a report of those licensees passing CE courses offered by it during the preceding calendar month.

A) The monthly reports shall, at a minimum, include the following information for each licensee:

i) the licensee's name, address and license number;

ii) the CE school's name and license number;

iii) the CE course name, course license number, course category (core or elective) and credit hours; and

iv) other information as may be required by the Division.

B) If no courses were given by a CE school during the preceding calendar month, that CE school shall report in writing that no courses were given.

C) The monthly reports shall be submitted on forms or in a computer readable format provided by the Division.

D) There is no processing fee for a monthly report submitted in the computer readable format specified by the Division. Each monthly report submitted on paper or in a format other than that specified by the Division shall be accompanied by a processing fee of $.50 per licensee, per course listed on the report, payable by check to the Department of Financial and Professional Regulation.

E) A monthly report received by the Division with a postmark after the day it is due (the 15th day of the month) shall be accompanied by an administrative fee of $200 in addition to the fees set forth in subsection (c)(4)(D).

F) If a CE school fails to file monthly reports or a statement saying that no CE courses were given, or fails to pay the required fees for 3 successive months, then the courses offered by that school may be disqualified pursuant to procedures set forth in Section 30-15 of the Act until all delinquent reports, processing fees and administrative fees, as set forth in this Section, have been submitted to and are received by the Division. The Division shall send notice to the school of an informal conference, with a representative of the Advisory Council and the Division and of pending disqualification pursuant to Section 30-15(d) of the Act by certified or registered mail, return receipt requested, or by other signature restricted delivery service.

Section 1450.1135 Curriculum for Continuing Education Schools and Course Registration Process

a) The Division, with the advice of the Advisory Council, shall designate core (mandatory) courses for each cycle and may provide a standardized syllabus to be used by the CE schools for those courses. This shall be effective for the broker prerenewal cycle beginning April 30, 2010**.**

b) Elective courses must be approved by the Division, through its Advisory Council.

c) Credit hours may be earned for distance education programs approved by the Advisory Council.

d) A licensee may earn credit for a specific CE course only once during the prerenewal period.

e) The Division shall issue certificates of registration for approved CE courses upon successful completion of the following process:

1) The person or entity seeking approval for the CE course completes and submits the application approved by the Division for a certificate of registration;

2) The CE description, comprehensive timed outline, learning objectives, examination and answer key and any other course and examination materials requested by the Division or the Advisory Council is submitted along with the application;

3) The fee required by Section 1450.130 is submitted; and

4) The Advisory Council approves the application for registration of the CE course.

f) One hour of approved CE shall include at least 50 minutes of classroom instruction and shall be exclusive of any time devoted to taking the examination as set forth in subsection (h).

g) Each CE course shall include one or more subjects from either the core category or elective category defined in Section 1450.340(b)(3)(A) or (b)(3)(B), when the individual is in actual attendance, or participates in or completes distance education coursework. All CE courses shall be a minimum of 3 hours and shall be offered in 3 hour increments. Each 3 hour increment shall be a course approved by the Advisory Council. The CE school shall clearly indicate on the certificate of completion the number of hours earned from each CE course and identify whether the completed course was from the core or elective category.

h) Each CE course shall include the successful completion of an examination that measures the attendee's understanding of the course material. A score of at least 70% is required on the examination for successful completion of any CE course.

1) The examination shall be given on-site immediately following any CE course. When a sequence of courses is offered, the examination may be given either at the end of each individual course or it may be given at the end of the sequence of courses so long as the examination covers all aspects of the course material.

2) All examinations, including distance education examinations and retake examinations, shall be proctored by a representative of the approved CE

school, or shall provide a means of electronic proctoring approved by the Division. All examinations shall include at least 25 questions for each 3-hour increment of CE earned and shall be a closed book exam unless waived by the Advisory Council due to the complexity of the course material and exam.

3) No credit for CE shall be given to any licensee unless the examination is successfully completed. The CE school shall allow the attendee one retake within 30 days after a failed examination in order to receive credit for CE. No more than one retake shall be allowed. A licensee failing a retake shall not receive credit for that CE course unless the entire course is retaken and the examination is successfully completed.

i) Distance education CE shall comply with all of the requirements of this Section, except that:

1) Verified attendance is only required for taking the examination.

2) Classroom instruction is not required for distance education CE, as the intent is for the licensees to review and learn the material on their own.

3) Acceptable distance education course materials include, but are not limited to, reading material and audio or video content.

4) The examination site for distance education CE shall be determined by the CE school, and it shall be proctored by a representative of the approved sponsor. An approved instructor is not required to proctor the examination.

j) All CE courses shall:

1) Contribute to the advancement, integrity, extension and enhancement of professional skills and knowledge in the practice of real estate;

2) Provide experiences (e.g., role playing, lectures, films) that contain subject matter and course materials relevant to that set forth in Section 5-70 of the Act; and

3) Be developed and presented by persons with education and/or experience in the subject matter of the CE course.

k) Nothing shall prohibit an approved CE school and its instructors from utilizing audio-visual aides or electronic communications with 2-way voice interaction in assisting in the presentation of CE courses.

Section 1450.1140 Expiration Date and Renewal Period for Continuing Education Schools

a) Every CE school license shall expire on June 30 of each even-numbered year.

b) Every certificate of registration of a CE course shall expire on June 30 of each even-numbered year.

c) Each licensed CE school shall be responsible for renewal of the license on forms provided by the Division. Failure to receive a renewal form shall not constitute a valid reason for failure to submit the proper application for renewal.

d) The applicable fees shall be those set forth in Section 1450.130.

e) Each CE school shall submit the renewal application along with the proper fee and a list of courses to be taught. If the course has been updated, the school shall submit the updated course descriptions, course outlines, examinations and answer keys with the renewal applications.

f) Operation of a CE school on an expired or inoperative license shall constitute unlicensed or unauthorized practice and shall be grounds for discipline under the Act.

g) Any CE school whose license under the Act has been expired for more than 2 years shall not be eligible for renewal of that license. Any CE school whose license has been expired for less than 2 years may renew the license after providing the Division with evidence that all qualifications of Section 1450.1130 have been met and the proper renewal fees have been paid.

Section 1450.1145 Continuing Education Instructors

a) An applicant seeking approval from the Division to become a licensed CE instructor shall submit a completed application, on forms provided by the Division, along with the fee required by Section 1450.130 and a certification that the applicant has attended and successfully completed a one-day, 6 hour,

instructor development course. This course may be the same as the 6 hour instructor training program provided for pre-license instructors in Section 1450.1115(b). Attendance at the pre-license instructor development 12 hour courses will satisfy this requirement for CE instructor licensees.

b) An individual applying to become a licensed CE instructor shall meet at least one of the following criteria:

1) Licensed and active in practice as a real estate broker for at least the last 3 years; or

2) Is currently admitted to practice law and for 3 years has been engaged in real estate related work as part of his or her active practice of law or has taught pre-licensure real estate courses; or

3) Is a properly credentialed instructor of real estate courses who is or has been engaged in the practice of teaching for at least 3 years; or as evidenced by a professional designation, such as, but not limited to, a designated real estate instructor (DREI); or approved by a college's or university's governing body to teach in a real estate degree program; or

4) Is properly licensed or certified to engage in the business of appraisal, finance and/or related real estate occupations (not including real estate salespersons or leasing agents) and for at least 3 years has been engaged in that practice; or

5) Is qualified by experience or education as outlined in Section 30-15(b)(9) of the Act. In determining whether a person is qualified to teach CE under that Section, the Director shall consider the following:

A) The individual's teaching experience;

B) The individual's real estate experience;

C) Any real estate, business or legal education of the individual;

D) The results of a personal interview with the individual. The personal interview may be conducted via telephone if it would be overly burdensome and unreasonable for the applicant to

personally appear for the interview (e.g., applicant living out-of-state); and

E) The recommendation of the Advisory Council. The Advisory Council shall make a recommendation to the Director for approval or disapproval of the applicant as a CE instructor.

c) Individuals validly licensed to teach salesperson, broker and managing broker pre-license courses, pursuant to Section 1450.1115, are qualified as CE instructors as long as they submit an application to the Division for licensure as a CE instructor and pay the required fee.

d) The Division shall notify the applicant in writing within 15 days after its approval or disapproval. The Division can restrict a CE instructor's license to teaching only certain CE courses or certain types of CE courses. In the event the applicant is disapproved, the reasons will be detailed and the applicant advised that the applicant may request a hearing as provided for in Section 30-5 of the Act.

Section 1450.1150 Expiration Date and Renewal Period for Continuing Education Instructors

a) Every CE instructor license shall expire on June 30 of each even-numbered year.

b) Each licensed CE instructor shall be responsible for renewal of the license on forms provided by the Division. Failure to receive a renewal form shall not constitute a valid reason to submit the proper application for renewal and for failure to pay the proper renewal fee.

c) The applicable fees shall be those set forth in Section 1450.130.

d) Teaching CE courses on an expired license shall constitute unlicensed or unauthorized practice and shall be grounds for discipline.

e) Restoration

1) Any licensed CE instructor whose license under the Act has expired is eligible to renew the license without paying any lapsed renewal fees or reinstatement fees provided that the license expired while the instructor was:

A) on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard, or the State Militia called into the service or training of the United States; or

B) engaged in training or education under the supervision of the United States prior to induction into military service; or

C) serving as the Director or as an employee of the Division.

2) A CE instructor renewing his or her license in accordance with this subsection (e) may renew the license within a period of 2 years following the termination of service and is not required to reapply.

f) Any CE instructor whose license under the Act has been expired for more than 2 years shall not be eligible for renewal of that license. Any CE instructor whose license has been expired for less than 2 years may renew the license only after providing the Division with evidence that all qualifications of Section 1450.1145 have been met and the proper renewal fee is paid.

g) Any CE instructor applying for renewal must verify he or she has taught at least 2 courses during the prerenewal period, or successfully completed the instructor training program approved by the Advisory Council.

Section 1450.1155 Distance Education Courses

Distance education courses are courses in which instruction does not take place in a traditional face to face classroom situation but rather when instruction takes place through other media. Distance education programs include, but are not limited to, those that are presented through on-line courses, interactive classrooms, video conferencing, audio tape, print media, video tape, compact disks and interactive computer. Distance education courses shall be licensed to an approved pre-license or CE school and meet the curriculum requirements set forth in Section 1450.1105 and/or Section 1450.1135, as applicable.

a) Distance education courses must meet all requirements for pre-license or CE courses, whichever is applicable, and any additional requirements established by the Act and this Part.

b) Distance education courses shall be submitted to the Division for review and approval as provided for in Section 1450.1105 or Section 1450.1135, whichever is applicable.

c) Pre-license or CE schools providing distance education courses shall establish written policies and procedures for grading examinations and lessons, which shall include provisions for instructor comments, suggestions and written correction of errors. There shall also be written procedures for the prompt return of materials. Copies of these policies shall be provided to the Division upon request.

d) Schools providing distance education courses shall establish performance objectives for each course.

e) Pre-license schools offering distance education courses shall maintain an average passing rate of at least 50% for all students who take the licensure examination for the first time over a 6 month period, either January through June or July through December.

f) Schools providing distance education courses shall provide for a valid licensed instructor to be available during normal business hours to answer student questions.

g) Each school offering distance education courses shall submit for approval by the Division the general plans for proctoring exams for distance education courses and each school shall be responsible for the security and integrity of course final examinations and the suitability of the sites and proctors utilized by the school.

h) Each school offering distance education shall provide appropriate technical support throughout the period the courses are offered.

i) Approved distance education courses should require the student to spend the same time completing the course as it would take them to complete a classroom course. Pre-license or CE schools shall include a comprehensive timed outline consistent with course hour requirements for each distance education course initial application.

j) Pre-license or CE schools shall not administer a course final exam to a student until the student has had adequate time to complete the course.

Section 1450.1160 Recruitment at Test Center

Licensees shall not recruit test takers to become affiliated with a licensee at test facilities where the Illinois Real Estate Licensing Examination is being conducted before, during, or after the examination.

Section 1450.1165 Discipline of Schools or Instructors

a) The Advisory Council, after notice, can conduct an informal conference for the purpose of reviewing a school's or instructor's compliance with the Act and this Part. The Advisory Council may make a recommendation to the Board based upon its findings and conclusions resulting from that conference.

b) Upon written recommendation of the Board to the Director, the Division may refuse to issue or renew a license or certificate of registration, reprimand, fine, withdraw approval, place on probation, suspend, or revoke any license or otherwise discipline any license or certificate of registration, of any pre-license school, pre-license instructor, CE school, CE instructor, course, or applicant for the license or certificate of registration when, at any time:

1) The quality of the course, instruction or program fails to meet the established criteria as set forth in the Act and this Part.

2) If the license approval was based upon false or deceptive information.

3) If any other professional license, accreditation or certification of the instructor or school is suspended, revoked or otherwise disciplined.

4) When the applicant or licensee has:

A) subverted or attempted to subvert the integrity of any exam or course, including through improper reproduction of an exam, providing an answer key to an exam, cheating, bribery or otherwise aids and abets an applicant or licensee to subvert the integrity of any exam or course;

B) made any substantial misrepresentation or misleading or untruthful advertising, including without limitation guaranteeing success or a "pass score" on any exam or in any course or using any trade name

or insignia of membership in any educational or any real estate organization of which the applicant or licensee is not a member;

C) taught real estate courses without being qualified, including, but not limited to, being unapproved by the Division, being unlicensed, having a nonrenewed license or being uncertified, or aids and abets an unqualified individual to teach a real estate course;

D) failed to provide information to the Division as required under any provision of the Act or this Part; or

E) disregarded or violated any provision of the Act or this Part.

5) Any approved pre-license school fails to maintain an average passing rate of at least 50% for all students who take the licensure examination for the first time over a 6 month period, either January through June or July through December.

c) Disciplinary proceedings shall be conducted by the Board as provided for in the Act and Subpart F of this Part.

d) The Division may temporarily suspend without hearing the certificate of registration for a licensed CE school's courses for failure to comply with the Act or this Part upon recommendation of the Advisory Council. No CE credit shall be granted to any licensee for completing a CE course for which the certificate of registration has been temporarily suspended.

Section 1450.1170 Real Estate Education Advisory Council

The Coordinator shall not be counted as a member of the Advisory Council for the purpose of determining whether a quorum is present.

SUBPART L: CONTINUING EDUCATION TRANSITIONAL PROVISIONS

Section 1450.1200 Continuing Education Requirements for Transitioned Licensees

a) The CE requirement for April 30, 2012 renewal for salespersons who transitioned to brokers by passing the proficiency examination shall be 18 hours of CE courses taken

pursuant to Section 1450.340. The 18 hour requirement shall consist of 9 hours of courses approved as core and 9 hours of courses approved as elective.

b) Salespersons who transitioned to brokers by successfully completing the 30 hour transition courses are not required to take CE for the April 30, 2012 renewal.

c) The CE requirement for April 30, 2013 for brokers who transitioned to managing brokers by passing the proficiency exam shall be 18 hours of CE courses and the 12 hour broker management CE course taken pursuant to Section 1450.540. The 18 hour requirement shall consist of 9 hours of courses approved as core and 9 hours of courses approved as elective.

d) The CE requirement for April 30, 2013 for brokers who transitioned to managing brokers by completing the 45 hour transition courses shall be 18 hours of courses taken pursuant to Section 1450.540. The 18 hour requirement shall consist of 9 hours of courses approved as core and 9 hours of courses approved as elective.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

1) Heading of the Part: Site-Specific Closures of Coal Combustion Waste Surface Impoundments

2) Code Citation: 35 Ill. Adm. Code 840

Section Numbers:	Proposed Action:
840.100	New
840.102	New
840.104	New
840.106	New
840.108	New
840.110	New
840.112	New
840.114	New
840.116	New
840.118	New
840.120	New
840.122	New
840.124	New
840.126	New
840.128	New
840.130	New
840.132	New
840.134	New
840.136	New
840.138	New
840.140	New
840.142	New
840.144	New
840.146	New
840.148	New
840.150	New
840.152	New

4) Statutory Authority: Implementing Section 22 of the Environmental Protection Act [415 ILCS 5/22] and Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8], and authorized by Sections 22, 27, and 28 of the Illinois Environmental Protection Act [415 ILCS 5/10, 27, 28] and Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8]

5) A Complete Description of the Subjects and Issues Involved: The Board proposes site-specific regulations providing standards for the closure of Ash Pond D, a surface impoundment managing coal combustion waste at the Hutsonville Power Station in Crawford County owned by Ameren Energy Generating Company (Ameren). The proposed site-specific regulations are based upon a joint proposal filed September 22, 2009, by Ameren and the Illinois Environmental Protection Agency (Agency). The proposal includes requirements for a final cover system for Ash Pond D, a groundwater monitoring system and program, a groundwater collection trench to address off-site impacts, and procedures for Agency oversight of closure and post-closure care.

6) Published studies or reports and sources of underlying data, used to compose this rulemaking: In its Statement of Reasons, Ameren indicated that it relied, in preparing its original proposal, on a number of technical documents and reports:

a) Pond D Closure Alternatives Report: Hutsonville Power Station Crawford County, Illinois. Prepared by Natural Resources Technology, Inc., dated April 27, 2009.

b) Hutsonville Power Station Hutsonville, Illinois Hydrogeologic Assessment Final Report. Prepared by Natural Resources Technology, Inc., dated August 19, 1999.

c) Hutsonville Power Station Pond D Closure -- Human Health and Ecological Risk Assessment. Prepared by AECON, Inc., dated April 2009.

d) Groundwater Modeling of Hutsonville Pond D, prepared by Natural Resources Technology, dated April 3, 2009.

e) Preliminary Groundwater Monitoring Plan: Hutsonville Pond D, prepared by Natural Resources Technology, dated April 28, 2009.

Copies of these technical documents and reports are available under docket number R09-21 through the Board's Clerk's Office On-Line (COOL) on the Board's Web site at www.ipcb.state.il.us.

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? Yes

NTIS. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (703) 605-6000.

"Methods for Chemical Analysis of Water and Wastes," March 1983, Doc. No. PB84-128677. EPA 600/4-79-020 (available on-line at http://nepis.epa.gov/).

"Methods for the Determination of Inorganic Substances in Environmental Samples," August 1993, Doc. No. PB94-120821 (referred to as "USEPA Environmental Inorganic Methods"). EPA 600/R-93-100 (available online at http://nepis.epa.gov/).

"Methods for the Determination of Metals in Environmental Samples," June 1991, Doc. No. PB91-231498. EPA 600/4-91-010 (available on-line at http://nepis.epa.gov/).

"Methods for the Determination of Metals in Environmental Samples - Supplement I," May 1994, Doc. No. PB95-125472. EPA 600/4-94-111 (available on-line at http://nepis.epa.gov/).

"Methods for the Determination of Organic and Inorganic Compounds in Drinking Water: Volume I," EPA 815-R-00-014 (August 2000) (available on-line at http://nepis.epa.govl/).

"Practical Guide for Ground-Water Sampling," EPA Publication No. EPA/600/2-85/104 (September 1985), Doc. No. PB 86-137304

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA Publication No. SW-846, as amended by Updates I, II, IIA, IIB, III, IIIA, and IIIB (Doc. No. 955-001-00000-1), (available on-line at http://www.epa.gov/epaoswer/hazwaste/test/main.htm).

USGS. United States Geological Survey, 1961 Stout St., Denver, CO 80294 (303) 844-4169.

"Techniques of Water Resources Investigations of the United States Geological Survey, Guidelines for Collection and Field Analysis of Ground-Water Samples for Selected Unstable Constituents," Book I, Chapter D2 (1976).

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

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

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of 45 days after the date of publication in the *Illinois Register*. Comments should refer to docket R09-21 and be addressed to:

John Therriault
Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

Interested persons may request copies of the Board's opinion and order in R09-21 by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us. For more information, contact hearing officer Timothy Fox at 312/814-6085 or e-mail foxt@ipcb.state.il.us.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The site-specific rule is proposed to provide standards for the closure of Ash Pond D, a surface impoundment managing coal combustion waste owned by Ameren Energy Generating Company (Ameren), and is not expected to affect small businesses, small municipalities, or not-for-profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: The joint proposal submitted by Ameren and the Agency includes new recordkeeping and reporting requirements, for which standards skills and processes are expected to suffice.

C) Types of Professional skills necessary for compliance: Current recordkeeping and reporting skills and processes are expected to suffice for compliance with the proposed regulations, and new skills are not expected to be necessary.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

14) Regulatory Agenda in which this rulemaking was summarized: July 2010

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER j: COAL COMBUSTION WASTE SURFACE IMPOUNDMENTS

PART 840
SITE-SPECIFIC CLOSURES OF COAL COMBUSTION
WASTE SURFACE IMPOUNDMENTS

SUBPART A: CLOSURE OF ASH POND D, HUTSONVILLE POWER STATION

Section

840.100 Purpose
840.102 Applicability
840.104 Definitions
840.106 Abbreviations and Acronyms
840.108 Incorporations by Reference
840.110 Hydrogeologic Site Investigation
840.112 Groundwater Monitoring System
840.114 Groundwater Monitoring Program
840.116 Groundwater Quality Standards
840.118 Demonstration of Compliance
840.120 Groundwater Collection Trench
840.122 Groundwater Discharge System
840.124 Final Slope and Stabilization
840.126 Final Cover System
840.128 Closure Plan
840.130 Contents of Closure Plan
840.132 Modification of Existing Permits
840.134 Completion of Closure, Closure Report and Certification of Completion of Closure
840.136 Post-Closure Maintenance of Cover System
840.138 Post-Closure Care Plan
840.140 Contents of Post-Closure Care Plan
840.142 Post-Closure Report and Certification of Completion of Post-Closure Care Plan
840.144 Recordkeeping and Reporting Requirements
840.146 Construction Quality Assurance Program
840.148 Review, Approval, and Modification of Closure Plan and Post-Closure Care Plan

840.150 Review and Approval of Closure Report and Certification of Completion of Closure, Post-Closure Report and Certification of Completion of Post-Closure Care Plan
840.152 Resource Conservation and Recovery Act

AUTHORITY: Implementing Section 22 of the Environmental Protection Act [415 ILCS 5/22] and Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8], and authorized by Sections 22, 27, and 28 of the Environmental Protection Act [415 ILCS 5/22, 27, and 28] and Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8].

SOURCE: Adopted in R09-21 at 35 Ill. Reg. _____, effective _____.

SUBPART A: CLOSURE OF ASH POND D, HUTSONVILLE POWER STATION

Section 840.100 Purpose

This Subpart provides for the closure of Ash Pond D located at the Hutsonville Power Station, 15142 East 1900 Avenue, Hutsonville, Crawford County, Illinois.

Section 840.102 Applicability

This Subpart applies exclusively to the closure and post-closure care of Ash Pond D, located at the Hutsonville Power Station.

Section 840.104 Definitions

Unless otherwise specified, the definitions of the Environmental Protection Act (Act) [415 ILCS 5] apply to this Subpart. The following definitions also apply:

"Agency" means the Illinois Environmental Protection Agency.

"Aquifer" means saturated (with groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to wells, springs, or streams under ordinary hydraulic gradients. [415 ILCS 55/3(b)]

"Ash Pond D" means the surface impoundment designated as Ash Pond D, located at the Hutsonville Power Station, 15142 East 1900 Avenue, Hutsonville, Crawford County, Illinois.

"Board" means the Illinois Pollution Control Board.

"Contaminant" means any solid, liquid or gaseous matter, any odor, or any form of energy, from whatever source. [415 ILCS 5/3.165]

"Hutsonville Power Station" or "Hutsonville site" means the electric generating station located at 15142 East 1900 Avenue, Hutsonville, Crawford County, Illinois.

"Lower zone of underlying aquifer" means the sands and gravels beneath the fine-grained surficial alluvium within the Wabash River bedrock valley.

"Off-site" means any property that is not part of the Hutsonville Power Station.

"On-site" means the same or geographically contiguous property constituting the Hutsonville Power Station.

"Operator" means the person responsible for the operation of Ash Pond D.

"Owner" means the person who owns Ash Pond D.

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity, or their legal representative, agent or assigns. [415 ILCS 5/3.315]

"Professional engineer" means a person who has registered and obtained a seal pursuant to the Professional Engineering Practice Act of 1989 [225 ILCS 325].

"Professional geologist" means *a person licensed under the laws of the State of Illinois to practice as a professional geologist.* [415 ILCS 5/57.2]

"Site" means any location, place, tract of land and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by the Act or regulations thereunder. [415 ILCS 5/3.460]

"Statistically significant" means the application of a Mann-Kendall analysis performed at 95 percent confidence to determine whether consecutive

groundwater sampling data showing greater or lesser concentrations of constituents is statistically significant.

"Upper zone of underlying aquifer" means surficial sands and sandstones overlying shale west of the Wabash River bedrock valley, and sand lenses within the surficial fine grained alluvium.

Section 840.106 Abbreviations and Acronyms

Agency	Illinois Environmental Protection Agency
CQA	Construction Quality Assurance
GMZ	Groundwater Management Zone
Mg\L	milligrams per liter
NPDES	National Pollutant Discharge Elimination System
TDS	total dissolved solids

Section 840.108 Incorporations by Reference

a) The Board incorporates the following material by reference:

NTIS. National Technical Information Service, 5285 Port Royal Road, Springfield VA 22161, (703) 605-6000.

"Methods for Chemical Analysis of Water and Wastes," March 1983, Doc. No. PB84-128677. EPA 600/4-79-020 (available on-line at http://nepis.epa.gov/).

"Methods for the Determination of Inorganic Substances in Environmental Samples," August 1993, Doc. No. PB94-120821 (referred to as "USEPA Environmental Inorganic Methods"). EPA 600/R-93-100 (available online at http://nepis.epa.gov/).

"Methods for the Determination of Metals in Environmental Samples," June 1991, Doc. No. PB91-231498. EPA 600/4-91-010 (available on-line at http://nepis.epa.gov/).

"Methods for the Determination of Metals in Environmental Samples Supplement I," May 1994, Doc. No. PB95-125472. EPA 600/4-94-111 (available on-line at http://nepis.epa.gov).

"Methods for the Determination of Organic and Inorganic Compounds in Drinking Water: Volume I," EPA 815-R-00-014 (August 2000) (available on-line at http://nepis.epa.gov).

"Practical Guide for Ground-Water Sampling," EPA Publication No. EPA/600/2-85/104 (September 1985), Doc. No. PB 86-137304, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA Publication No. SW-846, as amended by Updates I, II, IIA, IIB, III, IIIA, and IIIB (Doc. No. 955-001-00000-1), (available on-line at http://www.epa.gov/epaoswer/hazwaste/test/main.htm).

USGS. United States Geological Survey, 1961 Stout St., Denver CO 80294, (303) 844-4169.

"Techniques of Water Resources Investigations of the United States Geological Survey, Guidelines for Collection and Field Analysis of Ground-Water Samples for Selected Unstable Constituents," Book I, Chapter D2 (1976).

b) This Section incorporates no later editions or amendments.

Section 840.110 Hydrogeologic Site Investigation

The owner or operator of Ash Pond D must design and implement a hydrogeologic site investigation to determine the nature and extent of contamination originating from Ash Pond D and to develop hydrogeologic information for the uses set forth in this Section. If approved in the closure plan, any information from any hydrogeologic site investigation performed since 1999 may be used to satisfy the requirements of this Section. The uses of the hydrogeologic site investigation shall include, but not be limited to:

a) Providing information to define hydrogeology and to assess the groundwater impacts associated with Ash Pond D;

b) Providing information to perform a model to assess the groundwater impacts associated with closure of Ash Pond D; and

c) Providing information to establish a groundwater monitoring system.

Section 840.112 Groundwater Monitoring System

The owner or operator of Ash Pond D must design and install a groundwater monitoring system that enables it to monitor groundwater to evaluate post-closure groundwater quality and trends and to demonstrate compliance with the applicable groundwater quality standards at designated compliance points as set forth in Sections 840.116 and 840.118 of this Subpart. If approved in the closure plan, any groundwater monitoring well in operation since 1999 that complies with the requirements set forth in this Section may be used in satisfying the requirements of this Section.

a) Standards for monitoring well design and construction.

1) All monitoring wells must be cased in a manner that maintains the integrity of the bore holes.

2) Wells must be screened to allow sampling only at the specified interval.

3) All wells must be covered with vented caps, unless located in flood-prone areas, and equipped with devices to protect against tampering and damage.

b) The groundwater monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield groundwater samples to:

1) Represent the quality of background water that has not been affected by contamination from Ash Pond D;

2) Represent the quality of groundwater at the compliance point or points; and

3) Determine compliance with Sections 840.116 and 840.118 of this Subpart.

c) Monitoring wells must be located in statigraphic horizons that could serve as contaminant pathways.

d) The groundwater monitoring system approved in the closure plan must include a maintenance plan.

Section 840.114 Groundwater Monitoring Program

The owner or operator of Ash Pond D must develop a groundwater monitoring program that enables it to monitor groundwater to evaluate post-closure groundwater quality both on-site and off-site to demonstrate compliance with Sections 840.116 and 840.118 of this Subpart. The owner or operator must begin the groundwater monitoring program upon completion of the installation of the groundwater monitoring system in accordance with Section 840.112 and the approved closure plan. The groundwater monitoring program must comply with following requirements:

a) The owner or operator of Ash Pond D must monitor each well included in the groundwater monitoring system pursuant to Section 840.112 on a quarterly basis for the constituents identified in 35 Ill. Adm. Code 620.410(a) and (d) except radium-226 and radium-228. Any constituent that is not detectable in the down-gradient wells for four consecutive quarters or has a concentration that does not differ to a statistically significant degree from the concentration detected in the up-gradient wells for four consecutive quarters may be removed from the monitoring program in both the up-gradient and down-gradient wells with the exception of boron, iron, manganese, pH, sulfate, and TDS. The owner or operator must also monitor for the following: specific conductance, groundwater elevation, and monitoring well depth.

b) Five years after approval of the closure plan, the owner or operator of Ash Pond D may request modification of the post-closure care plan to reduce the frequency of groundwater monitoring to semi-annual sampling by demonstrating all of the following:

1) That monitoring effectiveness will not be compromised by the reduced frequency of monitoring;

2) That sufficient data has been collected to characterize groundwater; and

3) That concentrations of constituents monitored pursuant to subsection (a) of this Section at the down-gradient boundaries of the Hutsonville site show no statistically significant increasing trends that can be attributed to Ash Pond D.

c) If concentrations of constituents monitored pursuant to subsection (a) of this Section at the down-gradient boundaries of the Hutsonville site show no statistically significant increasing trends that can be attributed to Ash Pond D for the five years after reducing the monitoring frequency to semiannual, the owner

or operator of Ash Pond D may request modification of the post-closure care plan to reduce monitoring frequency to annual sampling by demonstrating all of the factors set forth in subsections (b)(1) through (b)(3) of this Section.

d) The owner or operator of Ash Pond D may discontinue groundwater monitoring upon Agency approval of the certified post-closure care report required by Section 840.142.

e) Sampling and analysis data from groundwater monitoring and decisions to remove any constituent from the monitoring program must be reported to the Agency as provided in Section 840.144(a) of this Subpart.

f) Representative samples from the groundwater monitoring system must be collected and analyzed in accordance with the procedures for groundwater monitoring and analysis set forth in the following documents, incorporated by reference at Section 840.108 of this Subpart, or other procedures approved by the Agency in the closure plan or post-closure care plan:

1) "Methods for Chemical Analysis of Water and Wastes";

2) "Methods for the Determination of Inorganic Substances in Environmental Samples";

3) "Methods for the Determination of Metals in Environmental Samples";

4) "Methods for the Determination of Metals in Environmental Samples − Supplement I";

5) "Methods for the Determination of Organic and Inorganic Compounds in Drinking Water: Volume I";

6) "Practical Guide for Ground-Water Sampling";

7) "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (SW-846), as amended by Updates I, II, IIA, IIB, III, IIIA, and IIIB;

8) "Techniques of Water Resources Investigations of the United States Geological Survey, Guidelines for Collection and Field Analysis of Ground-Water Samples for Selected Unstable Constituents."

g) The owner or operator of Ash Pond D must establish a groundwater monitoring quality assurance program for sample collection, preservation and analysis.

Section 840.116 Groundwater Quality Standards

a) On-site, prior to the completion of the post-closure care period, the applicable groundwater quality standards at the Hutsonville site for concentrations of contaminants from Ash Pond D are the concentrations as determined by groundwater monitoring, if those concentrations exceed the numeric standards for Class I: Potable Resource Groundwater set forth in 35 Ill. Adm. Code 620.410. After completion of the post-closure care period, the on-site concentrations of contaminants from Ash Pond D as determined by groundwater monitoring, if those concentrations exceed the numeric standards for Class I: Potable Resource Groundwater set forth in 35 Ill. Adm. Code 620.410, are the applicable groundwater standards at the Hutsonville site if:

1) To the extent practicable, the exceedence has been minimized and beneficial use, as appropriate for the class of groundwater, has been returned on-site;

2) Any threat to human health or the environment on-site has been minimized; and

3) An institutional control prohibiting potable uses of groundwater is placed on the Hutsonville site in accordance with the Uniform Environmental Covenants Act [765 ILCS 122] or an alternative instrument authorized for environmental uses under Illinois law and approved by the Agency. Existing potable uses of groundwater may be preserved as long as those uses remain fit for human consumption in accordance with accepted water supply principles.

b) Off-site, the applicable groundwater quality standards are the numeric standards for Class I: Potable Resource Groundwater set forth in 35 Ill. Adm. Code 620.410 in the upper zone of the underlying aquifer and the nondegradation standard of 35 Ill. Adm. Code 620.Subpart C in the lower zone of the underlying aquifer, unless a groundwater management zone (GMZ) has been established as provided in 35 Ill. Adm. Code 620.250 with the written permission of the affected owners for off-site or properties with groundwater contamination from Ash Pond D so that

monitoring wells may be installed and other corrective actions designed and implemented as necessary to achieve compliance with 35 Ill. Adm. Code 620.

1) A GMZ for off-site properties with groundwater contamination from Ash Pond D and any related design and construction activities must be proposed and approved in the closure plan or post-closure care plan or any modification of those plans, as appropriate.

2) Groundwater quality standards for an off-site GMZ are set forth at 35 Ill. Adm. Code 620.450(a)(4).

Section 840.118 Demonstration of Compliance

a) Compliance with the on-site and off-site groundwater quality standards set forth in Sections 840.116(a) and (b) of this Subpart:

1) Compliance with on-site groundwater quality standards will be achieved when no statistically significant increasing trend that can be attributed to Ash Pond D is detected in the concentrations of all constituents monitored in accordance with Section 840.114 of this Subpart at the down-gradient boundaries of the Hutsonville site for four consecutive years after changing to an annual monitoring frequency pursuant to Section 840.114(c).

2) Compliance with off-site groundwater quality standards:

A) Compliance with off-site groundwater quality standards set forth in Section 840.116(b) of this Subpart will be achieved when:

i) A statistically significant decreasing trend in concentrations of constituents monitored in accordance with Section 840.114 of this Subpart in the upper zone of the underlying aquifer at the down-gradient boundaries of the Hutsonville site is detected in the concentrations of all constituents monitored for a period of four consecutive years after changing to an annual monitoring frequency pursuant to Section 840.114(c);

ii) No statistically significant increasing trend that can be attributed to Ash Pond D is detected in concentrations of constituents monitored in accordance with Section 840.114 of this Subpart in the lower zone of the underlying aquifer at the down-gradient boundaries of the Hutsonville site for four consecutive years after changing to an annual monitoring frequency pursuant to Section 840.114(c); and

iii) All concentrations of constituents monitored in accordance with Section 840.114 of this Subpart are at or below the applicable groundwater quality standards as provided in Section 840.116(b) of this Subpart at the down-gradient boundaries of the Hutsonville site.

B) If a groundwater management zone for off-site properties with groundwater contamination from Ash Pond D is established as provided in Section 840.116(b) of this Subpart, the compliance points will be determined as set forth in the GMZ approved in the closure plan or post-closure care plan, as appropriate.

b) For purposes of demonstrating compliance:

1) The owner or operator of Ash Pond D must perform an annual trend analysis for each monitoring well located at the down-gradient boundaries of the Hutsonville site for all constituents monitored in accordance with Section 840.114 of this Subpart, based on a minimum of four consecutive samples, by applying Sen's Estimate of Slope.

2) If a groundwater management zone for off-site properties with groundwater contamination from Ash Pond D is established as provided in Section 840.116(b) of this Subpart, the demonstration of compliance will be determined as set forth in the GMZ approved in the closure plan or post-closure care plan, as appropriate.

c) Compliance with nondegradation standards during closure and post-closure care periods:

1) If the results of sampling and analysis show an increasing trend at any monitoring well located at the down-gradient boundaries of the

Hutsonville site, a Mann-Kendall analysis must be performed at 95 percent confidence to determine whether the increasing trend is statistically significant. The owner or operator of Ash Pond D must investigate the cause of a statistically significant increasing trend as determined under subsection (b) of this Section. If the statistically significant increasing trend occurs during post-closure care, the investigation must include more frequent inspection of the surface of the cover system and evaluation of background concentrations and the effectiveness of the groundwater collection trench required by Section 840.120 of this Subpart.

A) If an investigation performed in accordance with subsection (c)(1) of this Section attributes a statistically significant increasing trend to a superseding cause, the owner or operator of Ash Pond D must notify the Agency in writing, stating the cause of the increasing trend and providing the rationale used in that determination.

B) If there is no superseding cause for the statistically significant increasing trend and sampling frequency has been reduced pursuant to Section 840.114(b) or (c) of this Subpart to semiannual or annual sampling, the owner or operator must return to a quarterly sampling schedule. After four consecutive quarterly samples show no statistically significant increasing trend, the frequency of groundwater monitoring may be returned to either semiannual or annual, whichever frequency was utilized prior to the return to quarterly sampling.

C) For purposes of this subsection (c)(1), notifications concerning statistically significant increasing trends and revisions of the sampling frequency must be reported to the Agency in writing within 30 days after making the determinations, as provided in Section 840.144(f) of this Subpart.

2) If a statistically significant increasing trend is observed to continue over a period of two or more consecutive years and there are no superseding causes for the trend, the owner or operator must perform the following:

A) A hydrogeologic investigation; and

B) Additional site investigation, if necessary.

3) Based on the outcome of the activities required by subsection (c)(2) of this Section, the owner or operator of Ash Pond D must take action to mitigate statistically significant increasing trends that are causing, threatening or allowing exceedences of off-site groundwater quality standards as set forth in Section 840.116(b). These actions must be proposed as a modification to the post-closure care plan within 180 days after completion of the activities required by subsection (c)(2) of this Section.

Section 840.120 Groundwater Collection Trench

a) The owner or operator of Ash Pond D must design, install, and, consistent with any applicable wastewater discharge permit conditions, operate a groundwater collection trench along the south property boundary of the Hutsonville Power Station to prevent migration of groundwater impacted by Ash Pond D south of the property boundary.

b) Plans for the groundwater collection trench, including, but not limited to, a plan for operation and maintenance, must be approved by the Agency in the closure plan.

c) The groundwater collection trench must be constructed according to a construction quality assurance program that meets the requirements of Section 840.146 of this Subpart.

d) Once compliance with the groundwater quality standards set forth in Section 840.116 has been achieved in accordance with Section 840.118(a), the owner or operator of Ash Pond D may discontinue operation of the groundwater collection trench.

1) Upon discontinuing operation of the groundwater collection trench, the owner or operator must perform four quarterly sampling of the groundwater monitoring system wells as identified in the post-closure care plan, or modification of that plan, to ensure compliance with the applicable groundwater quality standards set forth in Section 840.116.

2) Results of the four quarterly samplings must be included in the post-closure report documentation. If compliance is not confirmed, operation of the groundwater collection trench and discharge system must be resumed.

Section 840.122 Groundwater Discharge System

a) Groundwater collected in the groundwater collection trench must be directed to an outfall for which the Hutsonville Power Station has NPDES authorization or to another option as approved by the Agency in the closure plan or post-closure care plan in accordance with applicable law, including, but not limited to, permit requirements.

b) The groundwater discharge system must be constructed according to a construction quality assurance program that meets the requirements of Section 840.146 of this Subpart.

c) Plans for the groundwater discharge system, including, but not limited to, a plan for operation and maintenance, must be approved by the Agency in the closure plan.

Section 840.124 Final Slope and Stabilization

a) All final slopes must be designed and constructed to a grade capable of supporting vegetation and minimizing erosion.

b) All slopes must be designed to drain runoff away from the cover and to prevent ponding.

c) Ash Pond D must meet the stability criteria of 35 Ill. Adm. Code 811.304.

d) The owner or operator may use coal combustion waste generated at the site in establishing the final grade and slope as provided below:

1) The earthen berms surrounding Ash Pond D must be regraded to eliminate any freeboard between the top of the berm and the adjacent surface of the coal combustion waste;

2) Additional coal combustion waste may be placed only directly on top of coal combustion waste that is already in place;

3) The maximum final slope must be no greater than 5 percent;

4) Any additional coal combustion waste used to establish the final grade and slope is considered coal combustion by-product, and its use does not require any independent approval pursuant to Section 3.135 of the Act [415 ILCS 5/3.135].

Section 840.126 Final Cover System

The owner or operator of Ash Pond D must design and install a final cover system for Ash Pond D. The final cover system must consist of a low permeability layer and a final protective layer.

a) Standards for the low permeability layer. The low permeability layer must be designed to minimize surface infiltration and must consist of a geosynthetic membrane cover and be constructed in accordance with the following standards:

1) The geosynthetic membrane must have a minimum thickness of 40 mil (0.04 inches) and, in terms of hydraulic flux, be equivalent or superior to a 3 foot layer of soil with a hydraulic conductivity of I x 10^{-7} centimeters per second.

2) The geosynthetic membrane must be placed over a prepared base free from sharp objects and other materials that may cause damage.

b) Standards for the final protective layer. The final protective layer must:

1) Cover the entire geosynthetic membrane.

2) Be at least 3 feet thick and must be sufficient to protect the geosynthetic membrane from freezing and minimize root penetration of the geosynthetic membrane.

3) Consist of soil material capable of supporting vegetation.

4) Be placed as soon as possible after placement of the geosynthetic membrane.

5) Be covered with vegetation to minimize wind and water erosion.

c) Construction Quality Assurance Program. The final cover system must be constructed according to a construction quality assurance program that meets the requirements of Section 840.146 of this Subpart.

Section 840.128 Closure Plan

a) Within 180 days after the effective date of this Subpart, the owner or operator of Ash Pond D must prepare and submit to the Agency a closure plan for review and approval.

b) The owner or operator of Ash Pond D must maintain the closure plan onsite or at a location specified in the closure plan.

Section 840.130 Contents of Closure Plan

The closure plan must contain, at a minimum, the following information or documents:

a) Site map. The site map must identify all pertinent features and buildings at the Hutsonville Power Station and must clearly identify the following:

1) All of the surface impoundments located at the site;

2) All existing and proposed groundwater collection trenches associated with the operation or closure of Ash Pond D; and

3) All existing and proposed groundwater monitoring wells.

b) Description of Ash Pond D. The description of Ash Pond D must include all of the following information:

1) A description of the contents of Ash Pond D;

2) The estimated volume of material contained in Ash Pond D; and

3) An analysis of the structural integrity of Ash Pond D.

c) Description of the closure activities to be performed in accordance with this Subpart and any additional activities performed by the owner or operator to close Ash Pond D, including any dewatering.

d) Description and results of the hydrogeologic site investigation required by Section 840.110 of this Subpart.

e) Description of the groundwater trend analysis methods required by Section 840.118 of this Subpart.

f) Plans, specifications and drawings for the groundwater monitoring system required by Section 840.112 of this Subpart, including, but not limited to, a description of the maintenance plan required by Section 840.112(d).

g) Description of the groundwater monitoring program required by Section 840.114 of this Subpart, including, but not limited to, a description of the quality assurance program for sample collection, preservation and analysis.

h) Identification of the location of the monitoring wells used for trend analyses required by Section 840.118 of this Subpart.

i) Plans, specifications and drawings for the groundwater collection trench and discharge system set forth in Sections 840.120 and 840.122.

j) Plans, specifications and drawings for the final slope design and construction and demonstration of compliance with the stability criteria required in Section 840.124.

k) Plans, specifications and drawings for the final cover system required by Section 840.126.

l) Estimates of the amount of time to complete closure, including an estimate of the time required for hydrostatic equilibrium of groundwater beneath Ash Pond D, the cost of closure, and the cost of post-closure care.

m) A proposal for a groundwater management zone as set forth in Section 840.116(b) of this Subpart, if applicable, and including, but not limited to, plans, specifications and drawings for any structures or devices that must be constructed.

n) Description of the Construction Quality Assurance program required by Section 840.146 of this Subpart, including, but not limited to, the sampling programs required by Section 840.146(b)(7).

o) Description of actions proposed to mitigate statistically significant increasing trends in accordance with Section 840.118(c) of this Subpart, if applicable, including, but not limited to, plans, specifications, and drawings for any structures or devices that must be constructed.

p) The signature and seal of the professional engineer supervising the preparation of the closure plan.

Section 840.132 Modification of Existing Permits

Within 180 days after the effective date of this Subpart A, the owner or operator of Ash Pond D must timely submit to the Agency an application to revise any State operating permit or NPDES permit issued by the Agency as required by Sections 840.120 and 840.122 of this Subpart, if necessary.

Section 840.134 Completion of Closure, Closure Report and Certification of Completion of Closure

a) The owner or operator must complete engineering and design activities for the closure of Ash Pond D within 180 days after the effective date of this Subpart.

b) The owner or operator must complete closure of Ash Pond D within 18 months after the Agency's approval of the closure plan, unless the Agency approves an alternative timeline.

c) No later than 90 days after the completion of all closure activities required by this Subpart and approved in the closure plan, the owner or operator of Ash Pond D must prepare and submit to the Agency a closure report for review and approval. The report must include certification by a professional engineer that Ash Pond D has been closed in accordance with the approved closure plan required by Section 840.128 of this Subpart and the requirements of this Subpart. The report also must contain supporting documentation, including, but not limited to:

1) Engineering and hydrogeology reports, including, but not limited to, monitoring well completion reports and boring logs, all CQA reports,

certifications, and designations of CQA officers-in-absentia required by Section 840.146 of this Subpart;

2) Photographs of the final cover system and groundwater collection trench and any other photographs relied upon to document construction activities;

3) A written summary of closure requirements and activities as set forth in the closure plan and this Subpart A;

4) Any other information relied upon by the professional engineer in making the closure certification; and

5) The signature and seal of the professional engineer supervising the implementation of the closure plan, the preparation of the closure report, and making the certification of completion of closure.

Section 840.136 Post-Closure Maintenance of Cover System

The owner or operator of Ash Pond D must maintain the surface of the cover system beginning immediately after construction until approval of the post-closure report by the Agency.

a) After closure, and until completion of the post-closure report, the owner or operator of Ash Pond D must conduct inspections of the cover system at the same time and frequency as the groundwater monitoring sampling schedule set forth in Section 840.114 of this Subpart.

b) The owner or operator of Ash Pond D must fill all rills, gullies, and crevices six inches or deeper. Areas identified as particularly susceptible to erosion must be recontoured.

c) The owner or operator of Ash Pond D must repair all eroded and scoured drainage channels and replace lining material, if necessary.

d) The owner or operator of Ash Pond D must fill and recontour all holes and depressions created by settling so as to prevent standing water.

e) The owner or operator of Ash Pond D must revegetate all areas in excess of 100 square feet, cumulative, with failed or eroded vegetation.

f) The owner or operator of Ash Pond D must repair all tears, rips, punctures, and other damage to the geosynthetic membrane.

g) The owner or operator must prevent the growth of woody species on the protective cover.

Section 840.138 Post-Closure Care Plan

a) Within 180 days after the effective date of this Subpart A, the owner or operator of Ash Pond D must prepare and submit to the Agency a post-closure care plan for review and approval.

b) The owner or operator must maintain the post-closure care plan onsite or at a location specified in the post-closure care plan.

Section 840.140 Contents of Post-Closure Care Plan

The post-closure care plan, or modification of the plan, must include, at a minimum, the following elements:

a) Description of the post-closure care activities required by Section 840.136 of this Subpart;

b) Description of the groundwater monitoring system required by Section 840.112 of the Subpart and a description of the maintenance plan for the groundwater monitoring system;

c) Description of the groundwater monitoring program required by Section 840.114 of this Subpart;

d) Identification of the location of the monitoring wells used for trend analyses required by Section 840.118 of this Subpart;

e) Description of the operation and maintenance that will be required for the groundwater collection trench and discharge system required by Sections 840.120 and 840.122 of this Subpart;

f) Description of the groundwater trend analysis methods required by Section 840.118 of this Subpart;

g) A proposal for a groundwater management zone as set forth in Section 840.116(b) of this Subpart, if applicable;

h) Description of actions proposed to mitigate statistically significant increasing trends in accordance with Section 840.118(c) of this Subpart, if applicable, and the operation and maintenance of any structures or devices; and

i) The signature and seal of the professional engineer supervising the preparation of the post-closure care plan.

Section 840.142 Post-Closure Report and Certification of Completion of Post-Closure Care Plan

Post-closure care must continue until a demonstration of compliance with the groundwater quality standards set forth in Section 840.116 has been approved by the Agency. The owner or operator of Ash Pond D must prepare and submit to the Agency for review and approval a post-closure report within 60 days after satisfying the requirements of the approved post-closure care plan and achieving the applicable groundwater quality standards as set forth in the plan and Sections 840.116 through 840.118 of this Subpart. The post-closure report must include certifications by a professional engineer that the standards and requirements set forth in this Subpart A and approved in the post-closure care plan have been met. A professional geologist may supervise post-closure care activities as appropriate under the Professional Geologist Licensing Act [225 ILCS 745]. The report also must contain supporting documentation, including, but not limited to:

a) Engineering and hydrogeology reports, including, but not limited to, documentation of compliance with the groundwater quality standards of this Subpart and results of the four quarterly samplings performed under Section 840.120 of this Subpart;

b) Photographs of the final cover system and groundwater collection trench and any other photographs relied upon to document construction activities;

c) A written summary of post-closure care requirements and activities as set forth in the post-closure care plan and this Subpart A and their completion;

d) Any other information relied upon by the professional engineer or professional geologist, as appropriate for the activity, in making the post-closure care certifications; and

e) The signature and seal of the professional engineer and professional geologist supervising the implementation of the post-closure care plan, and the signature and seal of the professional engineer supervising preparation of the post-closure report and making the certification of completion of the post-closure care plan.

Section 840.144 Recordkeeping and Reporting Requirements

a) The owner or operator of Ash Pond D must file an annual report with the Agency no later than January 31 of each year during the closure of Ash Pond D and for the entire post-closure care period. Once the requirements of Section 840.142 of this Subpart have been met, annual reports are no longer required. The owner or operator must submit groundwater sampling and analysis data and decisions to remove constituents from the monitoring program no later than 30 days after the sampling and analysis have been completed.

b) All annual reports must contain the following information:

1) Trend analyses required by Section 840.118(b) of all groundwater monitoring data generated by the groundwater monitoring program required by Section 840.114;

2) A copy of any notice submitted to the Agency pursuant to Section 840.118(c)(1)(A);

3) A discussion of any statistically significant increasing trends and actions taken to mitigate such trends in accordance with Section 840.118(c)(3); and

4) The completed closure or post-closure activities performed during the preceding year.

c) The owner or operator of Ash Pond D must maintain onsite or at a location specified in the closure or post-closure care plan all monitoring data and trend analysis data for 10 years following generation of the data.

d) The owner or operator of Ash Pond D must maintain the closure plan until the end of the post-closure care period.

e) The owner or operator of Ash Pond D must maintain the post-closure care plan for 10 years following the certification of the post-closure report required by Section 840.142.

f) All reports, plans, modifications and notifications required under this Subpart to be submitted to the Agency must be submitted in writing to the Bureau of Water, Division of Public Water Supplies, Attn: Hydrogeology and Compliance Unit, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 or electronically as authorized and directed by the Agency.

Section 840.146 Construction Quality Assurance Program

a) The following components must be constructed according to a construction quality assurance program:

1) Installation of the groundwater collection trench and discharge system required by Sections 840.120 and 840.122 of this Part;

2) Compaction of the final cover system subgrade and foundation to design parameters;

3) Application of final cover, including installation of the geomembrane; and

4) Construction of ponds, ditches, lagoons and berms.

b) The construction quality assurance program must meet the following requirements:

1) The operator must designate a construction quality assurance (CQA) officer who is an Illinois licensed professional engineer (LPE).

2) At the end of each week of construction of the final cover system until construction is complete, a summary report must be either prepared by the CQA officer or under the supervision of the CQA officer. The report must include descriptions of the weather, locations where construction occurred during the previous week, materials used, results of testing, inspection

reports, and procedures used to perform the inspections. The CQA officer must certify the report. The owner or operator of the Hutsonville Power Station shall retain all weekly summary reports certified by the CQA officer until the completion of the post-closure care period and must make those reports available at reasonable times for inspection and photocopying by the Agency.

3) The CQA officer must exercise judgment to certify the following:

A) That the bedding material contains no undesirable objects;

B) That the closure plan has been followed;

C) That the anchor trench and backfill are constructed to prevent damage to the geosynthetic membrane;

D) That all tears, rips, punctures, and other damage are repaired;

E) That all geosynthetic membrane seams are properly constructed and tested in accordance with manufacturer's specifications;

F) That the groundwater trench is constructed to intersect the water table;

G) That the groundwater trench is properly constructed to slope toward extraction points, and the extraction equipment is properly designed and installed;

H) That an appropriate operations and maintenance plan for the trench and extraction and discharge equipment is provided;

I) That proper filter material consisting of uniform granular fill, to avoid clogging, is used in construction; and

J) That the filter material as placed must possess structural strength adequate to support the maximum loads imposed by the overlying materials and equipment used at the facility.

4) The CQA officer must supervise and be responsible for all inspections, testing and other activities required to be implemented as part of the CQA program under this Section.

5) The CQA officer must be present to provide supervision and assume responsibility for performing all inspections of the following activities:

A) Compaction of the subgrade and foundation to design parameters;

B) Application of final cover, including installation of the geomembrane;

C) Installation of the groundwater collection trench and discharge system required by Sections 840.120 and 840.122 of this Subpart; and

D) Construction of ponds, ditches, lagoons and berms.

6) If the CQA officer is unable to be present to perform, as required by subsection (b)(5) of this Section, the CQA officer must provide, in writing, the reasons for his or her absence, a designation of a person who must exercise professional judgment in carrying out the duties of the CQA officer-in-absentia, and a signed statement that the CQA officer assumes full responsibility for all inspections performed and reports prepared by the designated CQA officer-in-absentia during the absence of the CQA officer.

7) The sampling program must be implemented as part of the CQA plan for all construction activities in order to ensure, at a minimum, that construction materials and operations meet design specifications.

A) The sampling program must be designed prior to construction.

B) The sampling program must be based upon statistical sampling techniques and must establish and specify criteria for acceptance or rejection of materials and operations.

Section 840.148 Review, Approval, and Modification of Closure Plan and Post-Closure Care Plan

The closure plan and post-closure care plan prepared and submitted to the Agency in accordance with Sections 840.128 and 840.138 of this Subpart, and any modifications to those plans, must be reviewed and approved by the Agency prior to implementation.

a) A closure plan satisfying the requirements of Section 840.130 of this Subpart, a post-closure care plan satisfying the requirements of Section 840.140 of this Subpart, and any modifications to approved plans must be submitted to the Agency for review and approval prior to implementation. The Agency will have 90 days from the receipt of a plan or proposed modification to conduct a review and make a final determination to approve or disapprove a plan or modification or to approve a plan or modification with conditions.

1) The Agency's record of the date of receipt of a plan or proposed modification to a plan will be deemed conclusive unless a contrary date is proved by a dated, signed receipt from the Agency or certified or registered mail.

2) Submission of an amended plan or amended modification to a plan restarts the time for review.

3) The owner or operator may waive the Agency's decision deadline upon a request from the Agency or at the owner's or operator's discretion.

b) A proposed modification to a closure plan or post-closure care plan must include the reason for the modification, all the information and supporting documentation that will be changed from or will supplement the information provided in the original or most recently approved plan, and the signature and seal of the professional engineer supervising the preparation of the proposed modification.

c) When reviewing a closure plan or modification, the Agency must consider:

1) Whether the plan or modification contains, at a minimum, all the elements required pursuant to Section 840.130 of this Subpart and has been accompanied by the information and supporting documentation necessary to evaluate the compliance of the proposed plan relative to the standards and requirements of this Subpart;

2) Whether the activities, structures and devices proposed are in accordance with the applicable standards and requirements of this Subpart and are otherwise consistent with generally accepted engineering practices and principles of hydrogeology, accepted groundwater modeling practices, appropriate statistical analyses, and appropriate sampling techniques and analytical methods;

3) The likelihood that the plan or modification will result in the containment of the ash and associated contaminants and the attainment of the applicable groundwater quality standards set forth in Sections 840.116 and 840.118 of this Subpart;

4) Whether the plan or modification contains the required professional signatures and seals.

d) When reviewing a post-closure care plan or proposed modification, the Agency must consider:

1) Whether the plan or modification contains, at a minimum, all the elements required pursuant to Section 840.140 of this Subpart and has been accompanied by the information and supporting documentation necessary to evaluate the compliance of the proposed plan relative to the standards and requirements of this Subpart;

2) Whether the activities, structures and devices proposed will be completed, operated and maintained in accordance with the applicable standards and requirements of this Subpart and are otherwise consistent with generally accepted engineering practices and principles of hydrogeology, accepted groundwater modeling practices, appropriate statistical analyses, and appropriate sampling techniques and analytical methods;

3) The management of risk relative to any remaining contamination, including, but not limited to, provisions for the use of long-term restrictions on the use of groundwater as a potable water supply, if appropriate;

4) Whether the plan or modification contains the required professional signatures and seals.

e) Upon completion of the review, the Agency must notify the owner or operator in writing of its final determination on the plan or proposed modification. The notification must be made by certified or registered mail post-marked with a date stamp and with return receipt requested. The Agency's final determination will be deemed to have taken place on the post-marked date that the notice is mailed. If the Agency disapproves a plan or modification or approves a plan or modification with conditions, the written notification must contain the following information, as applicable:

1) An explanation of the specific type of information or documentation, if any, that the Agency deems the owner or operator did not provide;

2) A list of the provisions of the Act, this Subpart, or other applicable regulations that may be violated if the plan or modification is approved as submitted;

3) A statement of the specific reasons why the Act, this Subpart, or other applicable regulations may be violated if the plan or modification is approved as submitted; and

4) A statement of the reasons for conditions if conditions are required.

f) If the Agency disapproves a plan or modification, approves a plan or modification with conditions, or fails to issue a final determination within the applicable review period, the owner or operator may, within 35 days after receipt of the final determination or expiration of the review period, file an appeal with the Board. Appeals to the Board are subject to review under Section 40 of the Act [415 ILCS 5/40].

Section 840.150 Review and Approval of Closure Report and Certification of Completion of Closure, Post-Closure Report and Certification of Completion of Post-Closure Care Plan

The closure report and post-closure report prepared and submitted to the Agency in accordance with Sections 840.134 and 840.142 of this Subpart must be reviewed and approved by the Agency prior to the completion of closure or post-closure care.

a) A closure report satisfying the requirements of Section 840.134 of this Subpart and a post-closure report satisfying the requirements of Section 840.142 of this Subpart must be submitted to the Agency for review and approval. Closure and

post-closure activities will not be deemed complete until the reports are approved by the Agency.

b) Submission, review, and approval procedures and deadlines, notification requirements, and rights of appeal shall be the same as those set forth in Section 840.148 of this Subpart for closure plans and post-closure care plans.

c) When reviewing a closure report and certification of completion of closure, the Agency must consider whether the documentation demonstrates that the activities, structures and devices approved in the closure plan have been completed in accordance with this Subpart and the approved closure plan, including, but not limited to:

1) The performance of the hydrogeologic site investigation required by Section 840.110 of this Subpart;

2) The installation of the groundwater monitoring system required by Section 840.112 of this Subpart;

3) The installation of the groundwater collection trench and discharge system or alternative approved by the Agency as required by Sections 840.120 and 840.122;

4) The construction of the final slope and compliance with the stability criteria required by Section 840.124 of this Subpart;

5) The installation of the final cover system required by Section 840.126 of this Subpart;

6) Compliance with the Construction Quality Assurance requirements of Section 840.146 of this Subpart;

7) The establishment of a groundwater management zone in accordance with Section 840.116(b), if applicable;

8) The implementation of actions to mitigate increasing trends as required by Section 840.118(c) of this Subpart, if applicable; and

9) The presence of professional signatures and seals required by Section 840.134.

d) When reviewing a post-closure report and certification of completion of post-closure care plan, the Agency must consider whether the documentation demonstrates that the activities, structures and devices approved in the post-closure care plan have been completed, operated and maintained in accordance with this Subpart A and the approved post-closure care plan, including, but not limited to:

1) The post-closure maintenance of the cover system required by Section 840.136;

2) The maintenance of the groundwater monitoring system in accordance with Section 840.112(d);

3) The implementation of the groundwater monitoring program required by Section 840.114 of this Subpart;

4) The operation and maintenance of the groundwater collection trench and discharge system, or alternative approved by the Agency, required by Sections 840.120 and 840.122;

5) The performance of the groundwater trend analysis required by Section 840.118 of this Subpart;

6) The implementation of actions to mitigate increasing trends as required by Section 840.118(c) of this Subpart, if applicable;

7) Compliance with the requirements of the groundwater management zone as established pursuant to Section 840.116(b), if applicable;

8) Compliance with the groundwater quality standards set forth in Sections 840.116(a) and 840.116(b) as demonstrated in accordance with Section 840.118; and

9) The presence of professional signatures and seals required by Section 840.140.

Section 840.152 Resource Conservation and Recovery Act

Nothing in this Subpart shall be construed to be less stringent than or inconsistent with the provisions of the federal Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended, or regulations adopted under that Act. To the extent that any rules adopted in this Subpart are less stringent than or inconsistent with any portion of RCRA applicable to the closure of Ash Pond D, RCRA will prevail.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Certification

2) Code Citation: 23 Ill. Adm. Code 25

3)

Section Numbers:	Proposed Action:
25.65	Amendment
25.67	Amendment
25.115	Amendment
25.125	Repeal
25.127	Repeal
25.130	Amendment
25.140	Amendment
25.142	Amendment
25.145	Amendment
25.155	Amendment
25.160	Amendment
25.165	Amendment
25.335	Amendment
25.337	New Section
25.345	Amendment
25.360	Amendment
25.610	Amendment
25.875	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.6

5) A Complete Description of the Subjects and Issues Involved: The primary changes being proposed in this rulemaking address the process for recognizing institutions and their educational units and approving their programs for educator preparation. The changes result, in part, from the need to respond to PA 96-862, effective January 1, 2010, and PA 96-903, effective July 1, 2010, which allow not-for-profit entities to offer certain educator preparation programs. Additionally, the proposed changes address a desire on the part of agency staff to streamline and simplify the recognition and approval processes while still providing for a high level of accountability.

The process for institution recognition, unit accreditation, and program approval was put in place in 1999 to align to the content standards developed by the National Council on the Accreditation of Teacher Education (NCATE) to accredit educational units. The rules recognized that institutions that seek accreditation under NCATE must also meet

State requirements, many of which were similar to those required under NCATE. The goal of the rulemaking at that time was to avoid any unnecessary duplication of effort. The process, however, has proven to be costly and has failed to yield timely and useful information to alert the agency in a timely way to problems that units or programs may be experiencing.

Under the rules as proposed, once recognized, educational units and their approved programs will no longer be subject to automatic review every five or seven years; therefore Sections 25.125 and 25.127 are proposed for repeal. Rather, units will be required to submit annual program reports for each educator preparation program that it offers, as well as unit reports, that include specific data about candidates' success. (See Sections 25.115(h) and (i).) Any deficiencies identified in the reports or brought to the State Board's attention will trigger additional reviews and the possibility of probation for up to two years or revocation of recognition or approval. (See Section 25.130.) The proposed amendments also clarify that the State Board may visit an institution at any time as part of the accountability process, and they assign requirements relative to program approval to a single location, Section 25.145. Additional clarification of requirements and other technical changes also are being proposed throughout the rulemaking necessitated by the changes in the recognition and approval processes.

Other proposed changes include:

- language pertaining to the issuance of certain administrative certificates and endorsements in Sections 25.335, 25.345 and 25.360 that defines the education needed to be equivalent to a master's degree, resulting from the enactment of PA 96-1423;
- new Section 25.337 that sets forth requirements for receipt of a principal's endorsement as per PA 96-903;
- changes in Sections 25.345 and 25.360 to conform requirements for candidates for the chief school business official or superintendent endorsement with the provisions of PA 96-982; and
- consideration in program assessments of candidates' dispositions (see Sections 25.142 and 25.610).

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

9) Does this rulemaking contain incorporations by reference? Yes; see Sections 25.115(d) and (e).

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

Section Numbers:	Action:	Illinois Register Citation:
25.710	Amendment	34 Ill. Reg. 7624; June 4, 2010
25.720	Amendment	34 Ill. Reg. 7624; June 4, 2010
25.765	Amendment	34 Ill. Reg. 7624; June 4, 2010

11) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a state mandate.

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

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield, Illinois 62777-0001

217/782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Not-for-profit entities meeting the requirements set forth in Section 25.115, if they choose to provide certain educator preparation programs.

B) Reporting, bookkeeping or other procedures required for compliance: See Subpart C for requirements.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 25
CERTIFICATION

SUBPART A: DEFINITIONS

Section
25.10 Accredited Institution

SUBPART B: CERTIFICATES

Section
25.11 New Certificates (February 15, 2000)
25.15 Standards for Certain Certificates (Repealed)
25.20 Requirements for the Elementary Certificate (Repealed)
25.22 Requirements for the Elementary Certificate (2004) (Repealed)
25.25 Requirements for "Full" Certification
25.30 Endorsement in Teacher Leadership
25.32 Requirements for the Secondary Certificate (2004) (Repealed)
25.35 Acquisition of Subsequent Certificates; Removal of Deficiencies (Repealed)
25.37 Acquisition of Subsequent Teaching Certificates (2004)
25.40 Requirements for the Special Certificate (Repealed)
25.42 Requirements for the Special Certificate (2004) (Repealed)
25.43 Standards for Certification of Special Education Teachers
25.45 Standards for the Standard Special Certificate – Speech and Language Impaired
25.50 General Certificate (Repealed)
25.60 State Special Certificate, Grades 11-12, For Teaching Elective Subjects (Repealed)
25.65 Alternative Certification
25.67 Alternative Route to Teacher Certification
25.70 Provisional Vocational Certificate
25.72 Temporary Provisional Vocational Certificate
25.75 Part-time Provisional Certificates
25.80 Requirements for the Early Childhood Certificate (Repealed)
25.82 Requirements for the Early Childhood Certificate (2004) (Repealed)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

25.85 Special Provisions for Endorsement in Foreign Language for Individuals Currently Certified
25.86 Special Provisions for Endorsement in Foreign Language for Individuals Prepared as Teachers But Not Currently Certified
25.90 Transitional Bilingual Certificate and Examination
25.92 Visiting International Teacher Certificate
25.95 Majors, Minors, and Separate Fields for the Illinois High School Certificate (Repealed)
25.99 Endorsing Teaching Certificates (Repealed)
25.100 Endorsing Teaching Certificates (2004)
25.105 Temporary Substitute Teaching Permit

SUBPART C: APPROVING PROGRAMS THAT PREPARE PROFESSIONAL EDUCATORS IN THE STATE OF ILLINOIS

Section
25.110 System of Approval: Levels of Approval (Repealed)
25.115 Recognition of Institutions and~~, Accreditation of~~ Educational Units, and Approval of Programs
25.120 Standards and Criteria for Institutional Recognition and Program Approval (Repealed)
25.125 Accreditation Review of the Educational Unit (Repealed)
25.127 Review of Individual Programs (Repealed)
25.130 Interventions by the State Board of Education and the State Teacher Certification Board~~Mid-Cycle Intervention~~
25.135 Interim Provisions for Continuing Accreditation and Approval – July 1, 2000, through Fall Visits of 2001 (Repealed)
25.136 Interim Provisions for Continuing Accreditation – Institutions Visited from Spring of 2002 through Spring of 2003 (Repealed)
25.137 Interim Provisions for Continuing Accreditation and Approval – July 1, 1999, through June 30, 2000 (Repealed)
25.140 Requirements for the Institution's Educational Unit Assessment Systems
25.142 Assessment Requirements for Individual Programs
25.145 Approval of New Programs Within Recognized Institutions
25.147 Approval of Programs for Foreign Language Beginning July 1, 2003
25.150 The Periodic Review Process (Repealed)
25.155 Procedures for the Initial Recognition of an Institution as an Educator Preparation Institution and Its Educational Unit~~Procedures~~
25.160 Notification of Recommendations; Decisions by State Board of Education

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

25.165 Discontinuation of Programs

SUBPART D: SCHOOL SERVICE PERSONNEL

Section
25.200 Relationship Among Credentials in Subpart D
25.210 Requirements for the Certification of School Social Workers (Repealed)
25.215 Certification of School Social Workers (2004)
25.220 Requirements for the Certification of Guidance Personnel (Repealed)
25.225 Certification of School Counselors (2004)
25.227 Interim Certification of School Counselor Interns (2004)
25.230 Requirements for the Certification of School Psychologists (Repealed)
25.235 Certification of School Psychologists (2004)
25.240 Standard for School Nurse Endorsement (Repealed)
25.245 Certification of School Nurses (2004)
25.252 Certification of Non-Teaching Speech-Language Pathologists
25.255 Interim Certification of Speech-Language Pathologist Interns
25.275 Renewal of the School Service Personnel Certificate

SUBPART E: REQUIREMENTS FOR THE CERTIFICATION OF ADMINISTRATIVE AND SUPERVISORY STAFF

Section
25.300 Relationship Among Credentials in Subpart E
25.310 Definitions (Repealed)
25.311 Administrative Certificate (Repealed)
25.313 Alternative Route to Administrative Certification
25.314 Alternative Route to Administrative Certification for Teacher Leaders
25.315 Renewal of Administrative Certificate
25.320 Application for Approval of Program (Repealed)
25.322 General Supervisory Endorsement (Repealed)
25.330 Standards and Guide for Approved Programs (Repealed)
25.333 General Administrative Endorsement (Repealed)
25.335 General Administrative Endorsement (Through June 30, 2014~~2004~~)
25.337 Principal Endorsement (2011)
25.338 Designation as Master Principal
25.344 Chief School Business Official Endorsement (Repealed)
25.345 Chief School Business Official (2004)
25.355 Superintendent Endorsement (Repealed)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

25.360 Superintendent (2004)
25.365 Director of Special Education

SUBPART F: GENERAL PROVISIONS

Section
25.400 Registration of Certificates; Fees
25.405 Military Service
25.410 Revoked Certificates
25.415 Credit in Junior College (Repealed)
25.420 Psychology Accepted as Professional Education (Repealed)
25.425 Individuals Prepared in Out-of-State Institutions
25.427 Three-Year Limitation
25.430 Institutional Approval (Repealed)
25.435 School Service Personnel Certificate – Waiver of Evaluations (Repealed)
25.437 Equivalency of General Education Requirements (Repealed)
25.440 Master of Arts NCATE (Repealed)
25.442 Illinois Teacher Corps Programs
25.444 Illinois Teaching Excellence Program
25.445 College Credit for High School Mathematics and Language Courses (Repealed)
25.450 Lapsed Certificates
25.455 Substitute Certificates
25.460 Provisional Special and Provisional High School Certificates (Repealed)
25.464 Short-Term Authorization for Positions Otherwise Unfilled
25.465 Credit (Repealed)
25.470 Meaning of Experience on Administrative Certificates (Repealed)
25.475 Renewal Requirements for Holders of Multiple Types of Certificates
25.480 Credit for Certification Purposes (Repealed)
25.485 Certification of Persons with Certificates Previously Denied, Suspended, or Revoked
25.486 Certification of Persons Who Are Delinquent in the Payment of Child Support
25.487 Certification of Persons with Illinois Tax Noncompliance
25.488 Certification of Persons Named in Reports of Child Abuse or Neglect
25.489 Certification of Persons Who Are in Default on Student Loans
25.490 Certification of Persons Who Have Been Convicted of a Crime
25.493 Part-Time Teaching Interns (Repealed)
25.495 Approval of Out-of-State Institutions and Programs (Repealed)
25.497 Supervisory Endorsements

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART G: PARAPROFESSIONALS AND OTHER NONCERTIFICATED PERSONNEL

Section
25.510 Paraprofessionals; Teacher Aides
25.520 Other Noncertificated Personnel (Repealed)
25.530 Specialized Instruction by Noncertificated Personnel (Repealed)
25.540 Approved Teacher Aide Programs (Repealed)
25.550 Approval of Educational Interpreters

SUBPART H: CLINICAL EXPERIENCES

Section
25.610 Definitions
25.620 Student Teaching
25.630 Pay for Student Teaching (Repealed)

SUBPART I: ILLINOIS CERTIFICATION TESTING SYSTEM

Section
25.705 Purpose – Severability
25.710 Definitions
25.715 Test Validation
25.717 Test Equivalence
25.720 Applicability of Testing Requirement and Scores
25.725 Applicability of Scores (Repealed)
25.728 Use of Test Results by Institutions of Higher Education
25.730 Registration − Paper-and-Pencil Testing
25.731 Registration − Computer-Based Testing
25.732 Late Registration
25.733 Emergency Registration
25.735 Frequency and Location of Examination
25.740 Accommodation of Persons with Special Needs
25.745 Special Test Dates
25.750 Conditions of Testing
25.755 Cancellation of Scores; Voiding of Scores
25.760 Passing Score
25.765 Individual Test Score Reports
25.770 Re-scoring

25.775 Institution Test Score Reports
25.780 Fees

SUBPART J: RENEWAL OF STANDARD AND MASTER TEACHING CERTIFICATES

Section
25.800 Professional Development Required
25.805 Continuing Professional Development Options
25.810 State Priorities
25.815 Submission and Review of the Plan (Repealed)
25.820 Review of Approved Plan (Repealed)
25.825 Progress Toward Completion (Repealed)
25.830 Application for Renewal of Certificate(s)
25.832 Validity and Renewal of Master Certificates
25.835 Review of and Recommendation Regarding Application for Renewal
25.840 Action by State Teacher Certification Board; Appeals
25.845 Responsibilities of School Districts
25.848 General Responsibilities of LPDCs
25.850 General Responsibilities of Regional Superintendents
25.855 Approval of Illinois Providers
25.860 Out-of-State Providers
25.865 Awarding of Credit for Activities with Providers
25.870 Continuing Education Units (CEUs) (Repealed)
25.872 Special Provisions for Interactive, Electronically Delivered Continuing Professional Development
25.875 Continuing Professional Development Units (CPDUs)
25.880 "Valid and Exempt" Certificates; Proportionate Reduction; Part-Time Teaching
25.885 Funding; Expenses (Repealed)

SUBPART K: REQUIREMENTS FOR RECEIPT OF THE STANDARD TEACHING CERTIFICATE

Section
25.900 Applicability of Requirements in this Subpart
25.905 Choices Available to Holders of Initial Certificates
25.910 Requirements for Induction and Mentoring
25.915 Requirements for Coursework on the Assessment of One's Own Performance
25.920 Requirements for Coursework Related to the National Board for Professional Teaching Standards (NBPTS)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

25.925 Requirements Related to Advanced Degrees and Related Coursework
25.930 Requirements for Continuing Professional Development Units (CPDUs)
25.935 Additional Activities for Which CPDUs May Be Earned
25.940 Examination
25.942 Requirements for Additional Options
25.945 Procedural Requirements

25.APPENDIX A Statistical Test Equating – Certification Testing System
25.APPENDIX B Certificates Available Effective February 15, 2000
25.APPENDIX C Exchange of Certificates
25.APPENDIX D Criteria for Identification of Teachers as "Highly Qualified" in Various Circumstances
25.APPENDIX E Endorsement Structure Beginning July 1, 2004

AUTHORITY: Implementing Article 21 and Section 14C-8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21, 14C-8, and 2-3.6].

SOURCE: Rules and Regulations to Govern the Certification of Teachers adopted September 15, 1977; amended at 4 Ill. Reg. 28, p. 336, effective July 16, 1982; amended at 7 Ill. Reg. 5429, effective April 11, 1983; codified at 8 Ill. Reg. 1441; amended at 9 Ill. Reg. 1046, effective January 16, 1985; amended at 10 Ill. Reg. 12578, effective July 8, 1986; amended at 10 Ill. Reg. 15044, effective August 28, 1986; amended at 11 Ill. Reg. 12670, effective July 15, 1987; amended at 12 Ill. Reg. 3709, effective February 1, 1988; amended at 12 Ill. Reg. 16022, effective September 23, 1988; amended at 14 Ill. Reg. 1243, effective January 8, 1990; amended at 14 Ill. Reg. 17936, effective October 18, 1990; amended at 15 Ill. Reg. 17048, effective November 13, 1991; amended at 16 Ill. Reg. 18789, effective November 23, 1992; amended at 19 Ill. Reg. 16826, effective December 11, 1995; amended at 21 Ill. Reg. 11536, effective August 1, 1997; emergency amendment at 22 Ill. Reg. 5097, effective February 27, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 11767, effective June 25, 1998; amended at 22 Ill. Reg. 19745, effective October 30, 1998; amended at 23 Ill. Reg. 2843, effective February 26, 1999; amended at 23 Ill. Reg. 7231, effective June 14, 1999; amended at 24 Ill. Reg. 7206, effective May 1, 2000; emergency amendments at 24 Ill. Reg. 9915, effective June 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12930, effective August 14, 2000; peremptory amendment at 24 Ill. Reg. 16109, effective October 12, 2000; peremptory amendment suspended at 25 Ill. Reg. 3718, effective February 21, 2001; peremptory amendment repealed by joint resolution of the General Assembly, effective May 31, 2001; emergency amendments at 25 Ill. Reg. 9360, effective July 1, 2001, for a maximum of 150 days; emergency expired November 27, 2001; emergency amendments at 25 Ill. Reg. 11935, effective August 31, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16031, effective November 28, 2001; amended at 26 Ill.

Reg. 348, effective January 1, 2002; amended at 26 Ill. Reg. 11867, effective July 19, 2002; amended at 26 Ill. Reg. 16167, effective October 21, 2002; amended at 27 Ill. Reg. 5744, effective March 21, 2003; amended at 27 Ill. Reg. 8071, effective April 28, 2003; emergency amendments at 27 Ill. Reg. 10482, effective June 26, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 12523, effective July 21, 2003; amended at 27 Ill. Reg. 16412, effective October 20, 2003; emergency amendment at 28 Ill. Reg. 2451, effective January 23, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 8556, effective June 1, 2004; emergency amendments at 28 Ill. Reg. 12438, effective August 20, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1212, effective January 4, 2005; amended at 29 Ill. Reg. 10068, effective June 30, 2005; amended at 29 Ill. Reg. 12374, effective July 28, 2005; emergency amendment at 29 Ill. Reg. 14547, effective September 16, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 15831, effective October 3, 2005; amended at 30 Ill. Reg. 1835, effective January 26, 2006; amended at 30 Ill. Reg. 2766, effective February 21, 2006; amended at 30 Ill. Reg. 8494, effective April 21, 2006; amended at 31 Ill. Reg. 10645, effective July 16, 2007; amended at 32 Ill. Reg. 3413, effective February 22, 2008; amended at 32 Ill. Reg. 13263, effective July 25, 2008; emergency amendment at 32 Ill. Reg. 18876, effective November 21, 2008, for a maximum of 150 days; amended at 33 Ill. Reg. 5462, effective March 24, 2009; amended at 34 Ill. Reg. 1582, effective January 12, 2010; amended at 34 Ill. Reg. 15357, effective September 21, 2010; amended at 35 Ill. Reg. _____, effective _____.

SUBPART B: CERTIFICATES

Section 25.65 Alternative Certification

a) Section 21-5b of the School Code [105 ILCS 5/21-5b] provides for the issuance of provisional alternative teaching certificates and initial alternative teaching certificates to eligible candidates, as defined in that Section, who successfully complete a program consisting of:

1) a course of study approved by the State Board of Education;

2) one year's full-time teaching on the provisional alternative certificate:

A) in the public schools; or

B) in a nonpublic school, provided that:

i) the nonpublic school meets the recognition criteria set forth in rules governing Voluntary Registration and Recognition

of Nonpublic Schools (23 Ill. Adm. Code 425);

ii) as of July 1, 2014, the majority of individuals who provide non-religious instruction to students hold a valid Illinois teaching certificate in accordance with Article 21 of the School Code [105 ILCS 5/Art. 21] and rules governing Certification (23 Ill. Adm. Code 25);

iii) the individual who serves as the principal holds a valid Illinois administrative certificate in accordance with Article 21 of the School Code and rules governing Certification; and

iv) as of January 1, 2010, the school has a written policy stating that all new teachers hired to provide non-religious instruction to students will hold a valid Illinois teaching certificate in accordance with Article 21 of the School Code and rules governing Certification; or

C) in the case of the early childhood certificate, in a position for which an early childhood certificate was required pursuant to the rules of the State Board of Education at 23 Ill. Adm. Code 235 (Early Childhood Block Grant); or

D) in a facility operated by a provider approved by the State Superintendent to contract with school districts for the provision of special education services pursuant to Section 14-7.02 of the School Code [105 ILCS 5/14-7.02] and 23 Ill. Adm. Code 401 (Special Education Facilities Under Section 14-7.02 of the School Code); and

3) a comprehensive assessment of the candidate's teaching performance, culminating in a favorable recommendation by the entity~~institution of higher education~~ responsible for the course of study.

b) Proposals seeking to establish programs meeting the specifications of subsection (a) of this Section shall be addressed as follows:

State Board of Education

c) Each proposal shall indicate the maximum number of teaching candidates to be served by the proposed program in each of its sessions.

d) Each proposal, simultaneously with State Board of Education staff's review, will be reviewed by the State Teacher Certification Board, which shall provide its recommendation to the State Board of Education so that the State Board of Education may comply with the timeline set forth in Section 21-5b of the School Code.

e) A proposed course of study will be approved by the State Board of Education if the proposal demonstrates how candidates will acquire the knowledge of the content and the skills equivalent to the content and skills contained in the participating entity's preparation~~institution's~~ program approved pursuant to Subpart C~~B~~ of this Part with regard to:

1) educational theory;

2) instructional methods; and

3) practice teaching.

f) The assessment of the candidate's teaching performance for the year referred to in this Section shall include components that are designed to demonstrate that the candidate is:

1) knowledgeable about specific subject matter and strategies for teaching that subject matter to students with differing needs; and

2) skilled in managing and monitoring students' learning.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 25.67 Alternative Route to Teacher Certification

a) Section 21-5c of the School Code [105 ILCS 5/21-5c] provides for the issuance of

provisional alternative teaching certificates to eligible candidates, as defined in that Section, who successfully complete an intensive course of study approved by the State Board of Education.

b) Section 21-5c of the School Code further provides for the issuance of initial teaching certificates to candidates who, after completing the course of study referred to in subsection (a) of this Section, complete an alternative program that also includes:

1) one year's full-time teaching on the provisional alternative certificate, in accordance with the requirements set forth in Section 25.65(a)(2)(B) of this Part; and

2) a comprehensive assessment of the candidate's teaching performance, culminating in a favorable recommendation by the entity~~institution of higher education~~ responsible for the course of study.

c) Proposals for the establishment of programs meeting the specifications of subsections (a) and (b) of this Section shall be approved if they comply with Section 21-5c of the School Code and this Section. Proposals shall be addressed as follows:

State Board of Education
Alternative Certification Program
100 North First Street
Springfield, Illinois 62777-0001

d) Proposal Requirements

1) Each proposal shall describe the role and responsibilities of the sponsor ~~each cosponsor~~ of the alternative program.

2) Each proposal shall demonstrate how the program~~participating institution of higher education~~ will evaluate the congruence of a candidate's baccalaureate education, his or her employment experience in a field requiring application of that education, and the teaching area for which the candidate seeks preparation and certification.

3) Each proposal shall state that all candidates must:

A) pass the test of basic skills required pursuant to Section 21-1a of the School Code [105 ILCS 5/21-1a] prior to beginning the proposed course of study; and

B) pass the content-area test required pursuant to Section 21-1a of the School Code prior to beginning the teaching assignment that is a part of the alternative program.

4) Each proposal shall describe the proposed course of study.

A) Each proposal shall demonstrate how candidates will acquire knowledge of content and skills equivalent to the content and skills contained in a preparation program approved pursuant to Subpart C of this Part with regard to:

i) educational theory;

ii) instructional methods; and

iii) practice teaching.

B) Each proposal shall include provisions for determining the amount of time individual candidates will need in order to complete the proposed course of study, based upon such factors as their experience and the type of program offered. In all cases, the amount of time needed shall be less than that required to complete the entity's preparation~~institution's~~ program approved pursuant to Subpart C of this Part.

C) Each program shall include a preservice assessment of each candidate's performance, to be conducted by the entity responsible for the program~~institution of higher education~~ at the conclusion of the course of study in order to determine the candidate's readiness for the year-long teaching assignment. Each proposal shall state the criteria for the entity's~~institution's~~ determination of candidates' readiness.

5) Each proposal shall describe the proposed arrangements for candidates'

teaching assignments under this Section and shall provide for these to be set forth in a formal, written agreement between the participating entity responsible for the program~~institution of higher education~~ and the school districts where candidates will practice. Each such agreement shall address:

A) the nature and intensity of the support to be provided to candidates by experienced teachers and other staff members of the district, including:

i) the qualifications and experience of the assisting teachers and staff;

ii) the estimated amount of time assisting teachers and staff will devote to advising and assisting candidates; and

iii) the specific roles of the assisting teachers and staff; and

B) provisions enabling candidates to compensate for teaching time lost due to emergencies.

6) Each proposal shall describe the proposed method of assessing candidates' teaching performance for the year referred to in this Section and shall provide for such methods to be set forth in a formal, written agreement between the participating entity responsible for the program~~institution of higher education~~ and the school districts where candidates will practice. Each such agreement shall describe:

A) the roles of all parties who will participate in the evaluation of candidates; and

B) assessment methods capable of demonstrating whether a candidate is:

i) knowledgeable about specific subject matter and strategies for teaching that subject matter to students with differing needs; and

ii) skilled in managing and monitoring students' learning.

7) Each proposal shall delineate the criteria by which candidates will be recommended for initial certification by the participating entity responsible for the program~~institution of higher education~~.

e) Each alternative program established pursuant to this Section shall be subject to the requirements set forth in Section 25.115 of this Part~~Accreditation Review described in Subpart C of this Part~~.

~~f) The sponsoring institutions of programs established pursuant to this Section shall provide annual reports to the State Teacher Certification Board that describe the programs offered, the number and categories of the candidates who apply to each program, the completion rate for each program, and data regarding placement of individuals who complete each program.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART C: APPROVING PROGRAMS THAT PREPARE PROFESSIONAL EDUCATORS IN THE STATE OF ILLINOIS

Section 25.115 Recognition of Institutions and~~, Accreditation of~~ Educational Units, and Approval of Programs

As used in this Subpart C, "institution" shall be defined as an Illinois institution of higher education, an out-of-state college or university granted operating authority by the Illinois Board of Higher Education as an out-of-state institution, or a not-for-profit educational entity subject to the General Not For Profit Corporation Act of 1986 [805 ILCS 105] or incorporated as a not-for-profit entity in another state but registered to do business in the State of Illinois pursuant to the Business Corporation Act of 1983 [805 ILCS 5].

a) In order for an ~~Illinois~~ institution ~~of higher education~~ to offer one or more programs that prepare professional educators, that institution must be recognized, and the educational unit responsible for such programs must be recognized~~accredited~~, by the State Board of Education in consultation with the State Teacher Certification Board. "Educational unit" means the institution or college, school, department, or other administrative body within the institution that is primarily responsible for the initial and continuing preparation of teachers and other education professionals. Each program that is offered by a recognized institution must also be individually approved by the State Board of Education in

consultation with the State Teacher Certification Board. "Program" or "preparation program" means a program that leads to certification. Electronic transmission of written materials ~~required~~ pursuant to this Subpart C is required~~may be authorized or required by the State Superintendent of Education when this method may be more cost effective or feasible~~.

b~~a~~) In order to be considered for recognition under Section 25.155 of this Part, a degree-granting~~An~~ institution of higher education shall~~be recognized if it is~~:

1) be regionally accredited;~~ and:~~

2~~1~~) be~~is~~ approved as a degree-granting institution by the Illinois Board of Higher Education, if the institution is subject to provisions of the Institution of Learning Powers Act [110 ILCS 50]; and

3~~2~~) sponsor~~sponsors~~ a course of study leading to a certificate issued under Article 21 of the School Code [105 ILCS 5/Art. 21] and this Part.~~an appropriate baccalaureate or higher degree and awards the degree; and~~

~~3) conducts or proposes to conduct at least one approved program that will prepare professional educators.~~

c) In order to be considered for recognition under Section 25.155 of this Part, an eligible not-for-profit educational entity shall conduct or propose to conduct at least one approved program that will prepare professional educators and leads to a certificate issued pursuant to Article 21 of the School Code and this Part.

d~~b~~) In order to be considered for recognition under Section 25.155 of this Part, an~~An~~ educational unit shall meet~~be accredited if its accreditation visit occurs prior to the fall of 2008 and the institution meets~~ the standards enumerated in "Professional Standards for the Accreditation of Schools, Colleges, and Departments of Education" (2008~~2002~~), published by the National Council for the Accreditation of Teacher Education (NCATE), 2010 Massachusetts Avenue, N.W., Suite 500, Washington, D.C. 20036-1023 (no later amendments to or editions of these standards are incorporated by this Section). ~~Beginning with accreditation visits in the fall of 2008, the 2008 edition of these standards shall apply; no later amendments or editions are incorporated.~~

e~~c~~) In order to be considered for approval under Section 25.145 of this Part, a~~A~~

preparation program shall meet:be approved if it meets

1) the nationalapplicable content standards acceptedestablished by the State Board of Education and listed on the State Board of Education's website at www.isbe.net or, if no national content standards are specified, then the applicable content standards set forth at 23 Ill. Adm. 23, 26, 27, or 29; and

2) the standards set forth at 23 Ill. Adm. Code 24 (Standards for All Illinois Teachers) or the Educational Leadership Policy Standards: ISLLC 2008, adopted by the National Policy Board for Educational Administration and posted at http://www.npbea.org/projects.php (no later additions to or editions of these standards are incorporated by this Part)23 Ill. Adm. Code 29.100 (Illinois Professional School Leader Standards), as applicable.

f) In the case of a not-for-profit entity, all advertising materials, candidate handbooks, catalogues, and candidate contracts shall display prominently the fact that the entity does not offer higher education credit and that there is no guarantee that the Illinois certificate or endorsement earned by the candidate will be honored or accepted for exchange in another state.

gd) The recognitionaccreditation of an educational unit shall be subject to review every four years beginning in 2012. This cycle shall begin in accordance with a timeline established by the State Superintendent of Education or designee.and the The approval of the educational unit'sits programs shall be subject to review in each yearfive years after the unit receives initialunit's original State recognition.accreditation and every seven years thereafter, except that no accreditation reviews shall be conducted in 2009 and each institution's first scheduled review after January 1, 2009, shall be deferred for one additional year. For an institution already accredited by the State that subsequently receives accreditation from NCATE, the next accreditation review shall be due five years after receipt of that accreditation, after which review the institution shall be returned to a seven-year cycle. Accreditation Review shall be conducted as provided in Sections 25.125 and 25.127 of this Part and decisions regarding continued accreditation and approval shall be made as provided in those Sections. The State Superintendent shall alter the timing of an institution's review at the institution's request if the Superintendent determines that the request is based on unforeseen circumstances that were beyond the institution's control and were demonstrably related to the institution's ability to prepare for the review.

he) Each recognizedBeginning in 2010, each accredited educational unit shall annually submit a separate annual program report for each approved program to the State Superintendent of Education, in a format defined by the State Superintendent, no sooner than October 1 and and no later than November 30. Subject-area designations (see Section 25.100(a) of this Part) shall be considered separate programs for reporting purposes. The annual program report shall:August 30:

1) update a report that describes any changes or planned changes in the unit or its programs, updates any information previously provided;

2) summarize data about the program's overall structure, faculty, and candidates, and the results of various assessments, including the effectiveness of the completers of the program from the performance evaluations conducted under Article 24A of the School Code [105 ILCS 5/Art. 24A] (to be provided for principals beginning in 2014 and for teachers beginning in 2018):as needed, and provides institutional data that describe the results of unit and program assessments and the actions taken or planned to address areas identified for improvement;

A) If at least 80 percent of an institution's teacher preparation program completers have passed the content area test and applicable form of the assessment of professional teaching (APT) in each of the preceding three years, the institution shall be deemed to be adequately addressing the Standards for All Illinois Teachers set forth at 23 Ill. Adm. Code 24;

B) If at least 80 percent of an institution's administrative certification program completers have passed the applicable content-area examinations for administrative certification in each of the preceding three years, the institution shall be deemed to be adequately addressing the standards set forth in subsection (e)(2) of this Section;

2) an annual report specific to each approved program offered by the institution that conveys summary data about the program's overall structure, faculty, and candidates, and the results of various assessments; and

3) as relevant to the institution, ~~a~~ report on all programs provided by the institution that have been approved as an alternative route to certification under Sections 25.65 and 25.67 of this Part.

i~~f~~) In conjunction with the review set forth in subsection (g) of this Section, each educational unit shall submit a unit report to the State Superintendent, in a format specified by the State Superintendent, no sooner than October 1 and no later than November 30 of the academic year (i.e., September 1 through August 31) in which the review is scheduled. The report shall include:

1) ~~If relevant to the institution, the report required under subsection (e) of this Section shall include~~ a description of how the unit has addressed any concerns about applicable standards identified in any of the program reports produced pursuant to subsection (h) of this Section submitted in each of the last four years preceding the review; ~~during the most recent review of the unit and its programs as "not met" or "met with areas for improvement". However, for institutions that have been assigned "Continuing Accreditation with Conditions" or "Probation", this description shall not be required in those years in which the institution is required to submit a special report or is subject to a focused or full visit as discussed in Section 25.125(j) of this Part.~~

2) any changes in the institution or in the educational unit that affects the operation of the unit;

3) any new programs approved in the last four years;

4) the percentage of individuals in the last four years who completed the program and received a certificate or endorsement who were hired into a related school position in the field for which the certificate or endorsement was issued; and

5) data regarding the effectiveness of the completers of the program from the performance evaluations conducted under Article 24A of the School Code [105 ILCS 5/Art. 24A] (to be provided for principals beginning in 2014 and for teachers beginning in 2018).

j~~g~~) No later than April 7 of each year, each institution shall report to the State Board of Education, using a form supplied by the Board, on its program completers' pass

rates on the examinations required for initial certification pursuant to this Part and other information required by Title II of the Higher Education Act (~~[~~20 USCA 1027)~~]~~. Further, each institution shall make this information readily available to the public on an annual basis and shall include it in or with publications routinely sent to potential applicants, guidance counselors, and prospective employers of the institution's program completers.

k) State Board of Education staff may visit a recognized institution at any time with one day's advance notice and may ask to speak with faculty, candidates, or administrators. All records shall be made available to State Board of Education staff upon request.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 25.125 Accreditation Review of the Educational Unit (Repealed)

~~The requirements of this Section shall apply to Accreditation Reviews that take place on or after July 1, 2003. The review visits conducted pursuant to this Section shall be scheduled during the academic year for the mutual convenience of the affected institution and the review team. When an institution located in Illinois is governed by an out-of-state institution, the out-of-state institution shall also be visited as part of the accreditation review if, in the judgment of the State Superintendent of Education, firsthand observation of the administration and resources of the governing institution is essential to an accurate evaluation of the institution's capacity for meeting relevant Illinois standards and preparing educators to serve in Illinois schools.~~

~~a) No later than one year before its Accreditation Review will be held, the institution shall submit to the State Superintendent of Education five copies of each of the reports specified in this subsection (a) that is applicable. However, an institution that is also seeking initial accreditation from NCATE will need to comply with NCATE's submission timelines as well.~~

~~1) For its first review in light of the standards incorporated by Section 25.115(b) of this Part, the institution shall submit a report providing an overview of the unit's conceptual frameworks, which shall include a description of each framework and its development. The discussion of the frameworks shall address each of the "structural elements" found in the standards referred to in Section 25.115(b) of this Part. For each subsequent review, the institution shall describe any changes in the~~

~~conceptual frameworks that have been made since the institution's previous Accreditation Review.~~

~~2) If at least 80 percent of an institution's teacher preparation program completers have passed the applicable form of the assessment of professional teaching (APT) in each of the preceding three years, the institution shall be deemed to be adequately addressing the Standards for All Illinois Teachers set forth at 23 Ill. Adm. Code 24. For any form of the APT for which this criterion has not been met, the institution shall submit a composite report covering all programs for whose candidates that form is required. This report shall describe how those preparation programs address those standards.~~

~~3) If at least 80 percent of an institution's administrative certification program completers have passed the applicable content-area examinations for administrative certification in each of the preceding three years, the institution shall be deemed to be adequately addressing the Illinois Professional School Leader Standards (see 23 Ill. Adm. Code 29.100). For any administrative certification program for which this criterion has not been met, the institution shall submit a report describing how the program addresses these standards.~~

~~b) A panel established by the State Superintendent shall review the overview of the unit's conceptual frameworks no more than 60 days after the overview is submitted. No later than 30 days after the panel completes its review, and if the institution is to be reviewed under subsection (d)(1) of this Section, the State Board of Education shall notify the institution either that the description of its conceptual frameworks is adequate or that certain structural elements were not adequately addressed and will undergo additional scrutiny by the review team during the visit described in subsection (e) of this Section.~~

~~c) No later than 60 days before its review visit, the institution shall submit either to the State Superintendent the number of copies specified in light of the review team's size or to NCATE the number of copies required by NCATE, with two copies to the State Superintendent, of an institutional report presented in a format prescribed by the State Board of Education and incorporating:~~

~~1) an overview of the institution;~~

~~2) an overview of the unit's conceptual frameworks; and~~

~~3) evidence that it is meeting each of the standards referred to in Section 25.115(b) of this Part.~~

~~d) A review team shall be empanelled to conduct an on-site review to verify the information provided by the institution as required by subsection (c) of this Section. The review team shall be constituted as provided in subsection (d)(1) or (d)(2) of this Section, depending upon whether the institution is also seeking to achieve or retain accreditation of its educational unit by NCATE.~~

~~1) Institutions Seeking State Accreditation Only~~
~~From a pool of individuals who have been trained in the applicable standards and procedures, the State Superintendent shall empanel a team to conduct the on-site review and shall appoint the team's chair. A staff member of the State Board of Education or another individual designated by the State Superintendent who has been trained in the applicable standards and procedures shall accompany the review team, serving as a consulting, ex officio member to ensure that applicable standards, procedures, rules, and statutes are addressed.~~

~~2) Institutions Also Seeking to Achieve or Retain NCATE Accreditation~~
~~A staff member of the State Board of Education or another individual designated by the State Superintendent who has been trained in the applicable standards and procedures shall accompany the review team appointed by NCATE's Board of Examiners, serving as a consulting, ex officio member to ensure that applicable Illinois standards, procedures, rules, and statutes are addressed.~~

~~e) The review team shall visit the institution and verify the degree to which the educational unit and its programs meet the standards referred to in Section 25.115(b) of this Part.~~

~~f) The review team shall prepare a draft report during the on-site visit, incorporating an overview of the unit and its conceptual frameworks, summarizing data on the performance of candidates and graduates, and taking into account the recommendations arising from the review of program reports as outlined in Section 25.127 of this Part. This draft report shall be provided to the institution within 30 business days after the conclusion of the visit for the purpose of~~

~~allowing the institution 30 days to correct any factual errors. The team chair shall review the institution's suggested revisions and make appropriate corrections in consultation with the ex officio consultant who is serving pursuant to subsection (d) of this Section. The final report shall be submitted to the State Superintendent of Education by the team's chair or by NCATE, as applicable, within 30 days after the chair's receipt of the institution's suggested corrections. The State Superintendent shall provide the final report to the institution within ten business days after receiving it.~~

~~g)~~ ~~Within 30 days after receipt of the final report, the institution shall submit to the State Superintendent and to NCATE, if applicable, either a letter stating agreement with the report's findings or a rejoinder to those findings that meets the following requirements:~~

~~1)~~ ~~The rejoinder must indicate the grounds for disagreement with one or more of the team's findings and include documentation to support the institution's position.~~

~~2)~~ ~~All documentation must describe conditions that existed at the time of the on-site review. (Changes made by the unit after the visit will not be considered.)~~

~~3)~~ ~~All documentation must relate directly to the standards and procedures that applied at the time of the on-site visit.~~

~~h)~~ ~~Staff of the State Board of Education shall convey to the State Teacher Certification Board the institutional report, the review team's report, the institution's letter of agreement or rejoinder, a response to that rejoinder provided by the team's chair, the results of the review of the program reports, any other relevant documentation that was available to the review team, and the decision of NCATE's Unit Accreditation Board (UAB), if applicable.~~

~~i)~~ ~~After consideration of the information submitted pursuant to subsection (h) of this Section, the State Teacher Certification Board shall convey to the State Board of Education a recommendation regarding the accreditation of the educational unit as appropriate to the circumstances, in keeping with the provisions of subsection (j) of this Section. The State Teacher Certification Board shall also convey recommendations regarding approval of the unit's individual programs (see Section 25.127 of this Part).~~

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

~~j) The possible outcomes of Accreditation Review shall align with those used in the NCATE system of review, so that Illinois institutions desiring both national accreditation through NCATE and the State recognition, accreditation, and program approval required pursuant to this Subpart C will generally not be caused to duplicate their efforts or undergo duplicate reviews.~~

~~1) If the educational unit has met all the applicable standards, the State Teacher Certification Board shall recommend that the State Board of Education continue the accreditation of the educational unit (which may include the identification of areas for improvement), thereby authorizing the institution to conduct its approved programs and to recommend candidates for certification by entitlement.~~

~~2) If the educational unit has failed to meet one or more of the applicable standards, the State Teacher Certification Board shall recommend that the State Board of Education assign accreditation of the educational unit with conditions, thereby authorizing the institution to conduct its approved programs and to recommend candidates for certification by entitlement. An institution to which accreditation with conditions has been assigned shall, within 30 days after receipt of the State Board's decision, provide written notification to the candidates enrolled in the unit's programs to this effect.~~

~~A) If the State Teacher Certification Board believes that the unit can make adjustments so as to satisfy the conditions expressed within six months, the Board shall recommend that the State Board of Education request submission of documentation that addresses the unmet standards as well as any other areas for improvement within that time. However, the affected unit may choose to undergo a focused visit pursuant to subsections (j)(2)(C) and (D) of this Section instead.~~

~~B) If documentation is submitted pursuant to subsection (j)(2)(A) of this Section, the State Board of Education shall either continue the institution's accreditation, if the conditions expressed have been satisfied, or require a focused visit addressing the unmet standards and any additional areas for improvement, which shall occur within one year after the semester in which the documentation was~~

~~submitted.~~

~~C)~~ ~~If the State Teacher Certification Board believes that the conditions expressed cannot be satisfied within six months, the Board shall recommend that the State Board of Education require a focused visit addressing the unmet standards and any additional areas for improvement within two years after the semester when the conditions were issued.~~

~~D)~~ ~~Each focused visit shall be conducted by a team established by the State Superintendent of Education or the NCATE Board of Examiners, as applicable, and trained in the review process. The provisions of subsection (d)(2) of this Section shall also apply. The team conducting a focused visit shall forward to the State Teacher Certification Board a report indicating whether the conditions expressed have been satisfied.~~

~~i)~~ ~~Within 30 days after receipt of this report, the institution shall submit either a rejoinder to the team's findings that meets the requirements of subsection (g) of this Section or a letter acknowledging receipt of the report.~~

~~ii)~~ ~~Staff of the State Board of Education shall convey to the State Teacher Certification Board the review team's report, the institution's letter of agreement or rejoinder, a response to that rejoinder provided by the team's chair, any other relevant documentation that was available to the review team, and the decision of NCATE's Unit Accreditation Board, if applicable.~~

~~E)~~ ~~After reviewing the materials submitted pursuant to subsection (j)(2)(D) of this Section, the State Teacher Certification Board shall recommend that the State Board of Education continue or revoke the unit's accreditation.~~

~~F)~~ ~~A unit to which continued accreditation is granted as a result of a six-month report or a focused visit shall next be due for Accreditation Review according to its original schedule (see Section 25.115(d) of this Part).~~

~~3) If the educational unit has failed to meet one or more of the applicable standards and exhibits areas for improvement that may limit its candidates' ability to meet the standards for certification (meaning, for an NCATE institution, if national accreditation has been revoked), the State Teacher Certification Board shall recommend that the State Board of Education assign accreditation of the educational unit with probation. An institution to which accreditation with probation has been assigned shall, within 30 days after receipt of the State Board's decision, provide written notification to the candidates enrolled in the unit's programs to this effect. If accreditation with probation is assigned, the unit must schedule an on-site visit within two years after the semester in which the decision was rendered. As part of this visit, the unit must address all the standards in effect at the time of the review that resulted in probation.~~

~~A) An on-site review required pursuant to this subsection (j)(3) shall be subject to the requirements of subsections (a) through (g) of this Section.~~

~~B) Following the on-site review, the State Teacher Certification Board shall review the team's report and, based on its assessment of the degree to which the unit has achieved compliance with the applicable standards, shall recommend to the State Board of Education that it either continue or revoke the institution's recognition and the educational unit's accreditation.~~

~~C) A unit whose accreditation has been continued pursuant to this subsection (j)(3) shall next be subject to Accreditation Review according to its original schedule (see Section 25.115(d) of this Part).~~

~~k) The provisions of subsection (j) of this Section notwithstanding, an institution not accredited by NCATE may decide to seek NCATE accreditation at any time, thus becoming subject to NCATE's initial review cycle. (If NCATE accreditation is sought other than in conjunction with a scheduled Accreditation Review, an Accreditation Review shall be conducted as described in this Section, and the schedule for subsequent Accreditation Reviews shall be altered accordingly.) Conversely, an institution may choose to become disaffiliated with NCATE so that its next Accreditation Review will be conducted under subsection (d)(1) of~~

~~this Section, provided that the institution notifies the State Superintendent of Education of this intention no later than 18 months prior to the scheduled date of the review visit. The State Superintendent may make an exception to the 18-month timeframe upon determining that circumstances beyond the control of an institution prevented its meeting the deadline for this notification.~~

~~l)~~ ~~Actions following upon the recommendation of the State Teacher Certification Board shall be as described in Section 25.160 of this Part. Revocation of recognition and accreditation shall be subject to the provisions of Section 25.165(b) of this Part.~~

~~m)~~ ~~Each institution shall pay a portion of the costs related to State participation in its accreditation reviews and any focused visits, subject to the rules of the Travel Regulation Council (see 80 Ill. Adm. Code 3000).~~

~~1)~~ ~~When only State accreditation is involved and the institution is located in Illinois, the institution shall pay for:~~

~~A)~~ ~~lodging for each team member, including the consulting, ex officio member referred to in subsection (d)(1) of this Section; and~~

~~B)~~ ~~a meeting room for the team in the hotel where the team members are housed.~~

~~2)~~ ~~When NCATE accreditation is also involved and the institution is located in Illinois, the institution shall pay for the lodging of the consulting, ex officio team member referred to in subsection (d)(2) of this Section.~~

~~3)~~ ~~When only State accreditation is involved and the institution is located outside Illinois, the institution shall pay all travel costs associated with the team members' visit, including:~~

~~A)~~ ~~transportation, lodging, and meals or per diem for each team member, including the consulting, ex officio member referred to in subsection (d)(1) of this Section; and~~

~~B)~~ ~~a meeting room for the team in the hotel where the team members are housed.~~

4) ~~When NCATE accreditation is also involved and the institution is located outside Illinois, the institution shall pay all travel costs for the consulting, ex officio team member referred to in subsection (d)(2) of this Section and, at the discretion of the State Superintendent of Education, for one additional individual representing the Illinois State Board of Education, including transportation, lodging, and meals or per diem.~~

5) ~~When an institution located in Illinois is governed by an out-of-state institution and the out-of-state institution is visited as part of the accreditation review, the travel costs associated with the out-of-state visit shall be borne by the institution under subsection (m)(3) or (m)(4) of this Section, as applicable.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 25.127 Review of Individual Programs (Repealed)

a) ~~No later than one year before its Accreditation Review will be held, the institution shall submit a report for each of its programs, including any alternative program established pursuant to Section 21-5b, 21-5c, or 21-5d of the School Code. These reports shall be submitted in quantity and format required by either the State Superintendent or NCATE, as provided in subsection (c) of this Section, and shall include all the following information.~~

1) ~~A description of the program's alignment with the unit's conceptual framework.~~

2) ~~A description of the criteria for admission to, retention in, and exit from the program, including the required grade point average and minimum grade requirements for the college or university and how the key assessments used in the program are derived from or informed by the unit's assessment system (see Section 25.140 of this Part).~~

3) ~~Data on candidates enrolled in the program and candidates completing the program, beginning with the most recent academic year for which numbers have been tabulated and including three years' information if available. If a program is offered at more than one level (i.e., baccalaureate, post-baccalaureate, or graduate, or as an alternative program), data shall be reported separately for each of these arrangements.~~

4) ~~Identification of the faculty members with primary responsibility for preparing professional educators in the program and their qualifications for their positions.~~

5) ~~A description of the course of study, including required courses, State standards addressed, and related field experiences or clinical practice as applicable to specified courses.~~

6) ~~A description of the required field experiences and clinical practice, including criteria, measures taken to ensure placements in diverse settings and with diverse students, and the program's requirements for faculty supervision of these experiences.~~

7) ~~A description of the key assessments that are required of candidates in the program under Section 25.142 of this Part, including:~~

A) ~~the specific standards addressed by each assessment that is used to comply with the requirements of Section 25.142(a)(1)-(4) or Section 25.142(b)(1)-(4), as applicable;~~

B) ~~a summary of findings based on data from all the assessments described under subsection (a)(7)(A) of this Section, from the applicable content-area test identified in Section 25.710 of this Part, and from the Assessment of Professional Teaching, if applicable; and~~

C) ~~a discussion of how the assessment data demonstrate candidates' mastery of the identified standards.~~

8) ~~A description of information related to two or three additional assessments that address relevant standards, if inclusion of this information is desired by the unit offering the program.~~

b) ~~The State Board of Education shall recognize "Specialized Professional Associations" ("SPAs") that are affiliated with NCATE and specialized accrediting organizations ("SAOs") that are recognized by either the U.S. Department of Education or the Council for Higher Education Accreditation for purposes of program review in accordance with the provisions of this subsection~~

~~(b).~~

~~1) Each program conducted by an Illinois institution that is accredited by NCATE will be reviewed by a panel convened under the auspices of the relevant SPA or SAO if one exists.~~

~~2) In an Illinois institution not accredited by NCATE, each program that is accredited by an SAO will be reviewed by that SAO.~~

~~3) The State Board of Education shall review the content-area standards of each SPA and each SAO and determine the degree to which those standards are aligned with the comparable standards established by the State Board. The State Board shall identify any applicable Illinois content-area standards that are not addressed by the standards applied by the relevant SPA or SAO and shall require supplementary evidence from the institution regarding these standards (see subsection (e) of this Section).~~

~~4) Each program not subject to review by an SPA or SAO will be reviewed by a panel convened by the State Superintendent of Education. The members of each panel shall be chosen from a pool of individuals with expertise in the respective content area and shall have been trained in the program review process.~~

~~c) The State Board of Education shall notify each institution no later than two years prior to its scheduled Accreditation Review as to which of its program reports are to be submitted to the State Superintendent and which, if any, are to be directed to NCATE or to an SAO. The State Board of Education will not include in its review of an institution's programs any new program that is approved for operation after the date for submission of the institution's program reports.~~

~~d) Each institution shall submit the reports required pursuant to this Section to NCATE if they are to be reviewed by SPAs and to the State Superintendent of Education if they are to be reviewed by a panel convened by the Superintendent.~~

~~e) As part of the notification provided under subsection (c) of this Section, the State Board shall identify for each affected institution any applicable Illinois content-area standards that are not addressed by the standards applied by the relevant SPA or SAO. For each affected program, the institution shall submit to the State~~

~~Superintendent a concurrent addendum to the program report, which shall be submitted in a format prescribed by the State Board and, by means of two exemplars of activities or assessments, shall describe how the program meets the State standards in question.~~

~~f)~~ ~~No later than 30 days after the State Superintendent or NCATE receives a program report, the responsible staff shall notify the affected institution as to whether the report is complete. An institution may provide additional material to complete a program report within 30 days after receiving a notification to the effect that it is incomplete.~~

~~g)~~ ~~No later than six months prior to the scheduled date of the review visit, each review panel shall submit a critique for each program reviewed, either to NCATE or to the State Superintendent of Education, as applicable. Each critique shall indicate the recognition status that should be assigned to the program (see subsection (j) of this Section) and include the panel's rationale for that determination. Each critique shall be forwarded to the affected institution within ten business days after its receipt.~~

~~h)~~ ~~NCATE and the State Superintendent shall ensure that each critique is received by the affected institution no later than 60 days prior to the scheduled date of the institution's review visit.~~

~~i)~~ ~~Each institution whose programs have been reviewed by an SPA or SAO shall provide or make available to the State Superintendent of Education all reports sent by the institution to the SPA or SAO and by the SPA or SAO to the institution. The State Superintendent shall keep this information as part of the institution's permanent file.~~

~~j)~~ ~~As part of the accreditation process described in Section 25.125 of this Part, the State Teacher Certification Board shall convey to the State Board of Education a recommendation regarding each preparation program offered by the affected educational unit.~~

~~1)~~ ~~In making these recommendations, the State Teacher Certification Board shall accept the decision made by the relevant SPA or SAO, if any, regarding the national recognition of each program, unless the staff review of the report on additional standards required under subsection (e) of this Section indicates that certain State standards are not being addressed. A~~

~~program's nonrecognition by an SPA or SAO shall be treated as discussed in subsection (j)(2) of this Section.~~

~~A) The State Teacher Certification Board may recommend approval of programs that meet the applicable content standards; or~~

~~B) The Certification Board may recommend provisional approval of programs whose program reports are found to exhibit less than full compliance with the applicable content standards. No later than 18 months after provisional approval of a program is granted by the State Board of Education, the institution shall submit to the State Superintendent, or to the relevant SPA or SAO, if applicable, a revised program report that shall be reviewed as provided in this Section. Staff of the State Board of Education shall convey to the State Teacher Certification Board the report of the review panel. After consideration of this report, the State Teacher Certification Board shall convey its recommendation that the State Board of Education:~~

~~i) Continue the approval of the affected program, thereby authorizing the institution to continue offering it; or~~

~~ii) Revoke the program's approval, thereby prohibiting the institution from continuing to offer it.~~

~~2) If a program's national recognition is denied or discontinued after review by a relevant SPA or SAO, the State Teacher Certification Board may recommend an 18-month period of probation for the program, during which no new candidates shall be enrolled. While the program is on probation, the institution may submit to the SPA or SAO either a revised program report addressing the unmet standards or a complete, new program report. At the conclusion of the probationary period, the State Teacher Certification Board may:~~

~~A) Recommend continuing approval of the program, if national recognition is granted or restored by the relevant SPA; or~~

~~B) Recommend revocation of the program's approval, if national recognition is denied by the relevant SPA.~~

~~k)~~ ~~Actions following upon the recommendation of the State Teacher Certification Board shall be as described in Section 25.160 of this Part. Discontinuation of a program pursuant to revocation of its approval shall be subject to the requirements of Section 25.165(b) of this Part.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

Section 25.130 Interventions by the State Board of Education and State Teacher Certification Board~~Mid-Cycle Intervention~~

The provisions of this Section shall apply when the State Superintendent of Education ~~or the State Teacher Certification Board~~ receives information through the annual program report or unit report required under Section 25.115 of this Part, or by other means indicating that any educational unit recognized~~accredited~~ pursuant to this Subpart C or any approved preparation program may not be addressing any applicable standard or may otherwise be failing to offer candidates any of the learning opportunities that are necessary to their preparation as professional educators.

a) The State Superintendent or designee shall inform the affected educational unit of the areas of concern and invite~~offer~~ the unit's representatives to appear on a date specified by the State Superintendent before the State Teacher Certification Board (STCB) to discuss the concerns identified~~an opportunity to submit a written response addressing the points raised, unless the affected institution will be undergoing either a regularly scheduled accreditation review or a focused visit during the upcoming semester~~.

b) If the STCB determines, either after the educational unit's appearance or in advance of the appearance, that the concerns raised were unfounded or that the issues have been remedied, the STCB shall recommend to the State Superintendent that no further action is needed with regard to the matter, and the State Superintendent or designee shall notify the institution accordingly.

~~a)~~ ~~If an accreditation review or focused visit is to be conducted, the State Superintendent shall inform the review team of the areas of concern. In the case of a focused visit, the areas of concern shall be considered "additional areas for improvement" that the institution must address, as discussed in Section 25.125(j)(2) of this Part.~~

~~b) If the unit's representatives are invited to provide a response, any material submitted shall be considered by the State Teacher Certification Board at the next available opportunity. The Certification Board may also invite representatives of the institution to appear before it to present any additional information that may be relevant.~~

c) If the institution does not respond to or declines the invitation to appear before the STCB, or if the STCB~~Certification Board~~ concludes that the institution, after its appearance, has not satisfied the concerns raised, the STCB shall recommend to the State Superintendent or designee that the program or unit and one or more of its programs be placed on probation. "Probation" is the period of time in which no new candidates shall be enrolled in the unit or any of its programs, regardless of whether an individual program has received probation status. The State Superintendent shall notify the institution of the probation status of the program or unit and one or more of its programs.~~further information is necessary, or if the institution has not responded within 60 days after receiving notification of the issues from the State Superintendent, the Certification Board shall recommend to the State Superintendent that an inquiry be conducted, which may include an on-site review at the discretion of the State Superintendent.~~

1) A program or unit and one or more of its programs placed on probation shall submit the applicable report required under subsection (c)(1)(A) or (c)(1)(B) of this Section (in a format to be specified by the State Superintendent) to the State Superintendent or designee, who shall forward the report to the STCB for consideration. The required report shall be submitted within one year after the date on which the program or unit was scheduled to appear before the STCB pursuant to subsection (a) of this Section. If no report is received within this year, then the approval of the program or recognition of the unit and approval of all of its programs shall be revoked. (See subsection (c)(2)(C) of this Section.)

A) In the case of one or more individual programs being placed on probation, each program about which concerns have been identified shall submit to the STCB a program report, with special emphasis on the areas of concern identified by the STCB and how those concerns will be addressed.

B) In the case of only a unit being placed on probation, the unit shall submit a report that details the concerns identified about any of the

NCATE unit standards and the solutions that have been put into place to remedy those concerns.

C) In the case of both a unit and one or more of its programs being placed on probation, both subsections (c)(1)(A) and (B) shall apply.

2) The STCB, after considering the report submitted by the program or unit and the actions the program or unit has taken in response to the concerns identified, shall:

A) determine that the concerns have been remedied and recommend to the State Superintendent that the program or unit and any of its programs for which concerns have been identified be removed from probation and that no further action is needed with regard to the matter, and the State Superintendent or designee shall notify the institution accordingly; or

B) determine that the concerns have been acted upon but have not been remedied and recommend to the State Superintendent that the probation period be extended for not more than an additional 12 months, beginning on the date on which the STCB met to consider the report submitted under subsection (c)(1)(A) or (c)(1)(B):

i) Within the 12-month extension period, the program, or the unit and any of its programs for which concerns have been identified shall resubmit the program proposal required under Section 25.145 of this Part or a report (in the case of a program or unit, respectively), and reappear before the STCB;

ii) If at the time that the program or unit reappears before the STCB or at the end of the 12-month extension period, the program or the unit and any of its programs for which concerns have been identified have not sufficiently addressed the concerns, then the STCB shall recommend to the State Superintendent that approval of the program or recognition of the unit and approval of all of its programs

be revoked pursuant to the provisions of subsection (c)(2)(C) of this Section; and

iii) The State Superintendent shall notify the program or the unit and of its programs of any action taken this subsection (c)(1)(B); or

C) determine that the concerns have not been acted upon and that the program proposal or actions taken as identified in the report indicate that the standards are not being met or that the program or unit may be failing otherwise to offer candidates any of the learning opportunities that are necessary to their preparation as professional educators and that these concerns cannot be remedied before the end of the 12-month extension period and recommend to the State Superintendent that the State Board of Education revoke approval of the program or recognition of the unit and approval of all of its programs.

3) the State Superintendent may accept, modify or reject any of the recommendations of the STCB issued in accordance to subsection (c) of this Section. In cases where the State Superintendent's modification or rejection results in an action that has negative consequences for the program or the unit and one or more of its programs, then the actions to be taken shall be as described in Section 25.160 of this Part.

~~d) If the State Teacher Certification Board determines at any point that the concerns raised were unfounded or that the issues have been remedied in the interval, the Certification Board shall notify the State Superintendent that no further action is needed with regard to the matter, and the State Superintendent shall notify the institution accordingly.~~

~~e) If, after considering all information presented by the institution's representatives, the standards and requirements that apply to the unit or the program in question, and the results of the inquiry, if one was conducted, the State Teacher Certification Board determines that cause for concern continues to exist, the Certification Board shall convey to the State Superintendent of Education a recommendation for action by the State Board of Education regarding the status of the unit or the program, as applicable.~~

~~1) In the case of an individual preparation program, the Certification Board shall recommend that the program's approval status be made provisional. If provisional approval is assigned by the State Board of Education, the Certification Board shall review the next annual program report to determine whether the required improvements have been made and the applicable standards are being met. If so, the Certification Board shall notify the State Superintendent that no further action is needed.~~

~~A) If the required improvements have been initiated by the institution and there is a reasonable expectation that the areas of concern will be resolved within the following 12 months, the Certification Board shall recommend continued provisional approval for the program.~~

~~i) The Certification Board shall review the subsequent annual program report to determine whether the applicable standards are being met and shall either notify the State Superintendent that no further action is needed or recommend that the State Board of Education place the program on probation for a specified period not to exceed 12 months.~~

~~ii) If the program is placed on probation, no new candidates may be accepted into it. While the program is on probation, the institution shall submit to the State Superintendent a complete, new program report, with emphasis on the unmet standards. At the end of the probationary period, the State Teacher Certification Board shall recommend either continuing approval of the affected program or revocation of the program's approval, according to whether all applicable standards are being met.~~

~~B) If the institution has not initiated changes that can be expected to address the identified concerns within the following 12 months, the Certification Board shall recommend a specified probationary period for the program not to exceed 12 months. If the State Board of Education places the program on probation, the provisions of subsection (e)(1)(A)(ii) of this Section shall apply.~~

~~2) In the case of an educational unit, the Certification Board shall recommend that conditions be attached to the unit's accreditation and that the provisions of Section 25.125(j)(2) of this Part be made applicable, except that any focused visit would be conducted by a team established by the State Superintendent.~~

~~f) Actions following upon the recommendation of the State Teacher Certification Board shall be as described in Section 25.160 of this Part. Discontinuation of a program pursuant to revocation of its approval shall be subject to the requirements of Section 25.165(b) of this Part.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 25.140 Requirements for the Institution's Educational Unit Assessment Systems

Each educational unit shall be required to establish and maintain an assessment system for collecting and analyzing information on applicants' qualifications, candidates' and graduates' performance, and the unit's operations for the purpose of evaluating and improving the unit and its programs.

a) The assessment system shall describe the unit's design for collecting, analyzing, summarizing, and using information from the assessments of candidates, including measures that provide evidence of candidates' proficiency with respect to professional, State, and institutional standards.

b) The assessment system shall be designed to collect information that enables the unit and its programs to:

1) make decisions about candidates' qualifications and performance at the time of admission to the program, at appropriate transition points (including entry to and exit from clinical practice), and at program completion.

2) demonstrate that admission requirements are related to candidates' success.

3) use the results from assessments of candidates to evaluate and make improvements in the unit and its programs, courses, teaching, and field and clinical experiences.

4) use the results of assessments of unit operations (e.g., faculty evaluations, graduate surveys, employer surveys) to evaluate and make improvements in the unit and its programs, courses, teaching, and field and clinical experiences.

c) The assessment system shall identify the major assessments that are used by the unit and the programs and at what points during the unit's programs these assessments of candidates' performance occur.

d) Each~~At the time of each unit's accreditation review, the~~ unit report submitted pursuant to Section 25.115(i) of this Part shall present the performance data it has collected and analyzed since the submission of its last unit report~~its last review~~, including the results of State certification testing, along with evidence that:

1) The unit's assessment system is being implemented, evaluated, and refined;

2) Performance assessments are being tested for accuracy, consistency, and fairness; and

3) Data on candidates' performance from internal assessments as well as external measurements have been compiled and are being used to improve the unit and its programs.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 25.142 Assessment Requirements for Individual Programs

a) Teacher Preparation Programs
Subject to the provisions of Section 25.720 of this Part, the applicable Assessment of Professional Teaching and the applicable content-area test are key assessments for candidates in teacher preparation programs. Beyond these assessments, each program shall require all candidates to complete at least the following additional key assessments:

1) An additional content assessment focused on program standards;

2) An assessment of candidates' ability to plan instruction;

3) An assessment of clinical practice;~~ and~~

4) An assessment of candidates' impact on students' learning; and~~.~~

5) An assessment of the candidates' dispositions demonstrated, as described in the unit's conceptual framework submitted pursuant to Section 25.145(a) of this Part.

b) Programs for Administrators and School Service Personnel
Subject to the provisions of Section 25.720 of this Part, the applicable content-area test is a key assessment for candidates in programs that prepare administrators and school service personnel. Beyond this assessment, each program shall require all candidates to complete at least the following additional key assessments:

1) An additional content assessment focused on program standards;

2) An assessment of candidates' ability to plan an appropriate environment;

3) An assessment of clinical practice;~~ and~~

4) An assessment of candidates' impact on providing a supportive environment for students' learning; and~~.~~

5) An assessment of the candidates' dispositions demonstrated, as described in the unit's conceptual framework submitted pursuant to Section 25.145(a) of this Part.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 25.145 Approval of New Programs Within Recognized Institutions

The procedures set forth in this Section shall apply to the initial approval of additional educator~~teacher~~ preparation programs established by institutions that are already recognized, including those that have been granted initial recognition.~~, as well as to the approval of programs proposed by consortia. A consortium is a partnership involving two or more teacher education institutions with accredited educational units, or one or more such institutions and one or more not-for-profit organizations in the State which support excellence in teaching and/or one or more school districts. Each consortium shall designate from among its members a recognized institution of higher education whose schedule for Accreditation Reviews shall apply to the consortium's programs also.~~

a) The institution shall submit to the State Superintendent of Education a program proposal~~report~~ meeting the requirements set forth in this subsection (a)~~of Section 25.127(a) of this Part~~, showing how each proposed program meets the applicable professional education and content-area standards established by the State Board of Education.

1) A description of the program's alignment with the unit's conceptual framework.

2) A description of the criteria for admission to, retention in, and exit from the program, including the required grade point average and minimum grade requirements for the institution and how the key assessments used in the program are derived from or informed by the unit's assessment system (see Section 25.140 of this Part).

3) Description about how data on the candidates enrolled in the program and candidates completing the program will be used as part of the assessment system required under Section 25.142 of this Part. If a program is offered at more than one level (i.e., baccalaureate, post-baccalaureate, or graduate, or as an alternative program), data shall be considered separately for each of these arrangements.

4) Identification of the faculty members with primary responsibility for preparing professional educators in the program and their qualifications for their positions.

5) A description of the course of study, including required courses, State standards addressed, and related field experiences or clinical practice as applicable to specified courses.

6) A description of the required field experiences and clinical practice, including criteria, measures taken to ensure placements in diverse settings and with diverse students, and the program's requirements for faculty supervision of these experiences.

7) A description of the key assessments that are required of candidates in the program under Section 25.142 of this Part, including:

A) the specific standards addressed by each assessment that is used to comply with the requirements of Section 25.142(a)(1) through (5) or Section 25.142(b)(1) through (5), as applicable;

B) a summary of findings based on data from all the assessments described under subsection (a)(7)(A) of this Section, from the applicable content-area test identified in Section 25.710 of this Part, and from the Assessment of Professional Teaching, if applicable; and

C) a discussion of how the assessment data demonstrate candidates' mastery of the identified standards.

8) A description of information related to two or three additional assessments that address relevant standards, if inclusion of this information is desired by the unit offering the program.

b) ~~No later than 60 days after the State Superintendent receives a program report, staff shall notify the affected institution as to whether the report is complete and identify any required component not adequately addressed. An institution may provide additional material to complete a program report within 60 days after receiving a notification to the effect that it is incomplete. c) At the institution's request, staff of the State Board of Education shall convey the report to the State Teacher Certification Board. d)~~ After consideration of the proposal~~report~~, the State Teacher Certification Board shall convey to the State Superintendent its recommendation that the State Board of Education:

1) Approve~~Provisionally approve~~ the proposed new educator preparation~~teacher education~~ programs, thereby authorizing the educational unit to conduct the programs and to recommend candidates for certification by entitlement~~ until the time of the institution's next scheduled Accreditation Review~~; or

2) Deny approval of the proposed programs, thereby prohibiting the conduct of the affected programs (a program denied by the State Board of Education will be allowed to resubmit its program proposal for reconsideration at a later time or, after notification of a denial recommendation, a program may withdraw its proposal from consideration within the timelines set forth in Section 25.160(b) of this

Part, at which time no denial action will be taken).

c~~e~~) Actions following upon the recommendation of the State Teacher Certification Board to the State Superintendent of Education shall be as described in Section 25.160 of this Part.

d~~f~~) When a unit submits a proposal for an alternative program under any of Sections 21-5b, 21-5c, and 21-5d of the School Code [105 ILCS 5/21-5b, 21-5c, and 21-5d], that proposal shall not be considered a new program subject to this Section. The review of such a proposal shall be as delineated in Section 25.65, 25.67, or 25.313 of this Part, as applicable.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 25.155 Procedures for the Initial Recognition of an Institution as an Educator Preparation Institution and Its Educational Unit ~~Procedures~~

The procedures set forth in this Section shall apply to initial recognition of an institution and the concurrent recognition~~accreditation~~ of the educational unit. The ~~and~~ approval of the educator~~one or more teacher~~ preparation programs within that institution shall follow the procedures set forth in Section 25.145 of this Part.

a) An institution shall~~may~~ notify the State Board of Education of its desire to initiate the initial recognition~~, accreditation, and program approval~~ process by submitting a letter of intent to the State Superintendent of Education ~~on a form provided by the State Board~~. Within 30 days after receipt of such a notification, the State Superintendent shall respond to the institution, identifying the staff member who will be responsible for assisting the institution and inviting the institution to submit its required materials to that individual.

b) The State Superintendent shall designate a time for a pre-visit or review visit conducted pursuant to subsection (h) of this Section. The institution shall agree:

1) for visits conducted in Illinois, to provide housing (including a work room) for the team chair and State consultant or designee in the case of a pre-visit or for all of the team members specified in subsection (i) of this Section, including the ex officio member, in the case of a review visit; or

2) for visits conducted out of state, provide housing (including a work room), transportation and meals for the team chair and State consultant or designee in the case of a pre-visit or for all of the team members specified in subsection (i) of this Section, including the ex officio member, in the case of a review visit.

c) The institution shall submit to the State Superintendent of Education, in the quantity and format specified by the State Superintendent, a report containing:

1) information indicating that the institution meets the conditions described in Section 25.115(b) and (c)~~(a)~~ of this Part;

2) a written description of the educational unit, including:

A) identification of the unit, its mission, purposes, or goals, its authority and responsibilities for professional education, and its coordination of the institution's various educator~~teacher~~ preparation programs;

B) identification of the dean, chair, or director who is officially designated to represent the educational unit and is assigned the authority and responsibility for its overall administration and operation;

C) a chart of the administrative and organizational structure of the unit;

D) an organizational chart of the institution, indicating the position of the unit and its reporting authority;

E~~C~~) the written policies and procedures which guide the operations of the educational unit;

F~~D~~) the unit's policies for monitoring and evaluating its operations, the quality of its offerings, performance of candidates, and effectiveness of its graduates; and

G~~E~~) the unit's published criteria for admission to and exit from all initial and advanced preparation programs for professional

educators, and provision for summary reports of candidate performance at exit; and

3) a complete description of how the unit will develop the unit's conceptual frameworks that~~and its/their development, which~~ shall address each of the "structural elements" of conceptual frameworks found in the standards referred to in Section 25.115(d)~~(b)~~ of this Part.

d~~e~~) Review of conceptual frameworks for institutions seeking initial recognition shall be conducted as needed~~at least annually, during a time period announced by the State Superintendent of Education,~~ by a panel convened by the State Superintendent. The State Superintendent or designee will provide notice of the review at least 120 days in advance of the date of the review. The~~Each~~ review shall encompass all materials postmarked no later than six months~~60 days~~ prior to the date of the review, if a review date has been set. No later than 30 days after the panel completes its review, the State Board of Education shall notify the institution either that the description of its conceptual frameworks is adequate or that certain structural elements were not adequately addressed.

e~~d~~) If the description of the conceptual frameworks is not found to be adequate, no further review of the institution shall occur unless the institution submits a revised conceptual framework. If the description of the conceptual frameworks is found to be adequate, a review visit pursuant to subsection (h) of this Section shall be scheduled at a time that is mutually agreed upon by the institution and State Superintendent or designee~~no later than the conclusion of the following academic year and for the mutual convenience of the affected institution and the review panel~~.

~~e) With regard to each program for which approval is sought, the institution shall submit to the State Superintendent of Education a program report meeting the requirements of Section 25.127(a) of this Part. An institution shall submit its program reports no later than one year prior to the projected date of its institutional review pursuant to subsection (h) of this Section.~~

f) The State Teacher Certification Board shall consider the program proposal as required under Section 25.145 of this Part at the next meeting in which it considers recognition requests following the review visit pursuant to subsection (h) of this Section.~~A panel established by the State Superintendent shall review the program report of each proposed program. The members of each panel shall~~

~~be chosen from a pool of individuals with expertise in the respective content area.~~

~~1) No later than 30 days after the State Superintendent receives a program report, staff shall notify the affected institution as to whether the report is complete pursuant to Section 25.127(a) of this Part.~~

~~2) An institution may provide additional material to complete a program report within 30 days after receiving a notification to the effect that a report is incomplete.~~

~~3) No later than six months prior to the scheduled date of the visit, the review panel shall notify the affected institution of any applicable standards not addressed in its program report, as well as any deficiencies which, if not improved, will be identified in the panel's critique as areas for improvement.~~

~~4) Within 60 days after receiving the panel's notification under subsection (f)(3) of this Section, the affected institution may submit revisions to a program report that may include descriptions of changes in the program made in response to the critique provided by the panel.~~

~~5) No later than 60 days before the scheduled date of the review visit referred to in this Section, each program review panel shall submit to the affected institution and to the State Superintendent a final critique describing the degree to which the program meets the applicable content standards established by the State Board of Education and recommending action with respect to the proposed program.~~

g) The institution shall submit to the State Superintendent an institutional report incorporating an overview of the institution, an overview of the unit's conceptual frameworks, an overview of the information required under subsection (c) of this Section and evidence that it will meet~~is meeting~~ each of the standards referred to in Section 25.115(d)~~(b)~~ of this Part. This report shall be submitted in a format and quantity prescribed by the State Superintendent of Education.

h) The State Superintendent of Education shall authorize the scheduling of an on-site review visit to the institution at the mutual convenience of the affected institution and the review panel when:

1) its conceptual framework is found to be adequate;

2) the institution has submitted the narrative required under subsection (g) of this Section; and

3) the program proposal required under Section 25.145 of this Part has been submitted~~a panel has reviewed each program report submitted by the institution as required by subsection (f) of this Section and has determined that each report meets the applicable content standards established by the State Board of Education~~.

i) From a pool of individuals who have been trained in the applicable standards and procedures, the State Superintendent shall empanel a team to conduct the~~an on-site~~ review visit to verify the information provided by the institution as required by subsection (g) of this Section. A staff member of the State Board of Education or designee shall accompany the team, serving as a consulting, ex officio member to ensure that applicable standards, procedures, rules, and statutes are addressed. ~~The review team shall conduct the review visit, prepare its draft and final reports, and submit its final report as provided in Section 25.125(e) and (f) of this Part.~~

j) The review team shall prepare a draft report during the review visit, incorporating an overview of the unit and its conceptual frameworks and summarizing information provided by the institution as required by subsection (g) of this Section. The draft report shall be provided to the institution within 30 business days after the conclusion of the visit for the purpose of allowing the institution 30 days to correct any factual errors. The team chair shall review the institution's suggested revisions and make appropriate corrections in consultation with the ex officio consultant who is serving pursuant to subsection (i) of this Section. The final report shall be submitted to the State Superintendent of Education by the team's chair within 30 days after the chair's receipt of the institution's suggested corrections. The State Superintendent shall provide the final report to the institution within ten business days after receiving it.

k) Within 30 days after receipt of the final report, the institution shall submit to the State Superintendent either a letter stating agreement with the report's findings or a rejoinder to those findings~~ meeting the requirements of Section 25.125(g) of this Part~~.

1) The rejoinder must indicate the grounds for disagreement with one or more of the team's findings and include documentation to support the institution's position.

2) All documentation must describe conditions that existed at the time of the review visit. (Changes made by the unit after the visit will not be considered.)

3) All documentation must relate directly to the standards and procedures that applied at the time of the review visit.

l~~k~~) Staff of the State Board of Education shall convey to the State Teacher Certification Board the review team's report, the institution's letter of agreement or rejoinder, a response to that rejoinder provided by the team's chair, and any other relevant documentation that was available to the review team.

m~~l~~) The State Teacher Certification Board, after reviewing all the relevant materials, shall convey its recommendation to the State Superintendent that the State Board of Education:

1) Recognize the institution, recognize~~accredit~~ the educational unit, and approve one or more proposed educator preparation~~teacher education~~ programs, thereby authorizing the educational unit to conduct the approved programs and to recommend candidates for certification by entitlement; or

2) Recognize the institution, recognize~~provisionally accredit~~ the educational unit, and deny approval of~~approve~~ one or more proposed educator preparation~~teacher education~~ programs, thereby authorizing the educational unit to conduct the approved programs and to recommend candidates for certification by entitlement for the approved programs and prohibit the conduct of the proposed programs denied approval. Programs denied approval may resubmit a request for program approval at a later date~~(subject to the requirements of Section 25.125(j)(2) of this Part)~~; or

3) Deny recognition of the institution or recognition~~, accreditation~~ of the affected educational unit, and~~or~~ approval of one or more educator preparation~~teacher education~~ programs, thereby prohibiting the conduct of the proposed programs.

n~~m~~) Actions following upon the recommendation of the State Teacher Certification Board to the State Superintendent of Education shall be as described in Section 25.160 of this Part.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 25.160 Notification of Recommendations; Decisions by State Board of Education

a) The secretary of the State Teacher Certification Board~~State Superintendent of Education~~ shall notify an affected institution in writing not later than 10~~30~~ days after action has been taken of the ~~after receipt of a~~ recommendation from the State Teacher Certification Board pursuant to the provisions of this Subpart C and, except as provided in this subsection (a), shall await the institution's response (see subsection (b) of this Section) prior to forwarding that recommendation to the State Board of Education. The secretary of the State Teacher Certification Board~~State Superintendent~~ shall not await a response from an institution if, as applicable to the nature of the review:

1) the State Teacher Certification Board has recommended the initial recognition of the institution, the initial recognition~~accreditation~~ of its educational unit, and the approval of all of its proposed programs under Section 25.155(m)(1)~~(l)(1)~~ of this Part;

2) the State Teacher Certification Board has recommended continuing the recognition~~accreditation~~ of the educational unit ~~under Section 25.125(j)(1) of this Part~~ and the approval of all the unit's existing preparation programs under Section 25.130(b) or (c)(2)(A)~~25.127(j)(1)~~ of this Part;

3) the State Teacher Certification Board has recommended ~~provisional~~ approval of each proposed new preparation program under Section 25.145(b)(1)~~(d)(1)~~ of this Part; or

4) the State Teacher Certification Board has recommended continuing approval of a preparation program under Section 25.130(b) or (c)(2)(A)~~25.130(e)(1)(A)(ii)~~ of this Part.

b) Within 10~~30~~ days after receipt of written notification from the secretary of the State Teacher Certification Board~~State Superintendent~~, an affected institution may

either submit a notice of objection to the State Teacher Certification Board's recommendation or withdraw its application for approval. The institution's narrative explanation of its objections shall conform to the requirements for rejoinders stated in Section 25.155(k)~~25.125(g)~~ of this Part but may also be based upon an objection to the State Teacher Certification Board's review; this narrative and any supporting documentation shall be submitted to the State Superintendent not later than 30 days after the institution submits its notice of objection.

c) The State Superintendent shall forward to the State Board of Education for consideration at its next available meeting the recommendation made by the State Teacher Certification Board and the institution's narrative explanation~~the institution's presentation~~ of its objections and shall inform the State Teacher Certification Board that these materials have been submitted for the State Board's consideration. The State Board of Education may accept, modify or reverse a recommendation of the State Teacher Certification Board.

d) No more than 30 days after the State Board of Education makes its decision, the State Superintendent shall notify the institution in writing of the State Board's action.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 25.165 Discontinuation of Programs

a) An institution that intends to discontinue an approved program or cease offering preparation programs altogether shall so notify the State Superintendent of Education no later than 30 days prior to taking that action, except that voluntary discontinuation of a program shall also be subject to the following additional requirements:

1) The institution shall assure the State Superintendent that all candidates currently enrolled in any program scheduled for discontinuation will have an opportunity to complete the program.

2) The institution shall supply to the State Superintendent the names and Social Security numbers of all candidates currently enrolled in any program scheduled for discontinuation.

b) When approval of a program or recognition of an educational unit is revoked, the

State Board of Education may require the~~its~~ continued operation of the affected programs for three~~one~~ additional academic years~~year~~ to permit currently enrolled candidates either to complete the program or to seek enrollment in another institution for that purpose. However, if the State Board determines in consultation with the State Teacher Certification Board that the program is unable to offer candidates learning opportunities that contribute to their competence as professional educators, the Board shall require that the program cease operating at the end of the then-current semester. The institution shall supply to the State Superintendent the names, anticipated dates of completion, and Social Security numbers of all candidates currently enrolled in any program whose approval, or the recognition of its educational unit, is revoked.

1) An educational unit that has had its recognition revoked may seek re-approval by completing the processes outlined in Section 25.155 for recognition and in Section 25.145 of this Part for each program for which it seeks approval.

2) A recognized educational unit that has had the approval of one or more of its programs revoked may seek re-approval of the programs by completing the process outlined in Section 25.145 of this Part.

c) A program in which no candidates have been enrolled for a consecutive three-year period shall be considered to have been discontinued. An institution desiring to resume offering such a program shall be required to comply with the requirements for initial approval stated in Section 25.145 of this Part.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART E: REQUIREMENTS FOR THE CERTIFICATION OF ADMINISTRATIVE AND SUPERVISORY STAFF

Section 25.335 General Administrative Endorsement (Through June 30, 2014~~2004~~)

This endorsement is required for principals, assistant principals, assistant or associate superintendents, and staff filling other similar or related positions as indicated in 23 Ill. Adm. Code 1.705. (See also 23 Ill. Adm. Code 29.120.) The requirements of this Section shall apply to the issuance of this endorsement except as otherwise provided in Sections 21-5d and 21-5e of the School Code [105 ILCS 5/21-5d and 5/21-5e] and Sections 25.313 and 25.314 of this Part.

a) Each candidate for the general administrative endorsement shall hold a master's degree or equivalent awarded by a regionally accredited institution of higher education and shall have completed the coursework in educational administration and supervision required by Section 21-7.1(e)(2) of the School Code [105 ILCS 5/21-7.1(e)(2)]. For the purposes of this subsection (a), "equivalent" shall mean the completion of a degree beyond the bachelor's degree level (e.g., juris doctor (J.D.), doctor of philosophy (Ph.D.), doctor of education (Ed.D.)).

b) Each candidate shall have completed either:

1) an Illinois program approved for the preparation of administrators pursuant to Subpart C of this Part; or

2) a comparable approved program in another state or country or hold a comparable certificate issued by another state or country (see Section 25.425 of this Part).

c) Each candidate shall have *two years' full-time teaching or school service personnel experience in public schools, schools under the supervision of the Department of Corrections, schools under the administration of the Department of Human Services, or nonpublic schools recognized by the State Board of Education or meeting comparable out-of-state recognition standards* (Section 21-7.1(e)(2) of the School Code). Beginning with applications submitted on or after February 1, 2012, in order to be acceptable toward fulfillment of this requirement:

1) teaching experience shall have been accrued while the individual held a valid early childhood, elementary, secondary, special K-12, or special preschool-age 21 certificate; and

2) school service personnel experience shall have been accrued while the individual held a valid school service personnel certificate.

d) Each candidate shall be required to pass the applicable content-area test (see Section 25.710 of this Part), as well as the test of basic skills if its passage would be required for receipt of a standard certificate pursuant to Section 25.720(a) of this Part.

e) A candidate who receives the general administrative endorsement on or before June 30, 2014 may continue to be employed in the positions listed in this Section after July 1, 2014. (Also see Section 25.337(c) of this Part.)

f~~e~~) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 25.337 Principal Endorsement (2011)

a) This endorsement is required for principals, assistant principals, assistant or associate superintendents, and staff filling other similar or related positions as indicated in 23 Ill. Adm. Code 1.705. (See also 23 Ill. Adm. Code 29.120.)

b) A principal endorsement shall be affixed to an administrative certificate provided that the candidate successfully completes each of the requirements specified in 23 Ill. Adm. Code 30 (Programs for the Preparation of Principals in Illinois).

c) An individual holding a general administrative endorsement issued pursuant to Section 25.335 of this Part may have that endorsement converted to a principal endorsement in accordance with the process set forth in Section 21-7.6 of the School Code [105 ILCS 5/21-7.6].

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 25.345 Chief School Business Official (2004)

This endorsement is required for chief school business officials. (See also 23 Ill. Adm. Code 29.110.)

a) Each candidate for the chief school business official's endorsement shall hold a master's degree or equivalent awarded by a regionally accredited institution of higher education. For the purposes of this subsection (a), "equivalent" shall mean the completion of a degree beyond the bachelor's degree level (e.g., juris doctor (J.D.), doctor of philosophy (Ph.D.), doctor of education (Ed.D.)).

b) Each candidate, other than a candidate whose master's degree was earned in *business administration, finance, or accounting* (Section 21-7.1(e)(3) of the School Code [105 ILCS 5/21-7.1(e)(3)]), shall:

1) have completed an Illinois program approved for the preparation of school business officials pursuant to Subpart C of this Part or a comparable approved program in another state or country or hold a comparable certificate issued by another state or country (see Section 25.425 of this Part); and

2) have *two years' administrative experience in school business management* (Section 21-7.1(e)(3) of the School Code).

c) Each candidate whose master's degree was earned in *business administration, finance, or accounting shall complete an internship in school business management equivalent to six semester hours* (Section 21-7.1(e)(3) of the School Code) that is conducted under the supervision of an instructor who holds a current Illinois endorsement for chief school business official.

d) Each candidate shall be required to pass the applicable content-area test (see Section 25.710 of this Part), as well as the test of basic skills if its passage would be required for receipt of a standard certificate pursuant to Section 25.720(a) of this Part.

e~~d~~) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 25.360 Superintendent (2004)

This endorsement is required of school district superintendents. (See also 23 Ill. Adm. Code 29.130.)

a) Each candidate for the superintendent's endorsement shall hold a master's degree or equivalent awarded by a regionally accredited institution of higher education. For the purposes of this subsection (a), "equivalent" shall mean the completion of a degree beyond the bachelor's degree level (e.g., juris doctor (J.D.), doctor of philosophy (Ph.D.), doctor of education (Ed.D.)).

b) Each candidate shall have completed an Illinois program approved for the preparation of superintendents pursuant to Subpart C of this Part or a comparable approved program in another state or country or hold a comparable certificate issued by another state or country (see Section 25.425 of this Part).

c) Each candidate shall have *at least two years' full-time administrative or supervisory experience in schools* on a general supervisory, general administrative, director of special education, chief school business official or all-grade supervisory endorsement on an administrative certificate, or a comparable out-of-state credential. (See Section 21-7.1(e)(4) of the School Code [105 ILCS 5/21-7.1(e)(4)]; the superintendent's endorsement shall not be issued as an individual's first endorsement on the administrative certificate unless issued on the basis of a comparable out-of-state credential.) Experience as a dean of students shall count toward fulfillment of this requirement only for time when the individual had authority for, and performed administrative functions such as, evaluation of certified staff or suspension of students.

d) Each candidate shall be required to pass the applicable content-area test (see Section 25.710 of this Part), as well as the test of basic skills if its passage would be required for receipt of a standard certificate pursuant to Section 25.720(a) of this Part.

e) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART H: CLINICAL EXPERIENCES

Section 25.610 Definitions

"Clinical Experiences". That part of the professional preparation program enabling candidates preparing for certificated roles to acquire practical experience along with theoretical knowledge prior to entering into the full responsibilities of the role for which they are seeking certification. These practical and structured experiences include pre-student teaching field experiences and student teaching and insure gradual and sequential introduction to, and eventual assumption of, the full range of experiences associated with a certificated role. At appropriate times

the candidate shall demonstrate mastery of skills and techniques necessary for effective performance as a beginning practitioner and to enable evaluation by qualified personnel. The sequence of experiences brings the candidate into contact with a variety of populations and educational situations, including public school settings, encountered by practitioners.

"Clinical Practice". Student teaching or internships that provide candidates with an intensive and extensive culminating activity. Candidates are immersed in the learning community and are provided opportunities to develop and demonstrate competence in the professional roles for which they are preparing.

"College Supervisor". That person employed by the institution of higher education to supervise candidates engaged in clinical experiences.

"Cooperating Teacher". That person employed by a school district directly engaged in teaching pupils in a school and who is immediately responsible for a student engaged in clinical experiences.

"Directed Observation". A clinical experience involving observation of practitioners working under the direction of representatives of schools or educator preparation~~teacher education~~ institutions. This experience is planned, guided and evaluated by a mentor or supervisor and can occur in a variety of educational settings and situations.

"Dispositions". Professional attitudes, values and beliefs demonstrated through both verbal and nonverbal behaviors as educators interact with students, families, colleagues and communities.

"Field Experiences". A variety of early and ongoing field-based opportunities in which candidates may observe, assist, tutor, instruct, and/or conduct research. Field experiences may occur in off-campus settings such as schools, community centers, or homeless shelters.

"Intern Supervisor". That person employed by a school district directly engaged in school service personnel work in a school building and who is immediately responsible for a school service personnel intern.

"Internship". A sustained, continuous, structured and supervised experience lasting for a substantial period of time in which the candidate engages in

performance of various aspects of the role and is gradually introduced to the full range of responsibilities associated with the role. Internships take place in all types of situations and settings. The use of internship is usually restricted to school service personnel and administrative programs.

"Practicum". A type of clinical experience characterized by intensive work with students, in a group or one on one, which is carefully designed as part of an approved program; is supervised by a designated representative of the institution offering the program; and provides evidence that the candidate for the endorsement is able to apply the knowledge and skills relevant to that endorsement area.

"Student Teaching". A form of internship established by Illinois statute calling for close and competent supervision. It entails preparation for full responsibility in an instructional setting. In the course of the experience, the candidate shall demonstrate mastery of skills and techniques including, but not limited to, planning, organization, evaluation, parent relations and competence in subject matter areas. The experience is carried out under diligent and systematic supervision by college and local school personnel. (Student teaching is referred to as "clinical practice" by NCATE.)

"Supervised Participation". A wide range of experiences in which the candidate assists or engages in purposeful interaction with students and school personnel under the guidance and evaluation of qualified personnel. These experiences are carried out under continuous supervision by appropriate personnel who can appropriately modify the candidate's behavior.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART J: RENEWAL OF STANDARD AND MASTER TEACHING CERTIFICATES

Section 25.875 Continuing Professional Development Units (CPDUs)

The number of CPDUs to be awarded for completion of specific activities and the required evidence of completion for each shall be as set forth in this Section.

a) *Participation on collaborative planning and professional improvement teams and committees* [105 ILCS 5/21-14(e)(3)(E)(i)]

1) Definition: Attendance at and participation in no fewer than two-thirds of the meetings of a group whose function is planning for professional development activities that will benefit groups of teachers and/or the school.

2) Credit: Five CPDUs shall be credited per semester in which the individual attends three to five meetings; eight CPDUs shall be credited per semester in which the individual attends six or more meetings.

3) Evidence of Completion: Written description of the purpose and intended product of the team or committee; a record of the team's meetings demonstrating the member's attendance; and the plan, activity description, or other product that results from the group's work.

b) *Peer review and coaching* [105 ILCS 5/21-14(e)(3)(E)(ii)]

1) Definitions

A) Peer review: A process of one-on-one assistance between pairs of teachers that is formally established by agreement between a school district and its teachers or their exclusive representative, in which the participants establish specific goals for the teacher being reviewed and conduct a program of intervention to assist that teacher with particular aspects of his or her teaching that includes observation and assessment of the teacher's performance in sessions lasting at least 20 minutes each, discussion of the observations made by the reviewing teacher, and preparation of a written summary by the reviewing teacher.

B) Peer coaching: A process of one-on-one assistance between pairs of teachers, whether by formal arrangement under the auspices of the employing district or by mutual agreement, in which the participants observe each other's teaching and discuss the observations made.

2) Credit: For peer review, nine CPDUs shall be credited per semester in which there are three to five observations; 11 CPDUs shall be credited per semester in which there are six or more observations. For peer coaching, five CPDUs shall be credited per semester in which there are three to five

observations; eight CPDUs shall be credited per semester in which there are six or more observations.

3) Evidence of Completion

A) For peer review: The school's, district's, or exclusive representative's written program description or policy; a record of the certificate-holder's assignment and observation schedule; and a log of the observation sessions and other meetings, indicating the time spent, dates, and topics of discussion.

B) For peer coaching: A log of the observation sessions and other meetings, indicating the time spent, dates, and topics of discussion.

c) *Mentoring in a formal program, including service as a consulting teacher participating in a remediation process formulated under Section 24A-5 of the School Code* [105 ILCS 5/24A-5] [105 ILCS 5/21-14(e)(3)(E)(iii)]

1) Definitions

A) For a mentor: A formally established sequence of sessions lasting no less than one quarter of a school year and involving preparation with the recipient teacher prior to observing that teacher in the classroom; observations; and provision of feedback, suggestions, and techniques to the recipient teacher in response to each period of observation.

B) For a consulting teacher: Participation in the remediation process, involving assistance in the development of a remediation plan, provision of advice to the teacher under remediation; and

i) meetings lasting at least 20 minutes each with the remediating teacher to discuss how to improve teaching skills and successfully complete the remediation plan, to review lesson plans, to conduct demonstrations, or to provide feedback on observations conducted by an administrator; or

ii) meetings of the same length with an administrator or other

personnel to discuss the remediating teacher's progress or classroom observation; or

iii) classroom observation of the remediating teacher, including preparation with the remediating teacher prior to the observation and provision of feedback, suggestions, and techniques to the remediating teacher in response to each period of observation.

C) For a recipient or remediating teacher: A formally established sequence of sessions lasting no less than one quarter of a school year and involving consultation with the mentor or consulting teacher in preparation for the lessons to be observed; teaching under observation of the mentor or consulting teacher; and interaction with the mentor or consulting teacher after each such teaching session to reflect upon the teaching and learning, receive feedback, discuss alternatives and suggestions, and determine how this information will be integrated into the teacher's future work.

2) Credit

A) For a mentor or for a recipient or remediating teacher: Nine CPDUs shall be credited for a semester in which there are three to five observations; 11 CPDUs shall be credited for a semester in which there are six or more observations.

B) For a consulting teacher: Six CPDUs shall be credited for a semester in which there are three to five meetings; eight CPDUs shall be credited for a semester in which there are six or more meetings; nine CPDUs shall be credited for a semester in which there are three to five meetings and one or more observations; 11 CPDUs shall be credited for a semester in which there are six or more meetings and one or more observations.

3) Evidence of Completion

A) For a mentor or for a recipient or remediating teacher: The school's, district's, or institution's written description of its mentoring program or remediation process, including the required

number and length of cycles of interaction; and a log of the observation sessions and other meetings, indicating the time spent, dates, and topics of discussion.

B) For a consulting teacher: The district's written description of its remediation process; a record of assignment as a consulting teacher; and a log of the observation sessions and other meetings, indicating the time spent, dates, and topics of discussion.

d) *Participating in site-based management or decision-making teams, relevant committees, boards, or task forces related to school improvement plans* [105 ILCS 5/21-14(e)(3)(E)(iv)]

1) Definition: Attendance at and participation in no fewer than two-thirds of the meetings of a group whose function is formulating recommendations or plans related to budgeting or resource allocation, textbook choice, curriculum modification, scheduling, or other aspects of school operations related to issues noted in the school improvement plan.

2) Credit: Eight CPDUs shall be credited per semester in which the individual attends three to five meetings; 11 CPDUs shall be credited per semester in which the individual attends six or more meetings.

3) Evidence of Completion: A written description of the purpose and intended product of the team or committee; a record of the team's meetings; and a copy of the product or recommendation developed by the team or committee.

e) *Coordinating community resources in schools, if the project is a specific goal of the school improvement plan* [105 ILCS 5/21-14(e)(3)(E)(v)]

1) Definition: Working with representatives of community agencies to structure or facilitate their interaction with the school's or district's staff or students for the purpose of meeting one or more needs identified in the school improvement plan; must include more than the class(es) directly taught by the certificate-holder.

2) Credit: Four CPDUs shall be credited per semester of service, or two CPDUs per quarter.

3) Evidence of Completion: The excerpt from the school improvement plan highlighting the needs~~need(s)~~ being met; a written statement prepared by the certificate-holder indicating the purpose or desired outcome of the external entities' involvement; and a statement signed by the district administrator or designee responsible for corroborating the individual's assignment to or performance of this function.

f) *Facilitating parent education programs for a school, school district, or regional office of education directly related to student achievement or the school improvement plan* [105 ILCS 5/21-14(e)(3)(E)(vi)]

1) Definitions

A) Arranging for or coordinating presentations in the context of a formally established program consisting of two or more sessions and designed to serve parents of the students in a particular school or district by informing or training them in one or more areas related either to their children's achievement or to another need identified in a school improvement plan.

B) Delivering presentations in the context of a formally established program consisting of two or more sessions and designed to serve parents of the students in a particular school or district by informing or training them in one or more areas related either to their children's achievement or to another need identified in a school improvement plan (to the extent that such presentations are not part of the instruction routinely delivered as a function of the certificate-holder's assignment).

2) Credit: For facilitating a program, four CPDUs shall be credited per semester, or two per quarter. For making presentations, eight CPDUs shall be credited per semester, or four per quarter.

3) Evidence of Completion

A) For coordinating: The sponsoring entity's written description of the parent education program and a statement signed by the administrator or designee responsible for corroborating the

individual's assignment as facilitator or coordinator or indicating that he or she performed these duties.

B) For making presentations: The written program description indicating that the certificate-holder served as a presenter in the program.

g) *Participating in business, school, or community partnerships directly related to student achievement or school improvement plans* [105 ILCS 5/21-14(e)(3)(E)(vii)]

1) Definition: Formal or informal exchange of information and resources between a teacher and a business, educational institution, or other entity for the purpose of improving student achievement or responding to a need identified in the school improvement plan.

2) Credit: Five CPDUs shall be credited per semester in which the individual attends three to five meetings; eight CPDUs shall be credited per semester in which the individual attends six or more meetings.

3) Evidence of Completion: A written description of the partnership that states its goals, identifies the needs~~need(s)~~ it is designed to meet, and describes the activities conducted by the certificate-holder; and a copy of the relevant portion of the school improvement plan that includes the specific needs~~need(s)~~ identified.

h) *Supervising a student teacher or teacher education candidate in clinical supervision, provided that the supervision may only be counted once during the course of 5 years* [105 ILCS 5/21-14(e)(3)(E)(viii)]

1) Definitions

A) Service (as determined by the educator~~teacher~~ preparation institution in conformance with Section 25.620 of this Part) as a supervising teacher for a student teacher or a teaching candidate in clinical supervision who is enrolled in an approved teacher preparation program.

B) Provision of at least 40 hours of supervisory service connected

with the pre-student-teaching practicum to one or more candidates who are enrolled in an approved educator~~teacher~~ preparation program.

2) Credit: Thirty CPDUs shall be credited for supervising a student teacher or a teaching candidate in clinical supervision; 12 CPDUs shall be credited for supervising one or more candidates in pre-student-teaching clinical experience. Each of these types of supervision may be counted once during the course of five years.

3) Evidence of Completion: The written agreement between the school district and educator~~teacher~~ preparation institution naming the certificate-holder as a supervising teacher for candidates of that institution; and, for supervision of candidates in pre-student-teaching clinical experience, a log showing the dates and times of service and the names of the candidates involved.

i) *Completing undergraduate or graduate credit earned from a regionally accredited institution in coursework relevant to the certificate area being renewed, including coursework that incorporates induction activities and development of a portfolio of both student and teacher work that provides experience in reflective practices, provided the coursework meets Illinois professional teaching standards or Illinois content-area standards and supports the essential characteristics of quality professional development* [105 ILCS 5/21-14(e)(3)(F)(i)]

1) Fifteen CPDUs shall be credited for each semester hour of successfully completed college or university coursework that is related to an individual's certificates~~certificate(s)~~ and addresses the standards set forth in Subpart B of this Part relative to the certificate-holder's fields~~field(s)~~ of teaching or assignment.

2) Evidence of Completion: A grade report or official transcript issued by the institution indicating that the certificate-holder has passed the course.

j) *Teaching college or university courses in areas relevant to the certificate area being renewed, provided that the teaching may only be counted once during the course of 5 years* [105 ILCS 5/21-14(e)(3)(F)(ii)]

1) Definition: Teaching a college-level course in a field that is related to an individual's certificates~~certificate(s)~~ and results in the granting of college credit to those enrolled.

2) Credit: Twenty CPDUs shall be awarded for teaching a college course. A course shall be considered "the same" if its description is the same in different course catalogues issued by the same institution or, for a course offered at more than one institution, if the syllabus for the course is substantially the same. A course shall not be considered the same as another course if a student may receive credit for successfully completing both. In cases where two courses appear similar, the certificate-holder wishing to claim CPDUs for both shall be required to demonstrate how the two differ.

3) Evidence of Completion: A course syllabus, signed contract or agreement, or other documentation prepared by the college or university that identifies the certificate-holder as the teacher of a particular course.

k) *Completing non-university credit directly related to student achievement, school improvement plans, or State priorities* [105 ILCS 5/21-14(e)(3)(G)(i)]; *participating in or presenting at workshops, seminars, conferences, institutes, and symposiums* [105 ILCS 5/21-14(e)(3)(G)(ii)]

1) Definitions

A) Attendance at and participation in a conference, workshop, institute, seminar, symposium, or other similar training event that is organized by an entity approved pursuant to Section 25.855 or Section 25.860 of this Part and addresses educational concerns.

B) Making a presentation at a conference, workshop, institute, seminar, symposium, or other similar event whose goal is the improvement of teaching skills and knowledge.

2) Credit: One CPDU shall be credited for each hour of a certificate-holder's attendance or participation. Eight CPDUs shall be credited for an individual's first presentation of a given topic; three CPDUs shall be credited for a subsequent presentation of the same topic.

3) Evidence of Completion

A) For attendance: The standard form issued by the provider at the conclusion of the session or event pursuant to Section 25.865 of this Part.

B) For presentation: The program prepared by the entity sponsoring or conducting the event, identifying the certificate-holder as presenter in a topic area relevant to his or her certification or teaching assignment.

l) *Training as external reviewers for quality assurance* [105 ILCS 5/21-14(e)(3)(G)(iii)]

1) Definition: Participation in a complete training sequence regarding the quality assurance process used by the State Board of Education pursuant to the Board's rules for Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1).

2) Credit: Ten CPDUs shall be credited for the first instance of an individual's participation. Five CPDUs shall be awarded for completion of one additional training sequence within any one period of a certificate's validity.

3) Evidence of Completion: A certificate issued by the State Board.

m) *Training as reviewers of university teacher preparation programs* [105 ILCS 5/21-14(e)(3)(G)(iv)]

1) Definition: Participation in a complete training sequence regarding the process used by the State Board of Education in approving educator~~teacher~~ preparation programs or recognizing educator~~accrediting teacher~~ preparation institutions pursuant to Subpart C of this Part.

2) Credit: Ten CPDUs shall be credited for the first instance of an individual's participation. Five CPDUs shall be awarded for completion of one additional training sequence within any one period of a certificate's validity.

3) Evidence of Completion: A certificate issued by the State Board.

n) *Participating in action research and inquiry projects* [105 ILCS 5/21-14(e)(3)(H)(i)]

1) Definition: Conducting a teacher-developed study at least one quarter of the school year in length that is based upon a written protocol identifying the aspect of education that will be investigated, the approach to be used, and the desired or expected outcome of the project.

2) Credit: Eight CPDUs per semester shall be credited for a project involving the certificate-holder's own classes~~class(es)~~; 11 CPDUs per semester shall be credited for a project involving or affecting classes other than or in addition to the certificate-holder's own classes~~class(es)~~.

3) Evidence of Completion: The written protocol and a written summary of the inquiry and its results that describes what the certificate-holder has learned and identifies the implications of the experience for the individual's future teaching.

o) *Observing programs or teaching in schools, related businesses, or industry that is systematic, purposeful, and relevant to certificate renewal* [105 ILCS 5/21-14(e)(3)(H)(ii)]

1) Definition: Engaging in a series of observations, either of teaching performed by others or of work activity directly related to the certificate-holder's areas~~area(s)~~ of certification.

2) Credit: Five CPDUs shall be credited per semester, or 2.5 CPDUs per quarter.

3) Evidence of Completion: A description of the observations prepared by the certificate-holder, including work to be observed, the purpose for which the observations were to be conducted, the frequency and length of the periods of observation, what was learned, and how the information will be used in the individual's future teaching.

p) *Traveling related to one's teaching assignment, directly related to student achievement or school improvement plans and approved by the responsible*

LPDC, if any, or, if no LPDC is responsible, by the regional superintendent or his or her designee at least 30 days prior to the travel experience, provided that the traveling shall not include time spent commuting to destinations where the learning experience will occur [105 ILCS 5/21-14(e)(3)(H)(iii)]

1) Definition: Travel lasting no less than three consecutive, full days, that has been approved based on a plan submitted by the certificate-holder. The plan shall identify the activities or aspects of the travel that will contribute to his or her professional development and describe what is to be accomplished through the travel experience. (Approval by the LPDC or the regional superintendent, as applicable, shall be understood to mean that CPDUs will be awarded if the planned travel is completed.)

2) Credit: Twelve CPDUs shall be awarded per year in which the certificate-holder engages in an episode of qualifying travel, except that 15 CPDUs shall be awarded per year in which a certificate-holder who is a teacher of a foreign language engages in an episode of qualifying travel to a destination where the foreign language he or she teaches is commonly spoken in public. If a certificate-holder engages in additional episodes of qualifying travel in a year in which he or she has been awarded the maximum number of CPDUs per year for qualifying travel, he or she may carry over and claim such travel in a subsequent year, provided that the certificate-holder may not exceed the maximum number of CPDUs allowable per year for qualifying travel.

3) Evidence of Completion: The travel itinerary and a written journal prepared by the certificate-holder that summarizes the experience and reflects on how he or she plans to use what was learned in the context of his or her teaching.

q) *Participating in study groups related to student achievement or school improvement plans* [105 ILCS 5/21-14(e)(3)(H)(iv)]

1) Definition: Attendance at and participation in no fewer than two-thirds of the meetings of a group that investigates one or more aspects of education in a series of regular, structured, collaborative interactions with a view to improving the members' practice or related outcomes among their students.

2) Credit: Six CPDUs shall be credited per semester in which the individual attends three to five meetings; eight CPDUs shall be credited per semester in which the individual attends six or more meetings.

3) Evidence of Completion: A written statement of purpose for the group; a list of the group's members; and summaries of the meetings showing attendance by the certificate-holder.

r) *Serving on a statewide education-related committee, including but not limited to the State Teacher Certification Board, State Board of Education Strategic Agenda Teams, or the State Advisory Council on Education of Children with Disabilities* [105 ILCS 5/21-14(e)(3)(H)(v)]

1) Definition: Attendance at and participation in no fewer than two-thirds of the meetings of any such body.

2) Credit: Fifteen CPDUs shall be credited per year of qualifying service, or 7.5 CPDUs per semester.

3) Evidence of Completion: Minutes of the group demonstrating the individual's attendance during the period for which CPDUs are claimed. If submission of minutes would breach confidentiality, a record of attendance shall be sufficient.

s) *Participating in work/learn programs or internships* [105 ILCS 5/21-14(e)(3)(H)(vi)]

1) Definition: Participation in a structured program that pairs the certificate-holder with an employer or other entity under whose auspices the certificate-holder can acquire knowledge or skills for use in his or her future teaching or position.

2) Credit: Five CPDUs per semester shall be credited for one through ten contact hours (or 2.5 CPDUs per quarter for five or fewer contact hours); eight CPDUs per semester shall be credited for 11 through 20 contact hours (or four CPDUs per quarter for 5.5 through ten contact hours); and 11 CPDUs per semester shall be credited for 21 or more contact hours (or 5.5 CPDUs per quarter for more than ten contact hours).

3) Evidence of Completion: A signed letter from the employer or other entity verifying the nature of the program or internship and stating the length and frequency of the certificate-holder's direct contact with other individuals from whose knowledge or experience he or she was to benefit.

t) *Developing a portfolio of student and teacher work* [105 ILCS 5/21-14(e)(3)(H)(vii)]

1) Definition: Preparation of at least five portfolio "artifacts" or "entries", each of which relates to a different assignment and consists of:

A) samples of at least three students' work that responds to the specified assignment; and

B) a written analysis prepared by the certificate-holder that describes:

i) the assignment to which the work responds and the teacher's goals~~goal(s)~~ for that assignment;

ii) the instructional strategies and materials used and the reasons for their selection;

iii) what the students' work reveals about whether the teacher's goals~~goal(s)~~ for the assignment were met; and

iv) the successful and less-than-successful elements of the assignment and changes the teacher might make in the assignment or in his or her teaching in order to reach the specified instructional goals~~goal(s)~~.

2) Credit: 15 CPDUs.

3) Evidence of Completion: The materials referred to in subsection (t)(1) of this Section.

u) *Participating in curriculum development or assessment activities at the school, school district, regional office of education, State, or national level* [105 ILCS 5/21-14(e)(3)(I)(i)]

1) Definition: Assisting in the planning, development, or refinement of curriculum or assessments, or in their alignment with applicable standards. The activity must be one sanctioned or structured either by the employing school or district or by a statewide, national, or international educational agency or organization. Requires participation in no fewer than two-thirds of the group's working sessions.

2) Credit: Eight CPDUs shall be credited per semester in which the individual attends five or fewer meetings (or four CPDUs per quarter for three meetings); 11 CPDUs shall be credited per semester in which the individual attends six or more meetings (or 5.5 CPDUs per quarter for more than three meetings).

3) Evidence of Completion: Membership list and meeting summaries showing the certificate-holder's presence and participation; and the product of the group's work, such as a curriculum guide or new assessment.

v) *Participating in team or department leadership in a school or school district* [105 ILCS 5/21-14(e)(3)(I)(ii)]

1) Definition: Service in a position of leadership established by a school or district as part of its formal structure and lasting no less than one semester; limited to those activities that relate to instruction in the area of assignment; shall not include tasks unrelated to teaching knowledge, skills, performance, or competence.

2) Credit: Five CPDUs shall be awarded per semester of service.

3) Evidence of Completion: A job description or other document created by the district or the administrator responsible for assigning a leadership role to the incumbent that is specific in terms of the responsibilities to be carried out within particular periods of time relative to the instructional goals of the department, school, or district.

w) *Participating on external or internal school or school district review teams* [105 ILCS 5/21-14(e)(3)(I)(iii)]

1) Definitions

A) Participating as an external or internal reviewer in a complete cycle of the quality assurance process used by the State Board of Education pursuant to the Board's rules for Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1).

B) ~~Participating on a program review panel convened pursuant to Section 25.127(b)(4) of this Part with respect to the approval of a teacher preparation program. C)~~Participating on a review team convened pursuant to Section 25.155(i)~~25.125(d)~~ of this Part with respect to the initial recognition~~accreditation~~ of an institution of higher education and its approval to provide educator~~teacher~~ preparation programs.

2) Credit: Fifteen CPDUs shall be credited for an external quality review visit, for service on a program review panel, or for service on an institutional review team, provided that each of these types of activities shall be credited no more than once per semester. Eight CPDUs shall be credited per semester of service on a school's internal quality review team, or four CPDUs per quarter.

3) Evidence of Completion: Documentation of the individual's assignment by State Board staff (for an external review team, program review panel, or institutional review team) or by a school district administrator (for an internal review team); and a statement signed by the team's chair or convenor verifying the certificate-holder's participation for the duration of the process.

x) *Publishing educational articles, columns, or books relevant to the certificate area being renewed* [105 ILCS 5/21-14(e)(3)(I)(iv)]

1) Definition: Writing about educational research, experiences, issues, approaches, systems, or another topic that is related to the effective practice of teaching.

2) Credit: Forty CPDUs shall be credited for writing a book that is technical or research-based; 20 CPDUs shall be credited for writing a book of any other type. Fifteen CPDUs shall be credited for writing one or more chapters of a book or for writing an article published in a refereed journal.

Eight CPDUs shall be credited for writing a column published at the statewide level. Five CPDUs shall be credited for writing a column published at the local level. In cases of multiple authorship, the CPDUs earned shall be divided among the authors as they agree, provided that no more than 100 percent of the available CPDUs shall be credited for any item published.

3) Evidence of Completion: A copy of each item published, showing the date, publication, and publisher. In the case of an artistic work or other creative endeavor such as development of a curriculum unit or software package, the copyright shall serve as the evidence of "publication".

y) *Participating in non-strike-related professional association or labor organization service or activities related to professional development* [105 ILCS 5/21-14(e)(3)(I)(v)]

1) Definition: Service on local professional development committees, regional professional development review committees (including service by certificate-holders in districts without exclusive representatives), or other bodies constituted by professional associations or labor organizations for specified purposes related to the profession of teaching. Requires formal selection by the organization. Examples include positions on committees planning for or formulating educational or professional policies, standards and structures. Activities related to the operations or functioning of the professional association or labor organization shall not be eligible.

2) Credit: Eight CPDUs shall be credited per semester in which the individual attends three to five meetings; 11 CPDUs shall be credited per semester in which the individual attends six or more meetings.

3) Evidence of Completion: A written description of the position or activity; if the purpose of the activity includes the preparation of a tangible product, a copy of that product.

z) Other
Continuing professional development units shall be available for activities not enumerated in subsections (a) through (y) of this Section based upon written evidence maintained by the certificate-holder that:

1) describes the activity and its purpose, intensity, duration, and outcomes;

2) discusses how the activity related to the improvement of the certificate-holder's knowledge and skills;

3) identifies which of the activities enumerated in subsections (a) through (y) of this Section the claimed activity most closely resembles (e.g., auditing a college course is most similar to attendance at a workshop or seminar under subsection (k) of this Section); and

4) proposes a number of CPDUs that is commensurate with the value assigned to the activity identified pursuant to subsection (z)(3) of this Section.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Rates To Be Charged By Official Testing Stations For School Buses

2) Code Citation: 92 Ill. Adm. Code 446

3)

Section Numbers:	Proposed Action:
446.102	Amend
446.103	Amend
446.104	Amend
446.106	Amend
446.302	Amend
446.306	Amend
446.402	Amend
446.502	Amend
446.602	Amend

4) Statutory Authority: Implementing Sections 6-410 and 13-106 of the Illinois Vehicle Code [625 ILCS 5/6-410 and 13-106] and Section 2705-125 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-125] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625] and Section 5-25 of the Illinois Administrative Procedure Act [5 ILCS 100/5-25]

5) A complete description of the subjects and issues involved: By this Notice, the Department is proposing to increase the base rates that Official Testing Stations (Stations) charge, as required by Section 13-106 of the Illinois Vehicle Inspection Law, to inspect a school bus. Under the current rule, when a new Station opens, the owner must charge the rate prescribed under Section 446.402, Rates or Charges, or request a hearing for a rate increase to allow the owner to charge the prevailing rates for the same or similar tests made in the community where the Station is located. Since the base rates in Section 446.402 are out-of-date and no longer "just and reasonable," the cost of doing business has risen over the years, and the hearing process delays the Station owner's ability to increase the base rate during that timeframe when the hearing proceedings and the subsequent paperwork are finalized (thus creating an economic burden on new Stations and Stations that are small businesses), the rule must be updated.

As prescribed in Section 13-106 of the Illinois Vehicle Inspection Law, *a "just and reasonable" rate or charge means a rate or charge which is the same, or nearly the same, as the prevailing rate or charge for the same or similar tests made in the community where the station is located.*

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

The Department calculated the new proposed base rates by comparing the minimum base rates in Section 446.402 with the prevailing rates being charged by Stations. The Department calculated the percentage increase in the rates, where a percentage increase occurred. The percentages were then averaged and that average was added to the rates in Section 446.402 to determine what the new proposed base rates should be. The new proposed base rates were then rounded to the nearest 50 cents so the rates will be easier for the Stations to calculate.

Following are summaries of the significant changes to the Part:

At **Section 446.104, Definitions,** the Department is proposing to update statutory language and citations; amend existing definitions; and add new definitions.

At **Section 446.402, Rates or Charges,** the Department is proposing to increase the base inspection rates Stations charge to perform safety tests on school buses.

At Section **446.502(a)**, **Notice and Place of Hearing,** the Department is proposing to delete language that restricts the hearing location to specific counties. A hearing can now be presided over via video conference at either the Department's Schaumburg or Springfield office or at another location designated by the Department. The Department is also proposing at subsection (b), to delete the requirement concerning publication in the newspaper of a notice of petition for rate change because the Department has determined that publication is cost-prohibitive and, also, because no one other than the Station requesting the rate change has ever appeared to testify or object to a rate change.

Finally, at **Sections 446.102, 446.103(a), 446.106(a), 446.302(a) and (b), 446.306(b),** and **446.602(a),** the Department's address is being amended to reflect the Division of Traffic Safety's new address. The street address is being updated but the post office box number will remain the same.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

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

11) Statement of Statewide Policy Objectives: This rulemaking may affect units of local government that own or operate school buses.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning these proposed amendments. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
1340 North 9th Street
P.O. Box 19212
Springfield, Illinois 62794-9212

217/785-3031

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 317
Springfield, Illinois 62764

217/524-3838

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

A) Types of small businesses affected: This rulemaking affects small businesses that own or operate school buses in Illinois. This rulemaking will also affect Illinois Official Testing Stations that inspect school buses in Illinois.

B) Reporting, bookkeeping or other procedures required for compliance: Station owners will calculate the rates to be charged for a school bus inspection, in compliance with this Part.

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

14) Regulatory Agenda on which this rulemaking was summarized: January 2010

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

PART 446
RATES TO BE CHARGED BY OFFICIAL TESTING
STATIONS FOR SCHOOL BUSES

SUBPART A: RULES OF GENERAL APPLICABILITY

Section
446.101 General Information
446.102 Information; Special Instructions
446.103 Communications and Pleadings
446.104 Definitions
446.105 Rules of Construction
446.106 Regulatory Dockets
446.107 Appearances

SUBPART B: DOCUMENT SPECIFICATIONS GENERALLY

Section
446.201 Typographical Specifications
446.202 Copies
446.203 Time
446.204 Service

SUBPART C: RULES FOR FILING AND APPROVAL OF RATES AND CHARGES

Section
446.301 General Requirements
446.302 Application for Rate Approval
446.303 Initial Application Review
446.304 Processing of Application
446.305 Withdrawal
446.306 Application for Rate Change
446.307 Appeal

SUBPART D: LEVEL OF RATES OR CHARGES

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

Section
446.401 General Requirements
446.402 Rates or Charges
446.403 Enforcement

SUBPART E: HEARINGS ON PETITIONS FOR APPROVAL OF DISALLOWED RATES AND APPEALS

Section
446.501 Request for Hearing
446.502 Notice and Place of Hearing
446.503 Hearings
446.504 Presiding Officer's Decision
446.505 Appeal

SUBPART F: COMPLAINTS OF UNREASONABLE OR UNJUST RATES

Section
446.601 Notice
446.602 Complaints
446.603 Reply
446.604 Request for Hearing
446.605 Hearing
446.606 Presiding Officer's Decision
446.607 Appeal

SUBPART G: MISCELLANEOUS PROVISIONS

Section
446.701 Discovery
446.702 Motions
446.703 Intervention

AUTHORITY: Implementing Sections 6-410 and 13-106 of the Illinois Vehicle Code [625 ILCS 5/6-410 and 13-106] and Section 2705-125 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-125] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625] and Section 5-25 of the Illinois Administrative Procedure Act [5 ILCS 100/5-25].

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Adopted at 6 Ill. Reg. 1291, effective February 1, 1982; codified at 6 Ill. Reg. 14689; amended at 19 Ill. Reg. 15754, effective November 2, 1995; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: RULES OF GENERAL APPLICABILITY

Section 446.102 Information; Special Instructions

Information as to procedure under the rules in this Part and instructions supplementing this Part in special instances, will be furnished upon written application to the Director, Division of Traffic Safety, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 446.103 Communications and Pleadings

a) How addressed. All communications and pleadings should, unless otherwise specifically directed, be addressed and submitted to: Director, Division of Traffic Safety, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212. A communication should clearly designate the docket number, if any, and short title of any proceeding to and about which it is directed. The person communicating shall state his address, and the party he represents.

b) Timely Filing Required. All documents required or permitted to be filed under this Part must be received for filing at the offices of the Department's Division of Traffic Safety in Springfield, Illinois, within the time limits for such filing. The date of receipt at the Department and not the date of deposit in the mail is determinative, provided, however, that if such document is mailed by certified, registered, or express mail postmarked at least two days prior to the due date, it will be accepted as timely filed.

c) Disposition of When Defective. In any proceeding when upon inspection the Department is of the opinion that a document tendered for filing does not comply with this Part or does not sufficiently set forth material required by any form of the Department, the Department may decline to accept the document for filing and may return it unfiled or the Department may accept it for filing and advise the

person tendering it of the deficiency and require that the deficiency be corrected.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 446.104 Definitions

As used in this Part:

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

"Commercial Vehicle Safety Section" or "Section" means a section of the Bureau of Safety Programs of the Division of Traffic Safety, Illinois Department of Transportation.

"Department" means *the Department of Transportation of the State of Illinois, acting directly or through its duly authorized officers and agents*. (Section 1-115.05 of the Code)~~agents or officers. (Section 13-100 of the Code)~~

"Director" means the Director of the Division of Traffic Safety of the Illinois Department of Transportation.

"Division" means the ~~Division of Traffic Safety of the~~ Illinois Department of Transportation, Division of Traffic Safety.

"Official Testing Station" means all contiguous real and personal property that~~which~~ houses the testing lanes~~lane(s)~~ and all equipment and supplies relating to the safety testing of vehicles~~vehicle safety test program~~.

"Person" means *every natural person, firm, copartnership, association or corporation*. (Section 1-159 of the Code)~~any person as defined in Section 1-159 of the Code.~~

"Rate" or "Charge" means the monetary charge to any person offering a school bus for a safety test pursuant to Section 13-106 of the Code.

"Safety test" means the inspection of vehicles and components required to be tested by the Illinois Vehicle Equipment Law [625 ILCS 5/12-101 through 12-902], the Illinois Vehicle Inspection Law [625 ILCS 5/13-100.1 through 13-117] and 92 Ill. Adm. Code 451, Administrative Requirements for Official Testing

Stationstest required by Section 13-101 of the Code.

"School bus" means everyEvery motor vehicle, except as provided in this definitionbelow, owned or operated by or for any of the following entities for the transportation of persons regularly enrolled as students in grade 12 or below in connection with any activity of such entity:

Any public or private primary or secondary school;

Any primary or secondary school operated by a religious institution; or

Any public, private or religious nursery school.

This definition shall not include the following:

A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when such bus is not traveling a specific school bus route but is:

On a regularly scheduled route for the transportation of other fare paying passengers;

Furnishing charter service for the transportation of groups on field trips or other special trips or in connection with other special events; or

Being used for shuttle service between attendance centers or other educational facilities.

A motor vehicle of the first division.

A multifunction school-activity bus. (See Section 1-182 of the Code.)

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Section" means the Commercial Vehicle Safety Section of the Bureau of Safety Programs of the Division of Traffic Safety of the Department.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 446.106 Regulatory Dockets

a) Information and data relating to Department actions pursuant to this Part are maintained by the Bureau of Safety Programs, Division of Traffic Safety , Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

b) Any person may examine and copy any docketed material at the offices of the Division during regular business hours.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART C: RULES FOR FILING AND APPROVAL OF RATES AND CHARGES

Section 446.302 Application for Rate Approval

a) Every operator of a currently licensed school bus Official Testing Station must file with the Department, within 60 days of the effective date of this Part, a schedule of all rates and charges intended to be made by him for performing a safety test on school buses and for which he seeks the approval of the Department. Each application for approval shall be submitted on the form provided by the Department by mailing or delivering that form to: Commercial Vehicle Safety Section, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

b) Each applicant for an Official Testing Station Permit shall file with the Department a proposed schedule of all rates and charges intended to be made by him for performing a safety test on school buses and for which he seeks the approval of the Department. Each application made under this paragraph shall be filed by the applicant with his application for a station permit pursuant to 92 Ill. Adm. Code 451 – Administrative Requirements for Official Testing Stations. The applicant shall submit his proposed schedule on the form provided by the Department by mailing or delivering that form to: Commercial Vehicle Safety Section, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

c) A schedule of rates and charges filed with the Department under subsections (a) and (b) of this Section shall include an amount to reimburse the operator of an Official Testing Station for the purchase from the Department of the Certificate of Safety required by Section 13-109 of the Code, which amount shall not exceed the fee paid by the operator to the Department for the certificate.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 446.306 Application for Rate Change

a) Any operator of an Official Testing Station who desires to change his schedule of rates and charges filed with and approved by the Department shall file with the Department the new schedule of rates and charges proposed to be made by him for performing a safety test on school buses.

b) Applications under subsection (a) of this Section shall be submitted on the form provided by the Department by mailing or delivering that form to: Commercial Vehicle Safety Section, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

c) Applications under this Section shall initially be reviewed as provided in Section 446.303 and processed as provided in Section 446.304.

d) Withdrawals of applications under this Section shall be governed by Section 446.305.

e) If a proposed change in an applicant's rate or charge is disallowed or denied by the Section, an applicant may file a written petition under Section 446.307. All hearings scheduled under this paragraph shall be conducted in accordance with the provisions of Sections 446.501, 446.502, 446.503, 446.504 and 446.505.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART D: LEVEL OF RATES OR CHARGES

Section 446.402 Rates or Charges

The following rates or charges for safety inspections of school buses have been determined by

the Department to be prima facie just and reasonable rates or charges for the counties indicated. An application for a charge or rate equal to or less than the specified charge or rate will be approved. An application for a charge or rate in excess of the specified charge or rate will be disapproved. If a proposed rate or charge is disapproved by the Section, an applicant may appeal the disapproval to the Director under Section 446.307.

1	Cook, DuPage, Grundy, Kankakee, Kendall, Lake, Will	$26~~19.50~~
2	Boone, DeKalb, Jo Daviess, Kane, McHenry, Stephenson, Winnebago	$26.50~~16.50~~
3	Bureau, Carroll, Fulton, Henderson, Henry, Knox, LaSalle, Lee, Livingston, Marshall, Mercer, Ogle, Putnam, Rock Island, Stark, Warren, Whiteside	$29~~14.00~~
4	Mason, Menard, Morgan, Peoria, Sangamon, Tazewell, Woodford	$30~~17.00~~
5	DeWitt, Logan, Macon, McLean	$28.50~~12.50~~
6	Adams, Brown, Calhoun, Cass, Greene, Hancock, Jersey, Macoupin, McDonough, Pike, Schuyler, Scott	$27~~11.00~~
7	Coles, Champaign, Douglas, Edgar, Ford, Iroquois, Moultrie, Piatt, Shelby, Vermilion	$31.50~~13.50~~
8	Bond, Christian, Clay, Clinton, Effingham, Fayette, Jasper, Marion, Montgomery	$32.50~~14.00~~
9	Madison, St. Clair	$30.50~~17.50~~
10	Jackson, Monroe, Perry, Randolph, Union, Washington	$34.50~~13.00~~
11	Alexander, Clark, Crawford, Cumberland, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jefferson, Johnson, Lawrence, Massac, Pope, Pulaski, Richland, Saline, Wabash, Wayne, White, Williamson	$30~~11.00~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART E: HEARINGS ON PETITIONS FOR APPROVAL OF DISALLOWED RATES AND APPEALS

Section 446.502 Notice and Place of Hearing

a) Hearings on petitions filed by operators of Official Testing Stations will be held at either of the offices of the Department at 201 West Center Court, Schaumburg, Illinois or at 1340 North 9th Street, Springfield, Illinois or at another location designated by the Department.~~in Boone, Bureau, Carroll, Cook, DeKalb, DuPage,~~

~~Grundy, Henry, Jo Daviess, Kane, Kankakee, Kendall, Lake, LaSalle, Lee, McHenry, Ogle, Rock Island, Stephenson, Whiteside, Will and Winnebago Counties shall be held at the offices of the Department at 201 West Center Court, Schaumburg, Illinois. Hearings for operators in Alexander, Clay, Clinton, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Lawrence, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, Saline, St. Clair, Union, Wabash, Washington, Wayne, White and Williamson Counties shall be held at the offices of the Department at 2801 West Murphysboro Road, Carbondale, Illinois. Hearings for operators in any other county shall be held at the Department's offices located at 3215 Executive Park Drive, Springfield, Illinois.~~

b) The Department shall give notice of the hearing to the person requesting the hearing and to the Department's Office of Chief Counsel. ~~In the case of a petition for approval of rate change, the Department shall also cause to be published a Notice of the petition for Rate Change in a newspaper of general circulation in the community in which the petitioner's Official Testing Station is located, setting forth the time and place of the hearing.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART F: COMPLAINTS OF UNREASONABLE OR UNJUST RATES

Section 446.602 Complaints

a) Whenever any person intends to complain to the Department about the justness or reasonableness of any rate of charge filed by any operator with the Department, that person shall make the complaint in writing and mail or submit it to: Commercial Vehicle Safety Section, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

b) Each complaint shall include:

1) the name, address and telephone number of the person making the complaint;

2) a statement whether the complainant owns or operates an Official Testing Station, and if applicable, the name, business address and telephone

number of that Official Testing Station;

3) the name and, if known, the business address, of the operator against whom the person complains;

4) A description or statement of the rates~~rate(s)~~ about which the person complains;

5) a statement setting forth in detail the specific facts and reasons why the person believes the rates~~rate(s)~~ about which that person complains are~~is~~ unjust or unreasonable; and

6) any information, document or other matters upon which the person relies.

c) The facts asserted in any complaint must be sworn to by persons having knowledge of those facts~~thereof~~. Except under unusual circumstances, those~~such~~ persons should be ~~those who will be~~ available to appear as witnesses at a hearing convened by the Department to substantiate the facts asserted should a hearing become necessary.

d) An original copy of the complainant~~Complainant~~ shall be filed with the Department. The original must show the signature, capacity and impression seal, if any, of the person administering the oath, and the date of the oath~~thereof~~.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Rates To Be Charged By Official Testing Stations For Vehicles Other Than School Buses

2) Code Citation: 92 Ill. Adm. Code 454

3)

Section Numbers:	Proposed Action:
454.20	Amend
454.30	Amend
454.40	Amend
454.60	Amend
454.210	Amend
454.250	Amend
454.310	Amend
454.410	Amend
454.510	Amend

4) Statutory Authority: Implementing Sections 6-410 and 13-106 of the Illinois Vehicle Code [625 ILCS 5/6-410 and 13-106] and Section 2705-125 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-125] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625] and Section 5-25 of the Illinois Administrative Procedure Act [5 ILCS 100/5-25]

5) A complete description of the subjects and issues involved: By this Notice, the Department is proposing to increase the base rates that Official Testing Stations (Stations) charge, as required by Section 13-106 of the Illinois Vehicle Inspection Law, to inspect a vehicle other than a school bus. Under the current rule, when a new Station opens, the owner must charge the rate prescribed under Section 454.310, Rates or Charges, or request a hearing for a rate increase to allow the owner to charge the prevailing rates for the same or similar tests made in the community where the Station is located. Since the base rates in Section 454.310 are out-of-date and no longer "just and reasonable," the cost of doing business has risen over the years, and the hearing process delays the Station owner's ability to increase the base rate during that timeframe when the hearing proceedings and the subsequent paperwork are finalized (thus creating an economic burden on new Stations and Stations that are small businesses), the rule must be updated.

As prescribed in Section 13-106 of the Illinois Vehicle Inspection Law, a "just and reasonable" rate or charge means a rate or charge which is the same, or nearly the same,

as the prevailing rate or charge for the same or similar tests made in the community where the station is located.

The Department calculated the new proposed base rates by comparing the minimum base rates in Section 454.310 with the prevailing rates being charged by Stations. The Department calculated the percentage increase in the rates, where a percentage increase occurred. The percentages were then averaged and that average was added to the rates in Section 454.310 to determine what the new proposed base rates should be. The new proposed base rates were then rounded to the nearest 50 cents so the rates will be easier for the Stations to calculate.

Following are summaries of the significant changes to the Part:

At **Section 454.40, Definitions,** the Department is proposing to update statutory language and citations; amend existing definitions; and add new definitions.

At **Section 454.310, Rates or Charges,** the Department is proposing to increase the base inspection rates Stations charge to perform safety tests on vehicles other than school buses.

At **Section 454.410(a), Notice and Place of Hearing,** the Department is proposing to delete language that restricts the hearing location to specific counties. A hearing can now be presided over via video conference at either the Department's Schaumburg or Springfield office or at another location designated by the Department. The Department is also proposing, at subsection (b), to delete the requirement concerning publication in the newspaper of a notice of petition for rate change because the Department has determined that publication is cost-prohibitive and, also, because no one other than the Station requesting the rate change has ever appeared to testify or object to a rate change.

Finally, at **Sections 454.20, 454.30(a), 454.60(a), 454.210(a), 454.250(b), 454.410(a), and 454.510(a),** the Department's address is being amended to reflect the Division of Traffic Safety's new address. The street address is being updated but the post office box number will remain the same.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

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

9) Does this rulemaking contain incorporations by reference? No

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

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

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning these proposed amendments. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
1340 North 9th Street
P.O. Box 19212
Springfield, Illinois 62794-9212

217/785-3031

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 317
Springfield, Illinois 62764

217/524-3838

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking affects small businesses that own or operate Illinois Official Testing Stations.

B) Reporting, bookkeeping or other procedures required for compliance: Station owners will calculate the rates to be charged for a vehicle inspection, in compliance with this Part.

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

14) Regulatory Agenda on which this rulemaking was summarized: January 2010

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

PART 454
RATES TO BE CHARGED BY OFFICIAL TESTING STATIONS
FOR VEHICLES OTHER THAN SCHOOL BUSES

SUBPART A: RULES OF GENERAL APPLICABILITY

Section
454.10 General Information
454.20 Information; Special Instructions
454.30 Communications and Pleadings
454.40 Definitions
454.50 Rules of Construction
454.60 Regulatory Dockets
454.70 Appearances

SUBPART B: DOCUMENT SPECIFICATIONS GENERALLY

Section
454.110 Typographical Specifications
454.120 Copies
454.130 Time
454.140 Service

SUBPART C: RULES FOR FILING AND APPROVAL OF RATES AND CHARGES

Section
454.200 General Requirements
454.210 Application for Rate Approval
454.220 Initial Application Review
454.230 Processing of Application
454.240 Withdrawal
454.250 Application for Rate Change
454.260 Appeal

SUBPART D: LEVEL OF RATES OR CHARGES

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

Section
454.300 General Requirements
454.310 Rates or Charges
454.320 Enforcement

SUBPART E: HEARINGS ON PETITIONS FOR APPROVAL OF DISALLOWED RATES AND APPEALS

Section
454.400 Request for Hearing
454.410 Notice and Place of Hearings
454.420 Hearings
454.430 Presiding Officer's Decision
454.440 Appeal

SUBPART F: COMPLAINTS OF UNREASONABLE OR UNJUST RATES

Section
454.500 Notice
454.510 Complaints
454.520 Reply
454.530 Request for Hearing
454.540 Hearing
454.550 Presiding Officer's Decision
454.560 Appeal

SUBPART G: MISCELLANEOUS PROVISIONS

Section
454.600 Discovery
454.610 Motions
454.620 Intervention

AUTHORITY: Implementing Sections 6-410 and 13-106 of the Illinois Vehicle Code [625 ILCS 5/6-410] and 13-106] and Section 2705-125 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-125] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625] and Section 5-25 of the Illinois Administrative Procedure Act [5 ILCS 100/5-25].

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Adopted at 2 Ill. Reg. 26, p. 149, effective May 26, 1978; amended at 5 Ill. Reg. 12989, effective November 16, 1981; codified at 7 Ill. Reg. 2748; amended at 17 Ill. Reg. 19662, effective November 1, 1993; amended at 35 Ill. Reg. _____, effective _____.

SUBPART A: RULES OF GENERAL APPLICABILITY

Section 454.20 Information; Special Instructions

Information as to procedure under the rules in this Part and instructions supplementing this Part in special instances, will be furnished upon written application to the Director, Division of Traffic Safety, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 454.30 Communications and Pleadings

a) How Addressed~~addressed~~. All communication and pleadings should, unless otherwise specifically directed, be addressed and submitted to: Director, Division of Traffic Safety, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212. All communications should clearly designate the docket number, if any, and short title of any proceeding to and about which it is directed. The person communicating shall state his or her address, and the party he or she represents.

b) Timely Filing Required. All documents required or permitted to be filed under this Part~~these Rules~~ must be received for filing at the offices of the Department's Division of Traffic Safety in Springfield, Illinois, within the time limits, if any, for that~~such~~ filing. The date of receipt at the Department and not the date of deposit in the mail is determinative, provided, however, that if the~~such~~ document is mailed by certified, registered, or express mail postmarked at least two days prior to the due date, it will be accepted as timely filed.

c) Disposition~~ of~~; When Defective. In any proceeding when, upon inspection, the Department is of the opinion that a document tendered for filing does not comply with this Part~~these Rules~~ or does not sufficiently set forth material required by any form of the Department, the Department may decline to accept it for filing and advise the person tendering it of the deficiency and require that the deficiency

be corrected.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 454.40 Definitions

As used in this Part:

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

"Commercial Vehicle Safety Section" means a section of the Bureau of Safety Programs of the Division of Traffic Safety of the Illinois Department of Transportation.~~;~~

"Department" means *the Department of Transportation of the State of Illinois, acting directly or through its duly authorized officers and agents*. (Section 1-115.05 of the Code).~~agents or officers (Ill. Rev. Stat. 1991, ch. 95½, par. 13-100) [625 ILCS 5/13-100];~~

"Director" means the Director of the Division of Traffic Safety of the Illinois Department of Transportation.~~;~~

~~"Division" means the Division of Traffic Safety of the Illinois Department of Transportation;~~

"Division" means the Illinois Department of Transportation, Division of Traffic Safety.

~~"Illinois Vehicle Code" means the provisions of Chapter 95½ of the Illinois Revised Statutes [Chapter 625 of the Illinois Compiled Statutes];~~

"Official Testing Station" means all contiguous real and personal property that~~which~~ houses the testing lanes~~lane(s)~~ and all equipment and supplies relating to the safety testing of vehicles.~~vehicle safety test program;~~

"Person" means *every natural person, firm, copartnership, association or corporation*. (Section 1-159 of the Code)~~any person as defined in Section 1-159 of the Illinois Vehicle Code;~~

"Rate" or "Charge" means the monetary charge to any person offering a second division vehicle or vehicles other than a school bus for a safety test pursuant to Section 13-106 of the ~~Illinois Vehicle~~ Code.~~;~~

"Safety Test~~test~~" means the inspection of vehicles and components required to be tested by the Illinois Vehicle Equipment Law [625 ILCS 5/12-101 through 12-902], the Illinois Vehicle Inspection Law [625 ILCS 5/13-100.1 through 13-117] and 92 Ill. Adm. Code 451, Administrative Requirements for Official Testing Stations.~~the test required by Section 13-101 of the Illinois Vehicle Code (Ill. Rev. Stat. 1991, ch. 95½, par. 13-101) [625 ILCS 5/13-101];~~

"Second Division Vehicle" means *those vehicles which are designed for carrying more than 10~~ten~~ persons, those designed or used for living quarters and those vehicles which are designed for pulling or carrying property, freight or cargo, those motor vehicles of the First Division remodelled for use and used as motor vehicles of the Second Division, and those motor vehicles of the First Division used and registered as school buses*. (Section 1-217 of the Code)~~(Ill. Rev. Stat. 1991, ch. 95½, par. 1-217) [625 ILCS 5/1-217];~~

"Secretary" means the Secretary of the Illinois Department of Transportation.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 454.60 Regulatory Dockets

a) Information and data relating to Department actions pursuant to this Part are maintained by the Bureau of Safety Programs, Division of Traffic Safety, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

b) Any person may examine and copy any docketed material at the offices of the Division during regular business hours.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART C: RULES FOR FILING AND APPROVAL OF RATES AND CHARGES

Section 454.210 Application for Rate Approval

a) Each applicant for an Official Testing Station Permit shall file with the Department a proposed schedule of all rates and charges intended to be made by the applicant~~him~~ for performing a safety test on vehicles other than school buses and for which he or she seeks the approval of the Department. Each application made under this subsection (a) shall be filed by the applicant after he or she submits the~~his~~ application for a station permit pursuant to 92 Ill. Adm. Code 451, ~~"~~Administrative Requirements for Official Testing Stations,~~"~~ but prior to the issuance of the station permit ~~to him~~ by the Department. The applicant shall submit his or her proposed schedule on the form provided by the Department by mailing or delivering that form to: Bureau of Safety Programs, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

b) A schedule of rates and charges filed with the Department under subsection (a) shall include an amount to reimburse the operator of an Official Testing Station for the purchase from the Department of the Certificate of Safety required by Section 13-109 of the~~ Illinois Vehicle~~ Code. ~~(Ill. Rev. Stat. 1991, ch. 95½, par. 13-109) [625 ILCS 5/13-109]~~ The reimbursement~~which amount~~ shall not exceed the fee paid by the operator to the Department for the Certificate.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 454.250 Application for Rate Change

a) Any operator of an Official Testing Station who desires to change his or her schedule of rates and charges filed with and approved by the Department shall file with the Department the new schedule of rates and charges proposed to be made ~~by him~~ for performing a safety inspection on vehicles other than school buses.

b) Applications under subsection (a) shall be submitted on the form provided by the Department by mailing or delivering that form to: Bureau of Safety Programs, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

c) Applications under this Section shall initially be reviewed as provided in Section 454.220 and processed as provided in Section 454.230.

d) Withdrawals of applications under this Section shall be governed by Section 454.240.

e) If a proposed change in an applicant's rate or charge is disallowed or denied by the Commercial Vehicle Safety Section, an applicant may file a written petition under Section 454.260. All hearings scheduled under this subsection (e) shall be conducted in accordance with the provisions of Sections 454.400 through 454.440.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART D: LEVEL OF RATES OR CHARGES

Section 454.310 Rates or Charges

The following rates or charges for safety inspections of vehicles other than school buses have been determined by the Department to be prima facie just and reasonable rates or charges for the counties indicated. Any existing charge or rate that~~which~~ has previously been approved by the Department is acceptable. An application for a future charge or rate in excess of the specified charge or rate will be disapproved. If a proposed rate or charge is disapproved by the Commercial Vehicle Safety Section, an applicant may appeal the disapproval to the Director under Section 454.260. The following rates or charges do not include the Certificate of Safety fee.

Region	Counties	RATES SWA*	RATES DWA**
1	Cook, DuPage, Grundy, Kankakee, Kendall, Lake, Will	$11.00~~6.20~~	$11.50~~7.00~~
2	Boone, DeKalb, Jo Daviess, Kane, McHenry, Stephenson, Winnebago	$10.00~~5.15~~	$10.50~~5.80~~
3	Bureau, Carroll, Fulton, Henderson, Henry, Knox, LaSalle, Lee, Livingston, Marshall, Mercer, Ogle, Putnam, Rock Island, Stark, Warren, Whiteside	$8.50~~4.45~~	$9.00~~5.00~~
4	Mason, Menard, Morgan, Peoria, Sangamon, Tazewell, Woodford	$9.50~~5.25~~	$10.00~~5.90~~
5	DeWitt, Logan, Macon, McLean	$9.50~~3.95~~	$9.50~~4.45~~
6	Adams, Brown, Calhoun, Cass, Greene, Hancock, Jersey, Macoupin, McDonough, Pike, Schuyler, Scott	$8.00~~3.50~~	$8.50~~3.95~~
7	Coles, Champaign, Douglas, Edgar, Ford, Iroquois, Moultrie, Piatt, Shelby, Vermilion~~Vermillion~~	$9.00~~4.25~~	$9.50~~4.75~~

8	Bond, Christian, Clay, Clinton, Effingham, Fayette, Jasper, Marion, Montgomery	$9.00~~4.35~~	$10.00~~4.95~~
9	Madison, St. Clair	$10.00~~5.45~~	$10.50~~6.10~~
10	Jackson, Monroe, Perry, Randolph, Union, Washington	$9.50~~4.10~~	$10.00~~4.60~~
11	Alexander, Clark, Crawford, Cumberland, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jefferson, Johnson, Lawrence, Massac, Pope, Pulaski, Richland, Saline, Wabash, Wayne, White, Williamson	$8.00~~3.50~~	$8.50~~3.95~~

* SWA – Single wheel axle

** DWA – Double wheel axle

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART E: HEARINGS ON PETITIONS FOR APPROVAL OF DISALLOWED RATES AND APPEALS

Section 454.410 Notice and Place of Hearings

a) Hearings~~Hearing~~ on petitions filed by operators of Official Testing Stations will be held at either of the offices of the Department at 201 West Center Court, Schaumburg, Illinois or at 1340 North 9th Street, Springfield, Illinois or at another location designated by the Department.~~in Boone, Bureau, Carroll, Cook, DeKalb, DuPage, Grundy, Henry, Jo Daviess, Kane, Kankakee, Kendall, Lake, LaSalle, Lee, McHenry, Ogle, Rock Island, Stephenson, Whiteside, Will, and Winnebago Counties shall be held at the offices of the Department at 201 West Center Court, Schaumburg, Illinois. Hearings for operators in Alexander, Clay, Clinton, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Lawrence, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, Saline, St. Clair, Union, Wabash, Washington, Wayne, White and Williamson Counties shall be held at the offices of the Department at 2801 West Murphysboro Road, Carbondale, Illinois. Hearings for operators of any other country shall be held at the Department's offices located at 3215 Executive Park Drive, Springfield, Illinois.~~

b) The Department shall, as soon as possible, give notice of the hearing to the person requesting the hearing and to the Department's Office of Chief Counsel.~~ In the case of a petition for approval of rate change, the Department shall also cause to~~

~~be published a Notice of the Petition for Rate Change in a newspaper of general circulation in the community in which the petitioner's Official Testing Station is located, setting forth the time and place of the hearing.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART F: COMPLAINTS OF UNREASONABLE OR UNJUST RATES

Section 454.510 Complaints

a) Whenever any person intends to complain to the Department about the justness or reasonableness of any rate or charge filed by any operator with the Department, that person shall make the complaint in writing and mail or submit it to: Bureau of Safety Programs, Illinois Department of Transportation, 1340 North 9th Street~~3215 Executive Park Drive~~, P.O. Box 19212, Springfield, Illinois 62794-9212.

b) Each Complaint shall include:

1) the name, address and telephone number of the person making the complaint;

2) a statement whether the complainant owns or operates an Official Testing Station, and if applicable, the name, business address and telephone number of that Official Testing Station;

3) the name and if known the business address, of the operator against whom the person complains;

4) A description or statement of the rates~~rate(s)~~ about which the person complains;

5) a statement setting forth in detail the specific facts and reasons why the person believes the rates~~rate(s)~~ about which that person complains is unjust or unreasonable; and

6) any information, document or other matters upon which the person relies.

c) The facts asserted in any complaint must be sworn to by persons having

knowledge thereof. Except under unusual circumstances, those~~such~~ persons should be ~~those who will be~~ available to appear as witnesses at a hearing convened by the Department to substantiate the facts asserted should a hearing become necessary.

d) An original copy of the complaint~~Complaint~~ shall be filed with the Department. The original must show the signature, capacity and impression seal, if any, of the person administering the oath, and the date of the oath~~thereof~~.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Access to Public Information

2) Code Citation: 2 Ill. Adm. Code 5051

3)

Section Numbers:	Adopted Action:
5051.10	Repealed
5051.20	Repealed
5051.100	Repealed
5051.110	Repealed
5051.200	Repealed
5051.210	Repealed
5051.300	Repealed
5051.310	Repealed
5051.400	Repealed
5051.410	Repealed
5051.420	Repealed
5051.APPENDIX A	Repealed
5051.APPENDIX B	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: October 8, 2010

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 statement that a copy of the adopted repealer, including any material incorporated by reference, is on file in the Board of Higher Education's office and is available for public inspection.

9) Notice of Proposal Published in the 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).

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED REPEALER

10) Has JCAR issued a Statement of Objection to this Repealer? Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to prior 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 Fist 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 Fist Notice or Second Notice review by JCAR.

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

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

15) Summary and Purpose of Repealer: This rule 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 this Adopted Repealer shall be directed to:

Karen Helland
Agency Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, Second Floor
Springfield, Illinois 62701-1404

217/557-7358
Fax No. 217/782-8548
helland@ibhe.org

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED RULES

1) Heading of the Part: Access to Records of the Board of Higher Education

2) Code Citation: 2 Ill. Adm. Code 5051

3)

Section Numbers:	Adopted Action:
5051.101	New
5051.102	New
5051.201	New
5051.202	New
5051.203	New
5051.301	New
5051.302	New
5051.303	New
5051.401	New
5051.402	New
5051.403	New
5051.404	New
5051.405	New
5051.406	New
5051.407	New
5051.501	New
5051.502	New
5051.503	New
5051.APPENDIX A	New

4) Statutory Authority: 5 ILCS 140/3(h) and 5 ILCS 100/5-15

5) Effective Date of Rule: October 8, 2010

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 rulemaking including any material incorporated by reference, is on file in the Board of Higher Education's office and is available for public inspection.

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED RULES

9) Notice of Proposal Published in the 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.

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 prior 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 other amendments pending on this Part? No

15) Summary and Purpose of Rule: The adopted rule aligns with the legislative changes made to the Freedom of Information Act.

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

Karen Helland
Agency Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, Second Floor
Springfield, Illinois 62701-1404

217/557-7358
Fax No. 217/782-8548
helland@ibhe.org

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

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATIONS
SUBTITLE F: EDUCATIONAL AGENCIES
CHAPTER III: BOARD OF HIGHER EUCATION

PART 5051
ACCESS TO RECORDS OF THE BOARD OF HIGHER EDUCATION

SUBPART A: INTRODUCTION

Section
5051.101 Summary and Purpose
5051.102 Definitions

SUBPART B: CLASSIFICATION OF RECORDS

Section
5051.201 Records that Will Be Disclosed
5051.202 Records that Will Be Withheld from Disclosure
5051.203 Statutory Exemptions

SUBPART C: PROCEDURES FOR REQUESTING
RECORDS FROM THE BOARD

Section
5051.301 Submittal of Requests for Records
5051.302 Information To Be Provided in Requests for Records
5051.303 Requests for Records for Commercial Purposes

SUBPART D: BOARD RESPONSE TO REQUESTS FOR RECORDS

Section
5051.401 Timeline for Board Response
5051.402 Requests for Records that the Board Considers Unduly Burdensome
5051.403 Requests for Records that Require Electronic Retrieval
5051.404 Denials of Requests for Records
5051.405 Requests for Review of Denials − Public Access Counselor
5051.406 Circuit Court Review
5051.407 Administrative Review

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED RULES

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section
5051.501 Inspection of Records
5051.502 Copying of Records; Fees
5051.503 Reduction and Waiver of Fees

5051.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 Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted and codified at 8 Ill. Reg. 16769, effective September 4, 1984; amended at 29 Ill. Reg. 2721, effective February 3, 2005; old Part repealed at 34 Ill. Reg. 16329, and new Part adopted at 34 Ill. Reg. 16331, effective October 8, 2010.

SUBPART A: INTRODUCTION

Section 5051.101 Summary and Purpose

a) This Part states the policy of Board of Higher Education (Board) 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 Board'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 Board's possession; and

3) Contains the procedures for claiming and determining that records submitted to the Board are exempt from disclosure.

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED RULES

Section 5051.102 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 the Board of Higher Education Act [110 ILCS 205].

"Board" means the Board of Higher Education as established by the Act.

"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 or 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 Board. (Section 2(d) of FOIA)

"Director" means the Executive Director of the Board.

"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

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

"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 Board. (Section 2(c) of FOIA)

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

"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 5051.201 Records that Will Be Disclosed

Upon request meeting the requirements of this Part, the Board shall disclose to the requester all records requested except that it shall not disclose certain records as provided in Section 5051.202 or 5051.203. Records covered under this Section shall include, but are not be limited to:

a) *Records of funds. All records relating to the obligation, receipt and use of public funds of the Board are records subject to inspection and copying by the public.* (Section 2.5 of FOIA)

b) *Payrolls. Certified payroll records submitted to the Board 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 Board prior to disclosure.* (Section 2.10 of FOIA)

c) *Criminal history records. The following documents maintained by the Board 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 5051.202(a)(5)(F) of this Part. (Section 2.15(b) of FOIA)

d) *Settlement agreements. All settlement agreements entered into by or on behalf of the Board are records subject to inspection and copying by the public, provided that information exempt from disclosure under* Section 5051.202 or 5051.203 of this Part *may be redacted.* (Section 2.20 of FOIA)

Section 5051.202 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 Board 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)

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 Board 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 Board;*

F) *Endanger the life or physical safety of law enforcement personnel or any other person; or*

G) *Obstruct an ongoing criminal investigation by the Board;* (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)

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 head of the Board. 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)

10) *Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by the Board 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 5051.102 *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 minutes available to the public under Section 2.06 of the Open Meetings Act;* (Section 7(1)(l) of FOIA)

14) *Communications between the Board and an attorney or auditor representing the Board that would not be subject to discovery in litigation, and materials prepared or compiled by or for the Board in anticipation of a criminal, civil or administrative proceeding upon the request of an*

attorney advising the Board, and materials prepared or compiled with respect to internal audits of the Board; (Section 7(1)(m) of FOIA)

15) *Records relating to the Board'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 Board 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 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)

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)

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

Section 5051.203 Statutory Exemptions

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

a) *All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act* [20 ILCS 700].

b) *Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act* [75 ILCS 70].

c) *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.*

d) *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].

e) *Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act* [420 ILCS 44].

f) *Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act* [30 ILCS 535].

g) *Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act* [110 ILCS 979].

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

i) *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].

j) *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].

k) *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].

l) *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].

m) *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.*

n) *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.*

o) *Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act* [410 ILCS 525].

p) *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].

q) *Information prohibited from being disclosed by the Personnel Records Review Act* [820 ILCS 40].

r) *Information prohibited from being disclosed by the Illinois School Student Records Act* [105 ILCS 10].

s) *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 BOARD

Section 5051.301 Submittal of Requests for Records

a) Any request for public records should be submitted in writing to the FOI Officer at the Board.

b) The Board has one FOI Officer, located in the Springfield office.

c) Contact information for the FOI Officer can be found online at www. info@ibhe.org.

d) FOIA requests may be submitted via mail, e-mail, fax, or hand delivery. Requests should be mailed or hand delivered to:

IBHE
431 E. Adams St.
2nd Floor
Springfield IL 62701-1404
Attn: FOI Officer

e) E-mailed requests should be sent to info@ibhe.org, 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. Faxed FOIA requests should be faxed to 217/782-8548, Attn: FOI Officer.

Section 5051.302 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 Board considers unduly burdensome or categorical may be denied. (See Section 3(g) of FOIA and Section 5051.402 of this Part.);

c) A statement as to the requested medium and format for the Board 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 Board to use in providing the records sought: for example, inspection at Board 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 5051.303 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 Board.* (Section 3.1(c) of FOIA)

b) *The Board 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 Board to provide the records requested and an estimate of the fees to be charged, which the Board may require the person to pay in full before copying the requested documents;*

2) *Deny the request pursuant to one or more of the exemptions set out in* Section 5051.202 or 5051.203;

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 Board 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: BOARD RESPONSE TO REQUESTS FOR RECORDS

Section 5051.401 Timeline for Board Response

a) Except as stated in subsection (b) or (c), the Board 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 Board 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 Board fails to respond to a request received, it will not treat the request as unduly burdensome as provided*

under Section 5051.402. (Section 3(d) of FOIA) A written request from the Board 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;*

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 Board within the time limits prescribed by* subsection (a) *without unduly burdening or interfering with the operations of the Board; 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 Board may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the Board agree to extend the period for compliance, a failure by the Board 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 Board 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 Board 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 Board issues an extension and subsequently fails to respond to the request, it will not treat the request as unduly burdensome under Section 5051.402.* (Section 3(f) of FOIA)

Section 5051.402 Requests for Records that the Board Considers Unduly Burdensome

a) *The Board will fulfill requests calling for all records falling within a category unless compliance with the request would unduly burden the Board, there is no way to narrow the request, and the burden on the Board outweighs the public interest in the information. Before invoking this exemption, the Board 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 Board 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 Board. 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 5051.403 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 Board will retrieve and provide electronic records only in a format and medium that is available to the Board.

Section 5051.404 Denials of Requests for Records

a) The Board will deny requests for records when:

1) Compliance with the request would unduly burden the Board, as determined pursuant to Section 5051.402, 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 5051.202 or 5051.203 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 Board'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 Board has given written notice pursuant to Section 5051.401(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 Board fails to act within the time periods provided in* Section 5051.401. (Section 9(c) of FOIA)

Section 5051.405 Requests for Review of Denials − Public Access Counselor

a) *A person whose request to inspect or copy a record is denied by the Board 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 Board *asserts that the records are exempt under* Section 5051.202(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 Board;* and

3) *A detailed summary of the Board's basis for asserting the exemption.* (Section 9.5(b) of FOIA)

c) *Upon receipt of a notice of intent to deny from the Board, 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 Board* under Section 5051.401 *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 Board receives a request for review from the Public Access Counselor, the Board 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 Board 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)

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 Board.* (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 Board 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 Board, subject to administrative review under* Section 5051.407. (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 Board shall either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under* Section 5051.407. *If the opinion concludes that no violation of FOIA has occurred, the requester may initiate administrative review under* Section 5051.407. (Section 9.5(f) of FOIA)

k) *If the Board discloses records in accordance with an opinion of the Attorney General, the Board 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 5051.406 *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 Board.* (Section 9.5(g) of FOIA)

m) *The Attorney General may also issue advisory opinions to the Board regarding compliance with FOIA. A review may be initiated upon receipt of a written*

request from the Executive Director or the Legal Officer, *which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the Board in order to assist in the review. If the Board relies in good faith on an advisory opinion of the Attorney General in responding to a request, the Board 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 5051.406 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 5051.407 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 Board 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 5051.501 Inspection of Records

a) The Board may make available records for personal inspection at the Board's headquarters office located at 431 E. Adams St., 2nd Floor, Springfield IL 62701-1404, or at another location agreed to by both the Board and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the Board. The Board 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 Board 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 electronic format, then the Board shall furnish it in the format in which it is maintained by the Board, 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 Board will schedule inspection appointments to take place during normal business hours, which are 8:00 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 Board as soon as possible before the appointment.

d) In order to maintain routine Board 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. A Board 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 5051.502 Copying of Records; Fees

a) In accordance with Section 5051.503, unless a fee is otherwise fixed by statute, the Board 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 Board to reproduce records, the Board 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 Board cannot copy, due to the volume of the request or the operational needs of the Board, in the timelines established in Section 5051.401, the requester may provide, at the requester's expense, the copy machine, all necessary materials, and the labor to copy the

public records at the Board headquarters in Section 5051.501, or at another location agreed to by both the Board and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the Board.

d) Copies of records will be provided to the requester only upon payment of any fees due. *The Board may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium, but the Board 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 Board, 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 Board, must contract with the contractor;

2) The requester is responsible for all fees charged by the contractor;

3) The requester must notify the Board of the contractor to be used prior to the scheduled on-site inspection or copying;

4) Only Board personnel may provide records to the contractor;

5) The Board must have verification that the requester has paid the Board, 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 Board the contractor's written agreement to hold the records secure and to copy the records only for the purpose stated by the requester.

Section 5051.503 Reduction and Waiver of Fees

a) *Fees may be reduced or waived by the Board 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 Board 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 Board 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)

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED RULES

Section 5051.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

NOTE: Expense for delivery other than by First Class U.S. Mail must be borne by the requester.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Public Information, Rulemaking and Organization

2) Code Citation: 2 Ill. Adm. Code 1700

3) Section Number: 1700.10 — Adopted Action: Amendment

4) Statutory Authority Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15], Section 2.05 of the Open Meetings Act [5 ILCS 120/2.05], and Section 2-107 of the Public Utilities Act [220 ILCS 5/2-107] and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101]

5) Effective Date of Amendment: October 15, 2010

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

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment is on file in the Commission's Springfield office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: This amendment is adopted pursuant to Section 5-15 of the Illinois Administrative Procedure Act and was not published as a proposed amendment in the *Illinois Register*.

10) Has JCAR issued a Statement of Objection to this amendment? This amendment is adopted pursuant to Section 5-15 of the Illinois Administrative Procedure Act and was not submitted to JCAR for prior review.

11) Differences between proposal and final version: There are no differences, since, under Section 5-15 of the Illinois Administrative Procedure Act, there is no proposed version.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? There is no agreement letter, and there are no changes. There has been no JCAR review of this amendment.

13) Will this amendment replace an emergency amendment currently in effect? No

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

15) Summary and Purpose of amendment: On August 13, 2007, PA 95-127 became effective. This legislation added the following language to Section 2-107 of the Public Utilities Act:

> At each regular and special meeting that is open to the public, members of the public shall be afforded time, subject to reasonable constraints, to make comments to or to ask questions of the Commission.

The amendment prescribes criteria to be used by the Chairman of the Commission in determining whether to grant or deny a request from a member of the public to address the Commission under Section 2-107 of the Public Utilities Act

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

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

217/785-3922

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER IX: ILLINOIS COMMERCE COMMISSION

PART 1700
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

SUBPART A: PUBLIC ACCESS

Section
1700.10 Accessibility of Commission Meetings
1700.20 Public Comment through the Commission's Web Site and by Telephone

SUBPART D: NOTICE OF INQUIRY PROCEDURES

Section
1700.310 Initiation of Notice of Inquiry
1700.320 Notice
1700.330 Content of Notice
1700.340 Comments and Replies
1700.350 Form of Comments and Replies; Number of Copies
1700.360 NOI Proceedings

AUTHORITY: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15], Section 2.05 of the Open Meetings Act [5 ILCS 120/2.05], and Section 2-107 of the Public Utilities Act [220 ILCS 5/2-107] and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101].

SOURCE: Adopted at 8 Ill. Reg. 6664, effective May 1, 1984; amended at 31 Ill. Reg. 16734, effective December 10, 2007; amended at 32 Ill. Reg. 2581, effective February 1, 2008; amended at 34 Ill. Reg. 16359, effective October 15, 2010.

SUBPART A: PUBLIC ACCESS

Section 1700.10 Accessibility of Commission Meetings

a) Any person desiring an opportunity to address the Illinois Commerce Commission (Commission) on current agenda items or any other matter shall submit a written request to the Chief Clerk of the Commission at least 24 hours prior to the

Commission meeting. The request shall include the name and address of the person wishing to speak, the name of any group represented, and a summary of the presentation.

b) The Chairman shall direct the Chief Clerk to notify each person submitting a complete request to address the Commission whether the request will be granted or denied. If the request is granted, the form and duration of the presentation shall be subject to rulings of the Chairman. In determining whether to grant or deny a request to address the Commission, the Chairman shall consider, at a minimum, the following standards:

1) whether the summary of the presentation is related to matters that are germane to the authority of the Commission;

2) the order in which written requests are received by the Chief Clerk of the Commission;

3) the desirability of permitting public airing of a representative variety of viewpoints from among all of the summaries of presentations that are received on a timely basis; and,

4) whether the requesting person is a party to a pending proceeding before the Commission.

c) At each Commission meeting, the Commission shall set aside a period of time for public comment. Any person desiring to address the Commission shall be allowed up to three minutes for comments or questions. Only one person may speak on behalf of any organization.

d) Because of demands on the Commission, the total time for presentations at any meeting shall be limited to 30 minutes unless a Commissioner moves for, and the Commission approves, a longer period. Any person wishing to address the Commission, but is unable or not allowed to do so, may submit a written statement to the Commission.

e) Any person may record by tape, film, or other means, the meetings of the Commission or its committees required to be open by Illinois law, provided that, if the recording process interferes with the overall decorum and proceeding of a

meeting, the recording will be discontinued at the request of the Chairman or other presiding officer.

(Source: Amended at 34 Ill. Reg. 16359, effective October 15, 2010)

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED RULES

1) Heading of the Part: Intermodal Facilities Promotion Program

2) Code Citation: 14 Ill. Adm. Code 523

3)

Section Numbers:	Adopted Action:
523.10	New
523.20	New
523.30	New
523.40	New
523.50	New
523.60	New
523.70	New

4) Statutory Authority: Implementing and authorized by the Intermodal Facilities Promotion Act [30 ILCS 743/1]

5) Effective Date of Rulemaking: October 5, 2010

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

7) Does this rulemaking contain incorporations by reference? No

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

9) Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 7340; May 28, 2010

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were made.

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

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED RULES

15) Summary and Purpose of Rules: To implement the Intermodal Facilities Promotion Act (Public Act 96-602). This Act provides that the incremental income tax attributable to a new employee at the intermodal terminal facility in the City of Joliet shall be deposited in the Intermodal Facilities Promotion Fund. The money in the fund shall be used by DCEO to make grants to the eligible developer for infrastructure improvements.

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

Ms. Jolene Clarke
Rules Administrator
Illinois Department of Commerce and Economic Opportunity
500 East Monroe
Springfield, IL 62701

217/557-1820

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED RULES

TITLE 14: COMMERCE
CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 523
INTERMODAL FACILITIES PROMOTION PROGRAM

Section

523.10 Purpose
523.20 Definitions
523.30 Application Cycle
523.40 Eligible Program Costs
523.50 Grant Application
523.60 Review of Grant Application
523.70 Agreements with Applicants

AUTHORITY: Implementing and authorized by the Intermodal Facilities Promotion Act [30 ILCS 743].

SOURCE: Adopted at 34 Ill. Reg. 16364, effective October 5, 2010.

Section 523.10 Purpose

Through the Intermodal Facilities Promotion Program, the Department of Commerce and Economic Opportunity will provide grants to the developers of an intermodal terminal facility in the City of Joliet.

Section 523.20 Definitions

"Act" means the Intermodal Facilities Promotion Act [30 ILCS 743].

"Agreement" means the agreement between an eligible developer and the Department under Section 30 of the Act.

"Application" means a request for program funds, including the required information and attachments.

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of the Department of Commerce and Economic Opportunity.

"Eligible developer" means an individual, partnership, corporation, or other entity that develops an intermodal terminal facility in the City of Joliet.

"Eligible employer" means an individual, partnership, corporation, or other entity that employs full-time employees at an intermodal terminal facility in the City of Joliet.

"Full-time employee" means an individual who is employed for consideration for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment. An individual for whom a W-2 is issued by a Professional Employer Organization (PEO) is a full-time employee if employed in the service of the eligible employer for consideration for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment.

"Grant" means funds that require no repayment to be used by an eligible developer.

"Incremental income tax" means the total amount withheld from the compensation of new employees under Article 7 of the Illinois Income Tax Act [35 ILCS 5] *arising from employment by an eligible employer.*

"Infrastructure" means roads, access roads, streets, bridges, sidewalks, water and sewer line extensions, water distribution and purification facilities, waste disposal systems, sewage treatment facilities, stormwater drainage and retention facilities, gas and electric utility line extensions, or other improvements that are essential to the development of the project that is the subject of an agreement.

"Intermodal terminal facility" means a cohesively planned project consisting of at least 2,000 acres of land, improvements to that land, equipment, and appliances necessary for the receipt and transfer of goods between one mode of transportation and another and for the assembly and storage of those goods.

"New employee" means a full-time employee first employed by an eligible employer in the project that is the subject of an agreement between the

Department and an eligible developer and who is hired after the eligible developer enters into the agreement, but does not include:

an employee of the eligible employer who performs a job that existed for at least 6 months before the employee was hired and was previously performed by another employee;

an employee of the eligible employer who was previously employed in Illinois by a related member of the eligible employer and whose employment was shifted to the eligible employer after the eligible employer entered into the agreement;

a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who has a direct or an indirect ownership interest of at least 5% in the profits, capital, or value of the eligible employer; or

any individual who has a direct or an indirect ownership interest of at least 5% in the profits, capital, or value of the eligible employer.

Notwithstanding the second indented paragraph of this definition, an employee may be considered a new employee under the agreement if the employee performs a job that was previously performed by an employee who was treated under the agreement as a new employee and promoted by the eligible employer to another job.

Notwithstanding any provision to the contrary, an employee employed in a part of the project that lies within a business district created pursuant to Division 74.3 of Article 11 of the Illinois Municipal Code [65 ILCS 5/11-74.3] *or a redevelopment project area created pursuant to the Tax Increment Allocation Redevelopment Act* [65 ILCS 5/11-74.4] *shall not be considered a new employee.*

"Professional Employer Organization" or "PEO" means an employee leasing company, as defined in Section 206.1(A)(2) of the Illinois Unemployment Insurance Act [820 ILCS 405/206.1]. [30 ILCS 743/10]

"Project" means an endeavor undertaken, during a specified time period and at a specified location, by an eligible developer to construct an intermodal terminal facility.

"Project costs" means the cost of the project incurred or to be incurred by the eligible developer, including infrastructure costs, but excludes the value of State or local incentives, including tax increment financing and deductions, credits, or exemptions afforded to an employer located in an enterprise zone. [30 ILCS 743/30(1)]

"Related member" means a person or entity that, with respect to the eligible employer during any portion of the taxable year, is any one of the following:

an individual stockholder, if the stockholder and the members of the stockholder's family (as defined in section 318 of the Internal Revenue Code (26 USC 318)*) own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the eligible employer's outstanding stock;*

a partnership, estate, or trust and any partner or beneficiary, if the partnership, estate, or trust, and its partners or beneficiaries own directly, indirectly, or beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock, or value of the eligible employer;

a corporation and any party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of section 318 of the Internal Revenue Code, if the taxpayer owns directly, indirectly, beneficially, or constructively at least 50% of the value of the corporation's outstanding stock;

a corporation and any party related to that corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of section 318 of the Internal Revenue Code, if the corporation and all such related parties own in the aggregate at least 50% of the profits, capital, stock, or value of the eligible employer; or

a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code, except, for purposes of determining whether a person is a related member under this definition, 20% shall be substituted for 5% wherever 5% appears in section 1563(e) of the Internal Revenue Code. [30 ILCS 743/10]

Section 523.30 Application Cycle

The Department will supply interested applicants with an application upon request. Applications under this program will be accepted until June 30, 2010.

Section 523.40 Eligible Program Costs

The total amount of a grant to an eligible developer shall not exceed the lesser of:

a) *$3,000,000 in each State fiscal year; or*

b) *the total amount of infrastructure costs incurred by the eligible developer with respect to a project that is the subject of an agreement.* [30 ILCS 743/25]

Section 523.50 Grant Application

Applications for grant funds must include the following documentation:

a) Project Summary. A brief statement and description of the project for which Intermodal Facilities Promotion Program funds are being sought.

b) Background of Applicant. A discussion of the applicant's organization, purpose, history and capabilities to carry out the proposed project.

c) Project Description. A description of the proposed project for which the grant would be used, including a project work statement detailing work activities (including all components regardless of funding source); project activity completion deadlines as well as identification of the individuals or groups responsible for carrying out the project; and studies, plans drawings, sketches, and schematics that can be used to determine that the project is an intermodal terminal facility.

d) Project Results. Identification of the anticipated results of the proposed project in terms including potential for creation or retention of jobs, or other public benefits.

e) Project Budget. Identification of the infrastructure costs for which reimbursement is sought, including all supporting documentation requested by the Department. The eligible developer may amend its application for reimbursement from time to time in order to cover additional infrastructure costs incurred after the submission of an application. The Department reserves the right to approve or disapprove specific items and categories of infrastructure costs.

f) Location: Location map, such as an USGS 7½ quad map, identifying the location of the project and a legal description of the project site evidencing that the site is in the City of Joliet.

Section 523.60 Review of Grant Application

a) Application Screening. The Department shall screen all grant applications to determine that all elements of the application package have been addressed. Applicants will be notified of deficiencies in applications and given the opportunity to correct those deficiencies. Complete applications will be reviewed and evaluated by Department staff in accordance with the criteria listed in subsections (b) through (d). This review and evaluation process will be completed within 30 working days after submission of a complete application.

b) Basic Eligibility Evaluation. Each grant application will be reviewed to assure compliance with the Act and this Part, including that the developer is an eligible developer.

c) Costs. The applicant must demonstrate that the project costs are eligible program costs under the Act and this Part and can be substantiated given the amount of work that has been or will be undertaken.

d) Program Objectives. The applicant must demonstrate that the activities of the project will result in construction of an intermodal terminal facility in the City of Joliet.

Section 523.70 Agreements with Applicants

The Department shall enter into an agreement with an eligible developer who is entitled to grants under the Act. The agreement must include all of the following:

a) *A detailed description of the project that is the subject of the agreement, including the location of the project, the number of jobs created by the project, and project costs.*

b) A requirement that the eligible developer shall maintain operations at the project location for 10 years from the start date of the agreement.

c) *A specific method for determining the number of new employees attributable to the project.*

d) *A requirement that the eligible developer shall report on a quarter annual basis to the Department and the Department of Revenue the number of new employees and the incremental income tax withheld in connection with the new employees.*

e) *A provision authorizing the Department to verify with the Department of Revenue the amounts reported under subsection (d).*

f) *A provision authorizing the Department of Revenue to audit the information reported under subsection (d).* [30 ILCS 743/30]

g) A provision that the Department shall provide reimbursement by means of one or more grants that shall be issued each State fiscal year, subject to sufficient appropriation by the General Assembly and sufficient funds in the Intermodal Facilities Promotion Fund, by the Department through State fiscal year 2016, or until the eligible developer's eligible project costs are reimbursed, whichever occurs first.

HUMAN RIGHTS COMMISSION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Procedural Rules

2) Code Citation: 56 Ill. Adm. Code 5300

3)

Section Numbers:	Adopted Action:
5300.10	Amendment
5300.210	Amendment
5300.330	Amendment
5300.400	Amendment
5300.410	Amendment
5300.440	Amendment
5300.450	Amendment
5300.720	Amendment
5300.730	Amendment
5300.735	Amendment
5300.835	Amendment

4) Statutory Authority: Implementing Sections 5/8-102(E) and 5/8-103(A) and Article 8 of the Illinois Human Rights Act [775 ILCS 5/8-102(E) and 5/8-103(A)] and authorized by Sections 5/8-102(E) and 5/8-103(A through E) of the Illinois Human Rights Act [775 ILCS 5/8-102(E) and 5/8-103(A through E)]

5) Effective Date of Amendments: October 5, 2010

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

7) Does this rulemaking contain incorporations by reference? No

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

9) Notice of Proposal Published in Illinois Register: 33 Ill. Reg. 15300; November 13, 2009

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

11) Differences between proposal and final version: There is no difference between the proposal and the final version.

HUMAN RIGHTS COMMISSION

NOTICE OF ADOPTED AMENDMENTS

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were made.

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

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

15) Summary and Purpose of Amendments: To amend the Human Right Commission's Administrative Code provisions to reflect the amendments incorporated into the Illinois Human Rights Act, effective January 1, 2008. The amendments will reflect that the Human Rights Commission now has statutory authority to hear and determine requests for review of the Department of Human Rights' decisions to dismiss a charge or issue a notice of default.

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

Harriet Parker, General Counsel
100 W. Randolph, Suite 5-100
Chicago, Illinois 60601

312/814-6269

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

HUMAN RIGHTS COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER XI: HUMAN RIGHTS COMMISSION

PART 5300
PROCEDURAL RULES

SUBPART A: INTERPRETATIONS

Section
5300.10 Definition of Terms
5300.20 Computation of Time
5300.30 Service of Pleadings
5300.40 Filing
5300.50 Separability

SUBPART B: RECORDS AND WITNESSES

Section
5300.210 Subpoenas
5300.220 Access to Commission Records

SUBPART C: SETTLEMENTS

Section
5300.310 Settlement Agreements
5300.320 Consideration by Commission
5300.330 Non-Compliance

SUBPART D: REQUEST FOR REVIEW

Section
5300.400 Applicability of the Subpart
5300.410 Filing with Commission
5300.420 Notice by Commission
5300.430 Response by Department
5300.440 Reply to Response
5300.450 Extensions of Time
5300.460 Consideration of Request for Review
5300.470 Additional Information or Referral for Hearing

HUMAN RIGHTS COMMISSION

NOTICE OF ADOPTED AMENDMENTS

5300.480 Decision
5300.490 Tolling of Time Period (Repealed)
5300.495 Pending Requests

SUBPART E: HEARINGS

Section
5300.510 General
5300.515 Election to Proceed Under the Alternative Hearing Procedure
5300.520 Conduct of Hearing
5300.530 Powers and Duties of Administrative Law Judge
5300.540 Ex Parte Communications
5300.550 Form of Pleadings and Other Papers (Repealed)
5300.560 Appearances
5300.570 Place and Manner of Filing Papers (Repealed)

SUBPART F: COMPLAINT AND ANSWER

Section
5300.610 Filing of Complaint
5300.620 Service of Complaint
5300.625 Elections in Real Estate Transaction Cases
5300.630 Notice of Hearing
5300.640 Answer
5300.650 Amendments to Pleadings
5300.660 Substitution and Addition of Parties

SUBPART G: DISCOVERY AND PRACTICE

Section
5300.710 Prehearing Memorandum
5300.715 Discovery for Alternative Hearing Procedure Matters
5300.720 Discovery
5300.725 Filing of Disclosure Information and Discovery Material
5300.730 Motions and Objections
5300.735 Summary Decision
5300.740 Interlocutory Appeals
5300.745 Admission of Fact or of Genuineness of Documents
5300.750 Hearing Procedures

HUMAN RIGHTS COMMISSION

NOTICE OF ADOPTED AMENDMENTS

5300.760 Preparation of Recommended Order and Decision
5300.762 Preparation and Issuance of Final Order in Alternative Hearing Procedure Proceedings
5300.765 Petitions for Fees and/or Costs
5300.770 Settlement (Repealed)
5300.780 Voluntary Dismissal
5300.782 Authority for Sections 5300.783-5300.787 (Repealed)
5300.783 Fees and Costs (Repealed)
5300.784 Motion for Fees or Costs (Repealed)
5300.785 Responses to Motions for Fees or Costs (Repealed)
5300.786 Extensions of Time (Repealed)
5300.787 Supplemented Record (Repealed)

SUBPART H: PRACTICE IN FRONT OF THE COMMISSION

Section
5300.805 Scope of Motion Practice
5300.810 Recommended Order Not Final (Renumbered)
5300.815 Form of Motions and Objections
5300.820 Exceptions to Recommended Order (Renumbered)
5300.825 Presentation of Motions
5300.830 Responses to Exceptions (Renumbered)
5300.835 Emergency Motions
5300.840 Extensions of Time (Renumbered)
5300.845 Agreed Motions and Orders
5300.850 Oral Argument (Renumbered)
5300.855 Extension of Time
5300.860 Form of Pleadings and Other Papers (Renumbered)
5300.865 Style of Documents for Commission Consideration
5300.870 Ex Parte Communications (Renumbered)
5300.880 Brief by Department (Renumbered)

SUBPART I: REVIEW OF RECOMMENDED ORDER AND DECISION

Section
5300.910 Finality of Recommended Order
5300.920 Exceptions to Recommended Order
5300.930 Responses to Exceptions
5300.940 Extensions of Time

HUMAN RIGHTS COMMISSION

NOTICE OF ADOPTED AMENDMENTS

5300.945 Acceptance of the Recommended Order for Review
5300.950 Oral Argument
5300.960 Form of Pleadings and Other Papers
5300.970 Ex Parte Communications
5300.980 Brief by Department

SUBPART J: REMANDMENT

Section
5300.1010 Request to Present Additional Evidence
5300.1020 Motion for Rehearing Before an Administrative Law Judge
5300.1030 Remandment on the Commission's Own Motion
5300.1040 Remand Proceedings
5300.1050 Rehearing Before Full Commission (Renumbered)
5300.1060 Modification of Commission Order (Renumbered)

SUBPART K: ORDER AND DECISION OF THE COMMISSION

Section
5300.1110 Commissioners Participating
5300.1120 Standard of Review
5300.1130 Proposal for Decision
5300.1140 Order and Decision
5300.1145 Interest
5300.1150 Rehearing Before Full Commission
5300.1160 Modification of Commission Order
5300.1170 Interlocutory Appeals

AUTHORITY: Authorized by Sections 8-102(E) and 8-101(C)(3) of the Illinois Human Rights Act [775 ILCS 5/8-102(E) and 8-101(C)(3)].

SOURCE: Filed November 15, 1975 by the Fair Employment Practices Commission; emergency amendment at 2 Ill. Reg. 12, p. 11, effective March 24, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 9, p. 40, effective March 1, 1979; amended at 3 Ill. Reg. 15, p. 100, effective April 9, 1979; transferred to the Human Rights Commission by the Illinois Human Rights Act, effective July 1, 1980; emergency amendment at 4 Ill. Reg. 39, p. 334, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 2709, effective March 2, 1981; amended at 7 Ill. Reg. 9298, effective July 25, 1983; codified at 8 Ill. Reg. 18887; amended at 9 Ill. Reg. 6207, effective April 24, 1985; amended at 16 Ill. Reg. 7838, effective

HUMAN RIGHTS COMMISSION

NOTICE OF ADOPTED AMENDMENTS

June 1, 1992; emergency amendment at 20 Ill. Reg. 410, effective January 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 7820, effective June 1, 1996; amended at 22 Ill. Reg. 1336, effective January 1, 1998; amended at 33 Ill. Reg. 626, effective January 2, 2009; amended at 34 Ill. Reg. 16373, effective October 5, 2010.

SUBPART A: INTERPRETATIONS

Section 5300.10 Definition of Terms

Where used in this Part, unless the context otherwise clearly requires:

~~The term~~ "Act" means~~shall mean~~ the Illinois Human Rights Act [775 ILCS 5]~~(Ill. Rev. Stat. 1991, ch. 68, par. 1-101 through 10-103)~~.

~~The term~~ "Administrative Law Judge" means~~shall refer to~~ a hearing officer appointed by the Commission pursuant to Section 8-102(D) of the Act.

~~The term~~ *"Aggrieved Party" means~~shall mean~~ a person~~Person~~ who is alleged or proven to have been injured by a civil rights violation or believes he or she will be injured by a civil rights violation under Article 3* of the Act *that is about to occur.* (Section 1-103(B)~~Section 1-103~~ of the Act)

"Chairperson" or "Chair" means the chief presiding officer of the Commission, designated by the Governor.

~~The term~~ "Charge" means~~shall mean~~ an allegation of a civil rights violation filed with or initiated by the Department in accordance with the ~~provisions of the~~ Act and this Part.

~~The term~~ "Civil Rights Violation" means~~shall refer to~~ any of the acts or practices constituting civil rights violations under Sections 2-102, 2-103, 2-105(C), 3-102, 3-102.1~~3-102.1~~, 3-103, 3-104, ~~3-104.1,~~ 3-105, 4-102, 4-103, 5-102, 5A-102 and 6-101 of the Act.

~~The term~~ "Commission" means~~shall mean~~ the Illinois Human Rights Commission.

~~The term~~ "Commissioner" means~~shall mean~~ any duly appointed member of the Human Rights Commission, including, unless the context otherwise requires, the

Chairperson.

~~The term~~ "Complainant" means~~shall mean~~ a person who files a charge~~Charge~~ with the Department, including the Department in the case of a charge~~Charge~~ initiated by the Department itself.~~; said~~ The term shall have the same meaning in connection with a complaint~~Complaint~~ filed by the Department or by an aggrieved party~~Aggrieved Party~~ with the Commission.

~~The term~~ "Complaint" means~~shall mean~~ a written complaint~~Complaint~~ for hearing filed by the Department or by an aggrieved party~~Aggrieved Party~~ with the Commission in accordance with the Act and this Part.

~~The term~~ "Department" means~~shall mean~~ the Department of Human Rights.

~~The term~~ "Director" means~~shall mean~~ the Director of the Department or a duly authorized designee.

~~The term~~ "Executive Director" means~~shall mean~~ the Executive Director of the Commission or a duly authorized designee.

~~The term~~ "Party" means~~shall refer to~~ a person~~Person~~ designated as complainant~~Complainant~~ or respondent~~Respondent~~ in a charge~~Charge~~ or complaint~~Complaint~~.

~~The term~~ "Person" has~~shall have~~ the ~~same~~ meaning ~~as~~ prescribed in Section 1-103 of the Act.

~~The term~~ "Respondent" means~~shall mean~~ a person~~Person~~ against whom a charge~~Charge~~ or complaint~~Complaint~~ is filed in accordance with the Act and this Part.

"Vice Chair" means the Commissioner, selected by the Commission to serve in that capacity, who is authorized to act in the absence of the Chairperson in order to ensure that *vacancies do not impair the right of the remaining members to exercise all the powers of the Commission* (Section 8-101(C)(3) of the Act).

(Source: Amended at 34 Ill. Reg. 16373, effective October 5, 2010)

SUBPART B: RECORDS AND WITNESSES

Section 5300.210 Subpoenas

a) Issuance

1) Subpoenas shall be issued by a Commissioner to compel the attendance of a witness or the production of books, payrolls, records, correspondence, documents, papers or other evidence under the following circumstances:

A) At the instance of the Department to facilitate its investigation of a charge~~Charge~~; or

B) At the instance of a party~~Party~~ to the proceedings, in connection with a hearing convened pursuant to this Part; or

C) At the instance of a party~~Party~~ to the proceedings, solely to obtain the production of books, payrolls, records, correspondence, documents, papers or other evidence from non-parties in anticipation of a hearing convened pursuant to this Part. Subpoenas issued in anticipation of a hearing may issue at any time subsequent to the time all respondents~~Respondents~~ have answered the complaint~~Complaint~~ or are required to answer the complaint~~Complaint~~ and not prior to that time, except by agreement of the parties~~Parties~~ or with leave of the Administrative Law Judge. This Section does not confer a right on a party~~Party~~ to take a deposition of any person~~Person~~.

2) Blank subpoenas may be obtained for use pursuant to this subsection~~Subsection~~ by applying ~~therefor~~ to the Executive Director. The applicant shall specify the charge~~Charge~~ or complaint~~Complaint~~ for which the subpoena is to be used and the type of subpoena requested.

b) Witness and Mileage Fees – The cost of service and witness and mileage fees shall be borne by the person~~Person~~ requesting the subpoena. Witness and mileage fees shall be the same as are paid witnesses in the circuit courts of the State of Illinois, as set forth in Section 4.3 of the Circuit Courts Act [705 ILCS 35/4.3]~~Section 47 of the Fees and Salaries Act [55 ILCS 45/47]~~.

c) Service and Contents – The person~~Person~~ requesting a subpoena shall be

responsible for its service on the subpoenaed person by personal service, by registered or certified mail or by leaving a copy at the principal office or place of business of a subpoenaed corporation or partnership. A subpoena shall be served reasonably in advance of its return date. The subpoena shall state the name and address of the person~~Person~~ initiating its issuance, and shall identify the person~~Person,~~ or evidence subpoenaed and the person~~Person~~ to whom, ~~and~~ the place at which, and the~~,~~ date and time when it is returnable. The person~~Person~~ requesting the subpoena shall also serve a copy of the subpoena upon all parties~~Parties~~ of record. Service of the copy of the subpoena on the parties~~Parties~~ may be by first-class mail.

d) Petition to Quash or Modify – Within 5~~five~~ days after service of a subpoena on any person~~Person~~ and service of copies of the subpoena on the parties~~Parties~~, the person~~such Person~~ or any party~~Party~~ may file a petition to quash or modify the~~said~~ subpoena, stating reasons in support of the~~such~~ relief. The~~Such a~~ petition shall be filed with the Commission in the case of a subpoena issued during the Department's investigation of any matter, and with the Administrative Law Judge in the case of a subpoena issued in connection with, or in anticipation of, a hearing before the Judge. A copy of the petition shall be served at the same time on the person~~Person~~ serving the subpoena. Within 5~~five~~ days after service of the~~such~~ petition, or within any longer period that the Commission or a 3 ~~three-~~ member panel or the Administrative Law Judge may order, the serving party~~Party~~ may file an answering statement to the petition~~thereto~~. A hearing may be held in such a dispute at~~in~~ the discretion of the Commission or Administrative Law Judge. When ~~such~~ a petition is properly filed with the Commission, the Commission may refer the question to an Administrative Law Judge for hearing, but the final decision will be by the Commission. Whenever a petition to quash a subpoena is properly filed under this Section, the petitioner shall not be required to respond to the~~such~~ subpoena until the petition has been ruled upon.

e) Enforcement – Whenever any person~~Person~~ shall knowingly fail or refuse to comply with a subpoena served in accordance with this Section~~herewith~~, the Commission, at the instance of the person~~Person~~ serving the subpoena, shall petition the appropriate circuit court pursuant to Section 8-104(E) of the Act for an order enforcing the~~said~~ subpoena.

(Source: Amended at 34 Ill. Reg. 16373, effective October 5, 2010)

SUBPART C: SETTLEMENTS

HUMAN RIGHTS COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 5300.330 Non-Compliance

a) When the Department believes that a party has violated written terms of a settlement approved by the Commission, it may file a notice with the Commission, with service upon all parties, specifying the nature of the alleged violation and praying for an order remanding the matter for hearing or authorizing the Department to seek judicial enforcement.

b) Whenever the Department files a notice of a violation, the party allegedly violating the Commission's order may file a response with the Commission within ~~fifteen (~~15~~)~~ days after service of the notice upon it. A 3 ~~three~~ member panel of the Commission shall consider the Department's notice and the response, if any, and shall enter an order, with service on the parties and the Department, which shall either direct the Department to seek judicial enforcement pursuant to Section 8-111(C~~b~~) of the Act, remand the matter to an Administrative Law Judge, or find that no violation exists. If the Commission determines that a violation has occurred, it will instruct the Department to seek judicial enforcement. If the Commission is unable to determine whether ~~or not~~ a violation has occurred, it will remand the matter to an Administrative Law Judge for a hearing.

(Source: Amended at 34 Ill. Reg. 16373, effective October 5, 2010)

SUBPART D: REQUEST FOR REVIEW

Section 5300.400 Applicability of the Subpart

a) This Subpart D applies only to requests for review in cases in which the charge was filed after January 1, 2008. Pursuant to Section 8-103 of the Act, the Commission has jurisdiction over requests for review in cases in which the cause of action was filed on or after January 1, 2008.

b) After January 1, 2008, all requests for review received by the Department will be evaluated by Department staff to determine if the ~~perfected~~ charge in the case was filed on or after January 1, 2008. If the ~~perfected~~ charge was, in fact, filed on or after January 1, 2008, the staff of the Department will stamp the date the request for review was received by the Department on the face of that document and then forward it to the Commission for processing pursuant to Section 8-103 of the Act.

(Source: Amended at 34 Ill. Reg. 16373, effective October 5, 2010)

Section 5300.410 Filing with Commission

A party may request review by the Commission of a decision by the Department to dismiss or default~~,~~ by filing a request for a review~~therefor~~ with the Commission at its Chicago office within ~~thirty (~~30~~)~~ days after~~of~~ receipt of the Department's notice of its decision. The~~Such~~ request may be accompanied by argument and supporting materials. Except by permission of the Commission, the request, argument and supporting materials shall not exceed 30 pages.

(Source: Amended at 34 Ill. Reg. 16373, effective October 5, 2010)

Section 5300.440 Reply to Response

The party filing the request may, within ~~fifteen (~~15~~)~~ days after~~of~~ service of the response, file a reply with the Commission, with service on the Department at the same time. Only replies that~~which~~ are limited to addressing issues raised in the response will be considered by the Commission. Except by permission of the Commission, the reply shall not exceed 30 pages.

(Source: Amended at 34 Ill. Reg. 16373, effective October 5, 2010)

Section 5300.450 Extensions of Time

a) A party's~~Party's~~ timely request~~Request~~ for review~~Review~~ or timely reply to the Department's response pursuant to this subsection may seek additional time to file argument and material in support~~ thereof~~. A request for additional time not exceeding ~~thirty (~~30~~)~~ days shall be granted by the Commission through the issuance by the Executive Director of a written order served on the party~~Party~~ filing the request and on the Department. A request for additional time ~~exceeding the aforementioned limitation~~ shall be granted by the Commission, through a 3~~three~~ member panel, only upon a showing of special circumstances. Any additional argument or material filed pursuant to this subsection~~Subsection~~ shall be served at the same time on the Department by the party~~Party~~ filing it. The Department shall file its response in accordance with Section 5300.430 within ~~thirty (~~30~~)~~ days after receipt of the additional argument or materials.

b) The Department may request additional time to file its response by filing a written motion with the Commission, serving a copy at the same time on the party~~Party~~ filing the request~~Request~~ for review~~Review~~. A request for additional time not

exceeding ~~thirty (~~30~~)~~ days shall be granted by the Commission through the issuance by the Executive Director of a written order served on the party~~Party~~ filing the request~~Request~~ for review~~Review~~ and on the Department. A request for additional time ~~exceeding the aforementioned limitation~~ will be granted by the Commission, through a 3~~three~~ member panel, only upon a showing of special circumstances.

(Source: Amended at 34 Ill. Reg. 16373, effective October 5, 2010)

SUBPART G: DISCOVERY AND PRACTICE

Section 5300.720 Discovery

a) For all complaints~~Complaints~~ not proceeding under the alternative hearing procedure, discovery shall be obtainable through the following methods:

1) Written Interrogatories – A party~~Party~~ may direct written interrogatories to any other party~~Party~~, serving copies of the~~such~~ interrogatories at the same time on all other parties~~Parties~~. The~~Such~~ interrogatories shall be restricted to the subject matter of the complaint~~Complaint~~ or defense and shall avoid undue detail or the imposition of excessive burden or expense on the answering party~~Party~~. Within 28 days after service of the interrogatories upon the answering party~~Party~~, the answering party~~Party~~ shall serve upon the propounding party~~Party~~ an answer under oath or affirmation, or an objection~~,~~ to each interrogatory, serving copies of the~~such~~ answers and objections at the same time on all other parties~~Parties~~. Any objection to an answer or refusal to answer an interrogatory shall, upon motion of the party~~Party~~ propounding the interrogatory, be ruled upon by the Administrative Law Judge. When~~Where~~ appropriate, a document may be served in answer to an interrogatory. Supplemental interrogatories shall not be allowed except on leave of the Administrative Law Judge for good cause shown.

2) Production, Inspection, Copying or Photographing of Documents and Tangible Things – A party~~Party~~, by written request served upon all other parties~~Parties~~, may require any other party~~Party~~ to produce for inspection, copying or photographing any document, object or tangible thing that~~which~~ is relevant to the subject matter of the complaint~~Complaint~~ or defense. The party~~Party~~ upon whom the request is served shall respond to

the request within 28 days, stating, with respect to each item or category, that inspection and related activities will be permitted as required, unless the request is objected to, in which event the reasons for objection shall be stated. The response shall be served on all parties~~Parties~~. On motion of the requesting party~~Party~~, the Administrative Law Judge shall rule with respect to the~~such~~ objections.

3) Depositions

A) A deposition may be taken as of right only under the provisions of Section 8-104(F) of the Act.

B) A party~~Party~~ may take discovery depositions either for good cause shown or by agreement. A discovery disposition taken for good cause or by agreement may be taken only upon leave of the Administrative Law Judge. No party~~Party~~ shall serve a notice of deposition for a discovery deposition without leave of the Administrative Law Judge.

b) Prior to the time all respondents~~Respondents~~ have answered or are required to answer, no discovery procedure shall be noticed or undertaken, except by agreement of the parties~~Parties~~ or with leave of the Administrative Law Judge for good cause shown.

c) At any time, the Administrative Law Judge may, on his/her own motion or on motion of any party~~Party~~ or witness, make such protective Orders as justice and fairness may require, and any other Order denying, limiting, conditioning or regulating discovery, including setting or modifying any due date for discovery, to prevent unreasonable annoyance, expense, embarrassment, disadvantage or oppression. A party may be deemed to have timely filed any discovery requests, including requests for admission of fact and requests for admission of genuineness of document (Section 5300.745), upon a finding of substantial compliance by the Administrative Law Judge.

d) All matters that are privileged against disclosure in civil cases in the courts of the State of Illinois shall be privileged against disclosure through any discovery procedure under this Section~~hereunder~~. When information or documents are withheld from disclosure or discovery on a claim that they are privileged pursuant to a common law or statutory privilege, that~~any such~~ claim shall be made

expressly and shall be supported by a description of the nature of the documents, communications or things not produced or disclosed and the exact privilege that~~which~~ is being claimed.

e) The types of discovery of information from parties~~Parties~~ and witnesses shall be the same as in other civil cases in the circuit courts of this State, except as provided for discovery depositions in subsection (a)(3)~~above~~. The procedure for obtaining discovery of information from parties~~Parties~~ and witnesses shall be as specified in this Part. If this Part does not contain a procedure with respect to a particular type of discovery, the Code of Civil Procedure [735 ILCS 5] will be considered persuasive authority by the Commission. When~~Where~~ the Code of Civil Procedure makes reference to "rules~~,~~", the applicable Supreme Court Rules on discovery will also be considered.

f) The hearing of a matter shall not be delayed to permit discovery unless due diligence is shown.

(Source: Amended at 34 Ill. Reg. 16373, effective October 5, 2010)

Section 5300.730 Motions and Objections

a) Motions and objections directed to the Administrative Law Judge pursuant to the authority granted in Section 5300.530(b)~~ of this Part~~ may be stated in writing or on the record, except for a motion to amend the pleadings pursuant to Section 5300.650(a)~~ of this Part~~, which must be in writing.

1) A written motion shall briefly state the Order or relief requested and the specific grounds upon which relief is sought.

2) A written motion shall be served at the same time upon all parties~~Parties~~ and filed at the Commission office of the Administrative Law Judge to whom it has been directed.

3) The following motions shall also be served upon the Department:

A) Motion to dismiss and any response to the motion~~thereto~~ pursuant to Section 5300.640(b)~~ of this Part~~. This subsection (a)(3)(A) shall be construed to include any motion for summary decision, or other motion regardless of title, that requests dismissal of the complaint;

B) Motion to amend the pleadings pursuant to Section 5300.650(a)~~ of this Part~~; and

C) Motion to allow a Commission or Department employee to testify at a hearing pursuant to Section 5300.750(b)(4)~~ of this Part~~.

b) Except as provided in subsection (f)~~ of this Section~~, for motions to dismiss, the complaint~~Complaint~~ and motions for summary decision, responses to written motions may be filed by any party~~Party~~ within 5~~five~~ days after service of the motion, or within any~~such~~ other period as the Administrative Law Judge may order, and shall be served at the same time upon all other parties~~Parties~~. In deciding whether to extend the period for responding to the motion, the Administrative Law Judge shall consider the complexity of the issues raised by the motion, and the ability of the responding party~~Party~~ to file a response within the 5~~five~~ day period. Except under extraordinary circumstances, the time for responding to a motion shall not exceed 45 days. The Administrative Law Judge may, on his/her own motion or motion of the Department, enter an Order permitting the Department to file a response to a written motion. In deciding whether to allow the Department to file a response, the Administrative Law Judge shall consider:

1) Whether resolution of the motion raises issues beyond those involved in the specific case;

2) Whether the Department has an interest different from that of the complainant~~Complainant~~ or respondent~~Respondent~~; and

3) Whether the Department can articulate a particular point of view better than one or both parties~~Parties~~.

c) Written motions and responses ~~thereto~~ should set forth the arguments and authorities relied upon to permit the Administrative Law Judge to make a decision without oral argument on the motion.

d) Except as provided in subsection (f)~~ of this Section~~, for motions to dismiss and motions for summary decision, except ~~as to~~ motions arising out of complaints~~Complaints~~ proceeding under the alternative hearing procedure of Section 8A-102.5 of the Act and except for those motions made in the course of

public hearing, all motions arising out of complaints~~Complaints~~ in which the site of the alleged civil rights violation is in Cook County shall be heard at the Commission's office in Chicago. Written Notice of Hearing on the~~such~~ motion shall be filed at the Commission's office in Chicago, along with a copy of the motion, and served upon all parties~~Parties~~ and also upon the Department as specified in subsection (a)~~ of this Section~~. The Notice of Hearing on the motion shall show the name of the Administrative Law Judge before whom, and the date and time when, the motion shall be presented. The motion shall be in writing and a copy of the motion or a statement that it previously has been served shall be served with the notice. Copies of all papers to be presented to the Administrative Law Judge with the motion shall be served with the notice or the notice shall state that copies have previously been served. The moving party~~Party~~ shall schedule the motion for hearing by entering the case name and~~,~~ ALS number and the nature of the motion in the motion book in the Commission's Chicago office.

1) If notice of hearing is given by personal service, the notice shall be delivered before 4:00 P.M. on the second State business day preceding the hearing of the motion.

2) If notice is given by mail, the notice shall be deposited with the U.S. Postal Service~~in a United States Post Office or Post Office Box~~ no later than the fifth State business day preceding the hearing of the motion. The certificate of service attached to the motion will be prima facie proof of the date the notice is deposited with the U.S. Postal Service~~placed in a Post Office Box~~.

e) All motions arising out of complaints~~Complaints~~ in which the site of the alleged civil rights violation is outside Cook County and all motions arising out of complaints~~Complaints~~ proceeding under the alternative hearing procedure of Section 8A-102.5 of the Act shall be governed by the procedures specified in subsections (a), (b) and (c)~~ of this Section~~. These motions shall not be noticed for hearing at the Commission's office in Chicago; however, if all of the parties~~Parties~~ to a complaint~~Complaint~~, except to a complaint~~Complaint~~ proceeding under the alternative hearing procedure of Section 8A-102.5 of the Act, in which the site of the alleged discrimination is outside Cook County agree to appear for a hearing on a motion at the Commission's Chicago office, the procedure specified in subsection (d)~~ of this Section~~ may be utilized.

f) Regardless of the site of the alleged civil rights violation, all motions to dismiss

the complaint~~Complaint~~ and all motions for summary decision shall be filed and responded to in accordance with the procedures set forth in subsections (a), (b), and (c)~~ of this Section~~.

g) All motions on complaints~~Complaints~~ proceeding under the alternative hearing procedure shall be decided by the selected Administrative Law Judge based on the written motions and responses ~~thereto~~ only, except when the Administrative Law Judge deems oral argument useful; in that case~~then~~, the Administrative Law Judge shall issue an Order setting a date and time for the motion to be argued. Oral~~Such oral~~ argument may be set at a Commission office or by telephone conference hearing.

(Source: Amended at 34 Ill. Reg. 16373, effective October 5, 2010)

Section 5300.735 Summary Decision

a) At any time after the service of a complaint~~Complaint~~ and prior to service of a decision pursuant to Section 8A-102(I), ~~Section~~ 8A-102.5(B)(4) or ~~Section~~ 8B-102(J) of the Act, the complainant~~Complainant~~ or the respondent~~Respondent~~ may move, with or without supporting affidavits, for a summary Order in the moving party's~~Party's~~ favor as to all or any part of the relief sought. An Administrative Law Judge may not preclude the filing of a motion for summary decision except within the 60-day period prior to the date set for the hearing on the merits of the complaint~~Complaint~~. Once the Administrative Law Judge has set a deadline for the filing of the motions for summary decisions in accordance with this Section, no ~~such~~ motion may be filed after that date without leave of the Administrative Law Judge, even if the hearing on the merits is postponed.

b) Procedure – The non-moving party~~Party~~ may file counter-affidavits prior to the time of the ruling on the motion. The Order sought shall be rendered without delay if the pleadings and affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party~~Party~~ is entitled to a recommended~~Recommended~~ Order as a matter of law. An interim recommended summary Order, interlocutory in character, may be rendered on the issue of liability alone, although there is a genuine issue as to the relief to be awarded. The term ~~"~~*without delay*~~"~~ (Section 8-106.1(B) of the Act) means that consideration of the motion shall not be stayed without the agreement of the parties~~Parties~~. Further, the Administrative Law Judge may not postpone consideration of the motion until after the public hearing. The term does not

mean that motions for summary decision will be given preference over other pending motions in the case at issue or other cases pending in front of the Commission.

c) Affidavits or Motions Made in Bad Faith – If it appears to the satisfaction of the Administrative Law Judge at any time that any affidavit or motion presented pursuant to this Section is presented in bad faith or solely for the purpose of delay, the Administrative Law Judge may recommend that the party~~Party~~ employing the use of affidavits for dilatory purposes shall pay to the other party~~Party~~ the amount of reasonable expenses incurred as a result of the filing of the affidavit or motion, including reasonable attorney's fees.

(Source: Amended at 34 Ill. Reg. 16373, effective October 5, 2010)

SUBPART H: PRACTICE IN FRONT OF THE COMMISSION

Section 5300.835 Emergency Motions

a) If action is required on a motion prior to the time of the next scheduled Commission meeting at which the requested relief could be statutorily granted, the motion shall be clearly identified as an emergency motion. All emergency motions shall contain a memorandum stating why the motion must be decided prior to the time of the appropriate Commission meeting. All emergency motions shall be presented by Commission staff to the Chairperson, or the Vice Chair in the absence of the Chairperson, of the Commission.

b) The Chairperson, or the Vice Chair in the absence of the Chairperson, of the Commission shall have the authority to consider and grant motions filed under subsection~~Subsection~~ (a)~~ of this Section~~ if, and only if, the sole relief requested in the motion is the extension of a filing deadline imposed by the Act or this Part. The Chairperson, or the Vice Chair in the absence of the Chairperson, shall grant those~~such~~ motions only on just terms~~,~~ and for good cause shown.

c) The Chairperson, or the Vice Chair in the absence of the Chairperson, of the Commission shall have the authority to direct the convening of an emergency full~~Full~~ Commission or panel~~Panel~~ meeting to consider an emergency motion. The emergency meeting shall be convened when a party will suffer irreparable damage if the motion is not considered until the next appropriate, regularly scheduled meeting. The following examples illustrate situations in which an

emergency meeting will be convened. This is not an exhaustive listing of all situations in which an emergency meeting will be considered appropriate:

1) An emergency meeting will be convened if a delay in petitioning the circuit court for enforcement of a subpoena will make it difficult or impossible for the court to enforce the subpoena.

2) An emergency meeting will be convened if a Commission Order is being violated, and a delay in an action for enforcement will make it difficult or impossible to put the parties into the position they would have been in had there been no violation of the Order~~order~~.

3) An emergency meeting will be convened upon the motion of the Department if a delay in the approval of the terms and conditions of a settlement makes it difficult or impossible for either party to comply with the terms of the settlement.

d) Every emergency motion shall contain a proposed Order~~order~~ granting the relief requested by the movant.

(Source: Amended at 34 Ill. Reg. 16373, effective October 5, 2010)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Access to Public Records of the Department of Human Rights

2) Code Citation: 2 Ill. Adm. Code 926

3)

Section Numbers:	Adopted Action:
926.11	New Section
926.200	Amendment
926.210	Amendment
926.230	Repealed
926.231	Repealed
926.236	Amendment
926.250	Repealed
926.260	Repealed
926.270	Repealed
926.301	New Section
926.302	New Section
926.303	New Section
926.401	New Section
926.402	New Section
926.403	New Section
926.501	New Section
926.502	New Section
926.503	New Section
926.504	New Section
926.505	New Section
926.506	New Section
926.507	New Section
926.601	New Section
926.602	New Section
926.603	New Section
926.APPENDIX A	New Section

4) Statutory Authority: Implementing and authorized by Section 3(g) of the Freedom of Information Act [5 ILCS 140/3(g)]

5) Effective Date of Amendments: October 8, 2010

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

7) Does this rulemaking contain incorporations by reference? No

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

9) Notice of Proposal Published in the Illinois Register: Because this rulemaking is not subject to Section 5-35 of the Illinois Administrative Procedures Act (IAPA) [415 ILCS 100/5-35], the Agency was not required to publish Proposed Amendments

10) Has JCAR issued a Statement of Objections to these amendments? Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to First Notice or to 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 to 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 to Second Notice review by JCAR.

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

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

15) Summary and Purpose of Amendments: The Agency is amending its Access to Public Records regulations to reflect changes made to the Freedom of Information Act [5 ILCS 140] by PA 96-542, which took effect on January 1, 2010.

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

David T. Rothal
Staff Attorney
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Ste. 10-100
Chicago, IL 60601

312/814-6257 or 217/785-5125 (TTY)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE D: CODE DEPARTMENTS
CHAPTER X: DEPARTMENT OF HUMAN RIGHTS

PART 926
ACCESS TO RECORDS OF THE DEPARTMENT OF HUMAN RIGHTS~~INFORMATION~~

SUBPART A: GENERAL PROVISIONS

Section
926.10 Summary and Purpose (Repealed)
926.11 Summary and Purpose
926.20 Definitions (Renumbered)
926.110 Publications (Repealed)
926.120 Speakers Bureau (Repealed)
926.130 Requests and Inquiries (Repealed)
926.200 Definitions
926.210 Investigation Records and Files
926.220 Conciliation Records (Repealed)
926.221 Training
926.230 Public Contracts Records (Repealed)
926.231 Other Record Systems (Repealed)
926.235 Access by Government Agencies
926.236 Copies
926.240 Other Record Systems (Renumbered)

SUBPART B: CLASSIFICATION OF FOIA RECORDS

Section
926.250 Requests for Access to Records (Repealed)
926.260 Response to Request (Repealed)
926.270 Appeal of Denial of Access (Repealed)
926.280 Copies (Renumbered)
926.290 Access by Governmental Agencies (Renumbered)
926.301 Records that Will Be Disclosed
926.302 Records that Will Be Withheld from Disclosure
926.303 Statutory Exemptions

SUBPART C: PROCEDURES FOR REQUESTING

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

FOIA RECORDS FROM THE AGENCY

Section
926.401 Submittal of Requests for Records
926.402 Information To Be Provided in Requests for Records
926.403 Requests for Records for Commercial Purposes

SUBPART D: AGENCY RESPONSE TO FOIA REQUESTS FOR RECORDS

Section
926.501 Timeline for Agency Response
926.502 Requests for Records that the Agency Considers Unduly Burdensome
926.503 Requests for Records that Require Electronic Retrieval
926.504 Denials of Requests for Records
926.505 Requests for Review of Denials − Public Access Counselor
926.506 Circuit Court Review
926.507 Administrative Review

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO FOIA REQUESTERS

Section
926.601 Inspection of Records
926.602 Copying of Records; Fees
926.603 Reduction and Waiver of Fees

926.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], implementing Section 7-101(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A)] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Access to Records rules adopted November 17, 1975, by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendment at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; amended at 7 Ill. Reg. 7940, effective July 1, 1983; repealed by operation of law October 1, 1984; new rules adopted at 8 Ill. Reg. 20678, effective October 10, 1984; amended at 18 Ill. Reg. 512, effective January 4, 1994; expedited correction at 20 Ill. Reg. 7559, effective January 4, 1994; amended at 22 Ill. Reg. 1346, effective December 29, 1997; amended at 26 Ill. Reg.

17212, effective November 18, 2002; amended at 33 Ill. Reg. 16809, effective November 25, 2009; amended at 34 Ill. Reg. 16393, effective October 8, 2010.

SUBPART A: GENERAL PROVISIONS

Section 926.11 Summary and Purpose

a) This Part states the policy of the Department of Human Rights 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 Agency'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 Agency's possession; and

3) Contains the procedures for claiming and determining that records submitted to the Agency are exempt from disclosure.

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.200 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~~When used in this Part, unless the context otherwise clearly requires~~:

"Act" means~~shall mean~~ the Illinois Human Rights Act [775 ILCS 5]~~(Ill. Rev. Stat. 1991, ch. 68, pars. 1-101 et seq.) [775 ILCS 5/1-101]~~.

"Agency" means the Department of Human Rights as established by the Act.

"Charge" means~~shall mean~~ the document alleging a civil rights violation, which is filed with or initiated by the Agency~~Department~~ in accordance with Section 7A-102 or 7B-102 of the Act ~~(Ill. Rev. Stat. 1991, ch. 68, pars. 7A102 and 7B-102) [775 ILCS 5/7A-102 and 5/7B-102]~~.

"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 Agency. (Section 2(d) of FOIA)

~~"Department" shall mean the Department of Human Rights, its employees and agents.~~

"Director" means~~shall means~~ the Director of the Agency~~Department or a duly authorized designee~~.

"FOIA" means~~"FOIA" shall mean~~ the Illinois Freedom of Information Act ~~(Ill. Rev. Stat. 1001, ch. 116, pars. 201 et seq.)~~ [5 ILCS 140~~/1 et seq.~~].

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

"Investigation report" means a report pursuant to Section 7A-102(D) or 7B-102(D) of the Act and, including exhibits and other written communication sent to

or submitted to the Agency for purposes of preparing the investigation report. [775 ILCS 5/7A-102(D) 7B-102(D)].

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

"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 Agency. (Section 2(c) of FOIA)

"Requester" means any person who has submitted to the Agency a written request, electronically or on paper, for records.

"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)

(Source: Amended at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.210 Investigation Records and Files

a) This Section pertains to oral requests for files and written requests that do not comply with Section 926.402. All contents of files maintained by the Agency~~Department~~ pertaining to charges shall be confidential and not subject to public disclosure. The only exceptions are as follows:

1) The parties to a charge may request permission to inspect portions of a file, pursuant to subsection (b) of this Section, excluding:

A) internal memoranda;

B) work papers and draft documents;

C) fact-finding conference notes and U.S. Equal Employment Opportunity Commission~~EEOC~~ investigator's notes;

D) materials reflecting the deliberative processes, mental impressions, or legal theories and advice of the Agency~~Department~~;

E) material generated in preparation for judicial or administrative proceedings;

F) the identities of confidential witnesses; and

G) documents maintained by the Agency~~Department~~ pertaining to conciliation, mediation, or other settlement effort conducted upon any charge, including but not limited to any reports furnished to or prepared by the Agency~~Department~~ in connection with ~~such~~

conciliation efforts, unless all parties and the Agency~~Department~~ agree in writing to disclosure and to the persons to whom they may be disclosed.

~~2) After the filing of a complaint with the Commission or the institution of judicial proceedings involving a charge, the Director may release information pertaining to the charge if:~~

~~A) such information is requested of the Department; or~~

~~B) the Director finds such information newsworthy, useful in education or training materials, relevant to an issue before the General Assembly, or similarly appropriate for disclosure.~~

2~~3~~) If the Director determines that the disclosure of ~~such~~ information is in the public interest, at any stage of the proceedings, the Director may authorize release; however, documents that are privileged pursuant to subsection (a)(1)~~ of this Section~~ may not be disclosed unless the Director finds in writing that disclosure would be in the public interest.

b) Parties to a charge may inspect materials that are disclosable pursuant to subsection (a)(1) of this Section upon making arrangements with the Agency~~Department~~ at any time subsequent to:

1) Written notification of substantial evidence, notice of default, or notice of dismissal;

2) Administrative closure; or

3) Approval of terms of settlement by the Human Rights Commission.

c) During Request for Review proceedings, the Agency's~~Department's~~ Chief Legal Counsel may inspect the Agency's~~Department's~~ investigation file, except for documents listed in subsections (a)(1)(A) through (E) and (G) of this Section. The Chief Legal Counsel may review documents listed in subsection (a)(1)(F) of this Section.

d) The Agency~~Department~~ may acknowledge publicly the existence of a charge, the names of the parties and the stage of the proceedings at which it is pending.

e) Notwithstanding any other provision of this Section, the Director may assert a privilege with respect to any item available for inspection by a party under this Section if disclosure might jeopardize or prejudice pending proceedings or reveal the identity of a confidential informant, or if such item otherwise qualifies for a privilege against disclosure under applicable law.

(Source: Amended at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.230 Public Contracts Records (Repealed)

~~a) Every Employer Report Form (Form PC-1 or Illinois 442-0010) and Construction Employee Utilization Projection (Form PC-2) filed with or submitted to the Department in compliance with 44 Ill. Adm. Code 750.210 and 750.220 may be available for public inspection at the Department's Chicago office upon reasonable request. Other reports, and correspondence, documents and information submitted to the Department pursuant to 44 Ill. Adm. Code 750.140, may be made available for public inspection only after at least two days notice to the public contractor to which the material pertains. However, the Department shall not allow inspection of:~~

~~1) internal memoranda;~~

~~2) work pages, or notes or other materials reflecting the deliberative processes, mental impressions or legal theories and advice of the Department staff; or~~

~~3) wage or salary information submitted by an employer as part of its response to a Public Contracts Unit documentation request, unless this information has been used by the Department to investigate a charge of discrimination and has been included in the file for such a charge, in which case the provisions of Section 926.210 will apply.~~

~~b) Notwithstanding any other provision of this Section, the Director may assert a privilege with respect to any item available for inspection if disclosure might jeopardize or prejudice pending proceedings or reveal the identity of a confidential informant, or if such item otherwise qualifies for a privilege against disclosure under applicable law.~~

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

(Source: Repealed at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.231 Other Record Systems (Repealed)

~~A catalog of the types of record systems maintained by the Department, compiled in compliance with Section 5 of the FOIA, may be made available for inspection accordance with Section 926.250 of this Part.~~

(Source: Repealed at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.236 Copies

The Agency~~Department~~ may furnish copies of documents that~~which~~ are available for inspection in accordance with Appendix A of this Part. However, for requests for copies that are not made pursuant to FOIA, as a means of expediting copying of documents, a contractor and a requester may agree to pay fees exceeding those specified in Appendix A.~~under this Part at a charge of fifty cents per page, plus postage and handling if the copies are mailed. Copies shall not be released to the requester until payment has been received. If payment is not received within 15 days after the Department has notified the requestor of the charges, the Department shall consider the request withdrawn. The Department may have private photocopy services perform such copying and may form agreements with such services for charges for copying, postage and handling. Upon request, the Director may fully or partially waive any fees if he/she determines it is in the public interest.~~

(Source: Amended at 34 Ill. Reg. 16393, effective October 8, 2010)

SUBPART B: CLASSIFICATION OF FOIA RECORDS

Section 926.250 Requests for Access to Records (Repealed)

~~Requests under the FOIA for access to public records maintained by the Department shall be made in writing and submitted to: FOIA Officer, Department of Human Rights, 100 West Randolph Street, Suite 10-100, Chicago, Illinois 60601. Each request should be clearly marked "ATTN: FOIA Request." If an individual is unable, because of disability, to prepare a written request, the request may be submitted by telephone to the FOIA Officer. The request must include the requester's full name, address and telephone number; a description of the specific records sought; and a statement as to whether the request is for inspection, for copying, or both.~~

(Source: Repealed at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.260 Response to Request (Repealed)

~~a) The Department shall respond within seven working days after its receipt of a request unless, within that period, the Department notifies the requester that it will require an extension of up to seven additional working days to respond. A notice of such an extension shall state the reasons why the extension is needed, and the date when a response will be forthcoming. The Department's failure to respond within the prescribed period of time may be treated by the requester as a denial.~~

~~b) If the Department approves a request to inspect records, it shall notify the requester that the records will be made available at the Department's Chicago offices. If the request is for copies, the copies shall be made available in accordance with Section 926.236.~~

~~c) If the Department denies a request, its denial shall be in writing from the Department's FOIA Officer and shall state the reasons under Sections 3(f) and/or 7 of the FOIA. The notice of denial shall also provide the name and title of each person responsible for the denial, and shall notify the requester that the denial may be appealed to the Director.~~

~~d) If the denial goes to only a part of the requested records, the notice shall advise how and when the request will otherwise be granted.~~

(Source: Repealed at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.270 Appeal of Denial of Access (Repealed)

~~a) A person whose request has been denied may appeal the denial by submitting a written appeal to the Director, 100 West Randolph Street, Suite 10-100, Chicago, Illinois 60601. If an individual is unable, because of disability, to submit a written appeal, the appeal may be by telephone, to the Director. The notice of appeal must be clearly marked "ATTN: FOIA Appeal", and must include a copy of the original request, a copy of the denial (if any), and a statement of the reasons why the appeal should be granted, and must be postmarked within 15 days of the Department's sending notice of the denial.~~

~~b) The Director shall respond to an appeal within seven working days after its receipt.~~

~~c) If the appeal is granted, a written notice to that effect shall be sent to the requester advising how and when the requested records will be made available.~~

~~d) If the appeal is denied, in whole or in part, written notice of the denial shall advise the requester that judicial review of the denial is available under Section 11 of the FOIA.~~

~~e) The Director's failure to respond to a proper appeal within seven working days after its receipt may be treated by the requester as a denial of the appeal.~~

(Source: Repealed at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.301 Records that Will Be Disclosed

Upon request meeting the requirements of this Part, the Agency shall disclose to the requester all records requested except that it shall not disclose certain records as provided in Section 926.302 or 926.303. Records covered under this Section shall include, but are not be limited to:

a) *Records of funds. All records relating to the obligation, receipt and use of public funds of the Agency are records subject to inspection and copying by the public.* (Section 2.5 of FOIA)

b) *Payrolls. Certified payroll records submitted to the Agency 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 Agency prior to disclosure.* (Section 2.10 of FOIA)

c) *Criminal history records. The following documents maintained by the Agency 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 926.302(a)(5)(F) of this Part. (Section 2.15(b) of FOIA)

d) *Settlement agreements. All settlement agreements entered into by or on behalf of the Agency are records subject to inspection and copying by the public, provided that information exempt from disclosure under* Section 926.302 or 926.303 of this Part *may be redacted.* (Section 2.20 of FOIA)

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.302 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 Agency 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, including investigation reports and documents in an investigation file that would not be disclosed pursuant to a request in accordance with Section 926.210;* (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)

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 Agency 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 Agency;*

F) *Endanger the life or physical safety of law enforcement personnel or any other person; or*

G) *Obstruct an ongoing criminal investigation by the Agency;* (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)

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 head of the Agency. The exemption provided in this 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)

10) *Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by the Agency 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 926.200 *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 minutes available to the public under Section 2.06 of the Open Meetings Act;* (Section 7(1)(l) of FOIA)

14) *Communications between the Agency and an attorney or auditor representing the Agency that would not be subject to discovery in litigation, and materials prepared or compiled by or for the Agency in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the Agency, and materials prepared or compiled with respect to internal audits of the Agency;* (Section 7(1)(m) of FOIA)

15) *Records relating to the Agency'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 Agency 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 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)

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)

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

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.303 Statutory Exemptions

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

a) *All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act* [20 ILCS 700].

b) *Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act* [75 ILCS 70].

c) *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.*

d) *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].

e) *Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act* [420 ILCS 44].

f) *Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act* [30 ILCS 535].

g) *Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act* [110 ILCS 979].

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

i) *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].

j) *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].

k) *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].

l) *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].

m) *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.*

n) *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.*

o) *Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act* [410 ILCS 525].

p) *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].

q) *Information prohibited from being disclosed by the Personnel Records Review Act* [820 ILCS 40].

r) *Information prohibited from being disclosed by the Illinois School Student Records Act* [105 ILCS 10].

s) *Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act* [220 ILCS 5]. (Section 7.5 of FOIA)

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

SUBPART C: PROCEDURES FOR REQUESTING FOIA RECORDS FROM THE AGENCY

Section 926.401 Submittal of Requests for Records

a) Any request for public records should be submitted in writing to the Agency's FOI Officer at the following address:

Department of Human Rights
Attn: FOIA Officer
100 West Randolph Street, Suite 10-100
Chicago IL 60601

b) Contact information for the FOI Officer can be found online at www.state.il.us/dhr/DHR_FOIA.htm.

c) FOIA requests may be submitted via mail, e-mail, fax, or hand delivery to the address above. E-mailed requests should 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 and should be sent to IDHR.FOIA@Illinois.gov. Faxed FOIA requests should be faxed to (312)814-1436, Attn: FOI Officer.

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.402 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) A specific description of the records sought. Requests that the Agency considers unduly burdensome or categorical may be denied. (See Section 3(g) of FOIA and Section 926.502 of this Part);

c) A statement as to the requested medium and format for the Agency 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 Agency to use in providing the records sought: for example, inspection at Agency 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.

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.403 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 Agency*. (Section 3.1(c) of FOIA)

b) *The Agency 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 Agency to provide the records requested and an estimate of the fees to be charged, which the Agency may require the person to pay in full before copying the requested documents;*

2) *Deny the request pursuant to one or more of the exemptions set out in* Section 926.302 or 926.303*;*

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 Agency 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)

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

SUBPART D: AGENCY RESPONSE TO FOIA REQUESTS FOR RECORDS

Section 926.501 Timeline for Agency Response

a) Except as stated in subsection (b) or (c), the Agency 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 Agency 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 Agency fails to respond to a request received, it will not treat the request as unduly burdensome as provided under* Section 926.502. (Section 3(d) of FOIA) A written request from the Agency 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;*

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 Agency within the time limits prescribed by* subsection (a) *without unduly burdening or interfering with the operations of the Agency; 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 Agency may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the Agency agree to extend the period for compliance, a failure by the Agency 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 Agency 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 Agency 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 Agency issues an extension and subsequently fails to respond to the request, it will not treat the request as unduly burdensome under Section 926.502.* (Section 3(f) of FOIA)

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

Section 926.502 Requests for Records that the Agency Considers Unduly Burdensome

a) *The Agency will fulfill requests calling for all records falling within a category unless compliance with the request would unduly burden the Agency, there is no way to narrow the request, and the burden on the Agency outweighs the public interest in the information. Before invoking this exemption, the Agency 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 Agency 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 Agency. 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)

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.503 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 Agency will retrieve and provide electronic records only in a format and medium that is available to the Agency.

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.504 Denials of Requests for Records

a) The Agency will deny requests for records when:

1) Compliance with the request would unduly burden the Agency, as determined pursuant to Section 926.402, 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 926.302 or 926.303.

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 Agency'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 Agency has given written notice pursuant to Section 926.501(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 Agency fails to act within the time periods provided in* Section 926.501. (Section 9(c) of FOIA)

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.505 Requests for Review of Denials − Public Access Counselor

a) *A person whose request to inspect or copy a record is denied by the Agency 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 Agency *asserts that the records are exempt under* Section 926.302(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 Agency*; and

3) *A detailed summary of the Agency's basis for asserting the exemption.* (Section 9.5(b) of FOIA)

c) *Upon receipt of a notice of intent to deny from the Agency, 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 Agency* under Section 926.501 *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 Agency receives a request for review from the Public Access Counselor, the Agency 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 Agency 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)

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 Agency.* (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 Agency 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 Agency, subject to administrative review under* Section 926.507. (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 Agency shall either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under* Section 926.507. *If the opinion concludes that no violation of FOIA has occurred, the requester may initiate administrative review under* Section 926.507. (Section 9.5(f) of FOIA)

k) *If the Agency discloses records in accordance with an opinion of the Attorney General, the Agency 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 925.506 *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 Agency.* (Section 9.5(g) of FOIA)

m) *The Attorney General may also issue advisory opinions to the Agency regarding compliance with FOIA. A review may be initiated upon receipt of a written request from the* Director of the Agency or the Agency's Chief Legal Counsel, *which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the Agency in order to assist in the review. If the Agency relies in good faith on an*

advisory opinion of the Attorney General in responding to a request, the Agency 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)

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.506 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.

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.507 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 Agency shall not be considered a final decision of the Attorney General for purposes of this Section. (Section 11.5 of FOIA)

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO FOIA REQUESTERS

Section 926.601 Inspection of Records

a) The Agency may make available records for personal inspection at the Agency's headquarters office located at 100 West Randolph Street, Suite 10-100, Chicago, Illinois or at another location agreed to by both the Agency 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 Agency 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 Agency 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 electronic format, then the Agency shall furnish it in the format in which it is maintained by the Agency, 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 Agency 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 Agency as soon as possible before the appointment.

d) In order to maintain routine Agency 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 Agency employee may be present during the inspection. Requesters shall make arrangements for security of their personal possessions prior to any inspection of Agency records.

g) The requester shall segregate and identify the documents to be copied during the course of the inspection.

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.602 Copying of Records; Fees

a) In accordance with Section 926.603, unless a fee is otherwise fixed by statute, the Agency 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 Agency to reproduce records, the Agency 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 Agency cannot copy, due to the volume of the request or the operational needs of the Agency, in the timelines established in Section 926.501, the requester may provide, at the requester's expense, the copy machine, all necessary materials, and the labor to copy the public records at the Agency headquarters in Section 926.601, or at another location agreed to by both the Agency 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 Agency may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium, but the Agency 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 Agency, 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 Agency, must contract with the contractor;

2) The requester is responsible for all fees charged by the contractor;

3) The requester must notify the Agency of the contractor to be used. The Agency must approve the contractor prior to the scheduled on-site inspection or copying;

4) Only Agency personnel may provide records to the contractor;

5) The Agency must have verification that the requester has paid the contractor, if payment is due, for the copying of the records before providing the records to the contractor. The contractor must agree to charge the fees as specified in Section 926.Appendix A; and

6) The requester must provide to the Agency the contractor's written agreement to hold the records secure and to copy the records only for the purpose stated by the requester.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

Section 926.603 Reduction and Waiver of Fees

a) *Fees may be reduced or waived by the Agency 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 Agency 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 Agency 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)

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

Section 926.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

NOTE: Expense for delivery other than by First Class U.S. Mail must be borne by the requester.

(Source: Added at 34 Ill. Reg. 16393, effective October 8, 2010)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting

2) Code Citation: 17 Ill. Adm. Code 530

3)

Section Numbers:	Adopted Action:
530.80	Amendment
530.85	Amendment
530.95	Amendment
530.110	Amendment

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29]

5) Effective Date of Amendments: October 8, 2010

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: June 25, 2010; 34 Ill. Reg. 8141

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: In Section 530.95(h) "Daily limit" was changed to "Daily Limit".

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

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

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Rulemaking: Amendments to this Part were made to: modify hunting dates for controlled permit hunting sites, update open sites and regulations for youth hunts and update open sites and site-specific regulations for Department-owned and –managed sites.

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

George Sisk, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

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

PART 530
COCK PHEASANT, HUNGARIAN PARTRIDGE,
BOBWHITE QUAIL, AND RABBIT HUNTING

Section
530.10 Statewide General Regulations
530.20 Statewide Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Cottontail and Swamp Rabbit Regulations
530.30 Statewide Hungarian Partridge Regulations (Repealed)
530.40 Statewide Bobwhite Quail Regulations (Repealed)
530.50 Statewide Rabbit Regulations (Repealed)
530.60 Statewide Crow Regulations (Repealed)
530.70 Permit Requirements for Fee Hunting of Pheasant, Quail and Rabbit at Controlled Permit Hunting Sites
530.80 Regulations for Fee Hunting of Pheasant, Quail and Rabbit at Controlled Permit Hunting Sites
530.85 Youth Pheasant Hunting Permit Requirements
530.90 Illinois Youth Pheasant Hunting Sites Permit Requirements (Repealed)
530.95 Youth Pheasant Hunting Regulations
530.100 Illinois Youth Pheasant Hunting Regulations (Repealed)
530.105 Regulations for Fee Hunting of Pheasant, Hungarian Partridge, Quail and Rabbit at Controlled Daily Drawing Pheasant Hunting Sites (Repealed)
530.110 Regulations for Non-Fee Hunting of Cock Pheasant, Hungarian Partridge, Quail, and Rabbit at Various Department-Owned or -Managed Sites
530.115 Regulations for Hunting by Falconry Methods at Various Department-Owned or -Managed Sites
530.120 Regulations for Hunting Crow at Various Department-Owned or -Managed Sites (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29].

SOURCE: Adopted at 5 Ill. Reg. 8777, effective August 25, 1981; codified at 5 Ill. Reg. 10634; amended at 6 Ill. Reg. 10667, effective August 20, 1982; amended at 7 Ill. Reg. 10755, effective

August 24, 1983; amended at 8 Ill. Reg. 21574, effective October 23, 1984; amended at 9 Ill. Reg. 15846, effective October 8, 1985; amended at 10 Ill. Reg. 15579, effective September 16, 1986; emergency amendment at 10 Ill. Reg. 18822, effective October 16, 1986, for a maximum of 150 days; emergency expired March 15, 1987; amended at 11 Ill. Reg. 10546, effective May 21, 1987; amended at 12 Ill. Reg. 12016, effective July 7, 1988; amended at 13 Ill. Reg. 12796, effective July 21, 1989; emergency amendment at 13 Ill. Reg. 12985, effective July 31, 1989, for a maximum of 150 days; emergency expired December 28, 1989; amended at 13 Ill. Reg. 17348, effective October 27, 1989; amended at 14 Ill. Reg. 10775, effective June 20, 1990; emergency amendment at 14 Ill. Reg. 18324, effective October 29, 1990, for a maximum of 150 days; emergency expired March 28, 1991; amended at 15 Ill. Reg. 9924, effective June 24, 1991; emergency amendment at 15 Ill. Reg. 16124, effective October 25, 1991, for a maximum of 150 days; emergency expired March 23, 1992; amended at 15 Ill. Reg. 18138, effective December 6, 1991; amended at 16 Ill. Reg. 12470, effective July 28, 1992; amended at 16 Ill. Reg. 18951, effective December 1, 1992; amended at 17 Ill. Reg. 15534, effective September 10, 1993; amended at 18 Ill. Reg. 12628, effective August 9, 1994; amended at 19 Ill. Reg. 12615, effective August 29, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 12397, effective August 30, 1996; amended at 21 Ill. Reg. 9042, effective June 26, 1997; amended at 22 Ill. Reg. 14762, effective August 3, 1998; amended at 23 Ill. Reg. 9012, effective July 28, 1999; amended at 24 Ill. Reg. 12496, effective August 7, 2000; amended at 25 Ill. Reg. 11119, effective August 21, 2001; amended at 26 Ill. Reg. 16210, effective October 18, 2002; amended at 27 Ill. Reg. 15381, effective September 18, 2003; amended at 28 Ill. Reg. 12835, effective September 1, 2004; amended at 29 Ill. Reg. 13813, effective August 26, 2005; amended at 30 Ill. Reg. 14478, effective August 24, 2006; amended at 31 Ill. Reg. 9175, effective June 18, 2007; amended at 32 Ill. Reg. 17455, effective October 24, 2008; amended at 33 Ill. Reg. 13871, effective September 21, 2009; amended at 34 Ill. Reg. 16429, effective October 8, 2010.

Section 530.80 Regulations for Fee Hunting of Pheasant, Quail and Rabbit at Controlled Permit Hunting Sites

a) Hunting Seasons:

1) The following controlled pheasant hunting areas shall be closed to pheasant permit hunting on every Monday and Tuesday during the controlled hunting season (except as provided in subsection (a)(4)) and on December 25.

Chain O'Lakes State Park

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Des Plaines State Conservation Area

Eldon Hazlet State Park (Carlyle Lake)

Horseshoe Lake State Park – Madison County

Iroquois County State Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit

Johnson-Sauk Trail State Park

Kankakee River State Park

Moraine View State Park

Ramsey Lake State Park

Sand Ridge State Forest

Silver Springs State Park

Wayne Fitzgerrell State Park (Rend Lake)

2) The following controlled pheasant hunting areas are open to the Illinois Youth Pheasant Hunting Program only on the first Sunday of the site's controlled pheasant hunting season.

Chain O'Lakes State Park

Des Plaines State Conservation Area

Eldon Hazlet State Park (Carlyle Lake)

Iroquois County State Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit

Johnson-Sauk Trail State Park

Lee County State Conservation Area (Green River State Wildlife Area)

Moraine View State Park

Sand Ridge State Forest

Wayne Fitzgerrell State Park (Rend Lake)

3) The controlled hunting season on the Lee County State Conservation Area (Green River) is each Friday through Sunday beginning with the Friday before the opening of the statewide upland game season~~Sunday and Monday following the first Saturday in November~~ through the seventh~~eighth~~ Sunday following (closed ~~on Sunday~~ during the November and December firearm deer seasons~~season~~).

4) Controlled pheasant hunting seasons are listed below; exceptions are in parentheses; with written authorization from the Director, captive-reared game bird hunting may be scheduled during the season authorized by statute (see 520 ILCS 5/2.6) on the following DNR operated areas:

Des Plaines State Conservation Area (closed during the November 3-day firearm deer season) and Moraine View State Park – the Wednesday before the first Saturday of November through the ninth Sunday following

Eldon Hazlet State Park and Wayne Fitzgerrell State Park – the Wednesday following the first Saturday of November through the ninth Sunday following

Horseshoe Lake State Park − Madison County (closed New Year's Day) – the second Wednesday of December or the first hunting day after the close of the central zone duck season, whichever occurs first, through the next following January 31

Iroquois County State Conservation Area and Chain O'Lakes State

Park (closed during the November 3-day firearm deer season) – the Wednesday before the first Saturday in November through the seventh Sunday following

Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit (closed during the November and December firearm deer seasons), Johnson-Sauk Trail State Park (closed New Year's Day), Kankakee River State Park (closed New Year's Day), Ramsey Lake State Park (closed New Year's Day), Sand Ridge State Forest – season dates are those specified in Section 530.20

Silver Springs State Park (closed New Year's Day) – the third Saturday of October through the next following January 8

b) Hunting hours are listed below. On Thanksgiving Day, hunting hours are 9:00 a.m.-1:00 p.m. Hunters with reservations are required to check in at the check station on the following sites at the listed times. Hunters with reservations that check in after the required check-in time may not be allowed to hunt if the site hunter quota has been filled.

Site Name	**Check-In Times**	**Hunting Hours**
Chain O'Lakes State Park	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.
Des Plaines State Conservation Area	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.
Eldon Hazlet State Park (Carlyle Lake)	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.
Horseshoe Lake State Park (Madison County)	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Iroquois County State Conservation Area	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.

Jim Edgar Panther Creek State Fish and Wildlife Area (Controlled Unit)	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Johnson-Sauk Trail State Park	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Kankakee River State Park	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Lee County State Conservation Area (Green River State Wildlife Area)	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Moraine View State Park	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.
Ramsey Lake State Park	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Sand Ridge State Forest	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Silver Springs State Park	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Wayne Fitzgerrell State Park (Rend Lake)	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.

c) Except for Standing Vehicle Permittees with a Disabled Controlled Pheasant Hunting Permit, during the controlled pheasant hunting season when daily quotas are not filled, permits shall be issued by drawing held at the conclusion of check-in time and if daily quotas remain unfilled at the conclusion of the drawing, on a first come-first served basis until 12:00 noon at the following sites:

Des Plaines State Conservation Area

Eldon Hazlet State Park

Iroquois County State Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Johnson-Sauk Trail State Park

Lee County State Conservation Area (Green River)

Kankakee River State Park

Moraine View State Park

Sand Ridge State Forest

Wayne Fitzgerrell State Park

d) Hunting licenses, daily "Public Hunting Grounds for Pheasants" fees and hunting permit fees collected by public/private partnership area concessionaire:

1) Depending on the availability of staff during the controlled pheasant hunting season, hunters may be required to deposit their hunting license in the check station while hunting. Persons exempt by law from having a hunting license must deposit their Firearm Owner's Identification Card. If they are under 21 years old and do not have a card, they must be accompanied by a parent, legal guardian or a person in loco parentis who has a valid card in possession.

2) Pursuant to 520 ILCS 5/1.13, at the Lee County State Conservation Area (Green River) and the Iroquois County State Conservation Area, hunters must pay the following daily Public Hunting Grounds for Pheasants fee to the Department prior to hunting: $25 residents; $35 non-residents. On the Sunday following Thanksgiving Day, hunters under 16 are not required to pay the daily Public Hunting Grounds for Pheasants fee.

3) Pursuant to 520 ILCS 5/1.13, at the Des Plaines State Conservation Area, Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit, Johnson-Sauk Trail State Park, Kankakee River State Park, Moraine View State Park, Eldon Hazlet State Park (Carlyle Lake), Wayne Fitzgerrell State Park and Sand Ridge State Forest, hunters must pay the following daily Public Hunting Grounds for Pheasants fee to the Department prior to hunting: $25 residents; $35 non-residents. On the Sunday following Thanksgiving Day and the Friday~~Saturday~~ between Christmas Day and New Year's Day, hunters under 16 are not required to pay the daily Public

Hunting Grounds for Pheasants fee.

4) At Chain O'Lakes State Park, Horseshoe Lake State Park (Madison County), Ramsey Lake State Park and Silver Springs State Park, hunters must pay the following hunting permit fees to be collected by the public/private partnership area concessionaire under the terms of a Controlled Pheasant Hunting Agreement with the Department prior to hunting: 2 pheasant permit − $25 residents and $35 non-residents; 3 pheasant permit − $36; 4 pheasant permit − $45. On days requested by the concessionaire and authorized by the Department, hunters under 16 are not required to pay a hunting permit fee.

e) During the controlled pheasant hunting season, hunters must wear a back patch issued by the check station.

f) Anyone who has killed game previously and has it in possession or in their vehicle must declare it with the person in charge of the area during check-in. All game found in a hunter's possession after hunting has started on the area shall be considered illegally taken if the hunter has not declared it prior to going afield.

g) All hunting must be done with shotguns or bow and arrow. Only shot shells with a shot size of No. 5 lead or a non-toxic shot size ballistically equivalent to No. 5 lead or smaller may be used, except at Chain O' Lakes State Park, Johnson-Sauk Trail State Park, Lee County Conservation Area (Green River), Wayne Fitzgerrell State Park and Eldon Hazlet State Park where only nontoxic shot approved by the U.S. Fish and Wildlife Service may be possessed and only shot shells with a shot size ballistically equivalent to No. 5 lead or smaller may be used or in possession. Flu flu arrows only may be used or in possession by bow and arrow hunters.

h) Non-hunters are not allowed in the field, except at special hunts publicly announced by the Department where non-hunters authorized by the Department shall be allowed in the field, and except for operators of Department conveyances and Standing Vehicle Permittees and a single dog handler for the Permittee.

i) Hunters under 16 years of age must be accompanied by an adult hunter.

j) Daily limits − On the following areas, a permit authorizes the harvest of 2 pheasants of either sex per hunter; exceptions are in parentheses. With written authorization from the Director, the Department may issue more than one permit

to a hunter and the limits provided for in 520 ILCS 5/3.28 shall apply:

Chain O'Lakes State Park (two 2 pheasant permits or one 3 or 4 pheasant permit per hunter each day)

Des Plaines State Conservation Area

Eldon Hazlet State Park

Lee County State Conservation Area (2 cock pheasants per permit hunter)

Horseshoe Lake State Park-Madison County (two 2 pheasant permits or one 3 or 4 pheasant permit per hunter each day; additionally, first day only, 4 quail and 2 rabbits per hunter)

Iroquois County State Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area (additionally, 8 bobwhite quail opening day through the Sunday following Thanksgiving and 4 rabbits per hunter)

Johnson-Sauk Trail State Park (additionally, 8 bobwhite quail, 2 Hungarian partridge and 4 rabbits per hunter)

Kankakee River State Park (additionally, 8 bobwhite quail and 4 rabbits per hunter)

Moraine View State Park

Ramsey Lake State Park (two 2 pheasant permits or one 3 or 4 pheasant permit per hunter each day; additionally, 8 bobwhite quail and 4 rabbits per hunter)

Sand Ridge State Forest (additionally, 8 bobwhite quail and 4 rabbits per hunter)

Silver Springs State Park (two 2 pheasant permits or one 3 or 4 pheasant permit per hunter each day)

k) Tagging of birds.
During the controlled pheasant hunting season, all pheasants must be affixed with a Department tag before they are removed from the area during the controlled pheasant hunting season. The tag must remain on the leg of the pheasants until the pheasants are finally prepared for consumption.

l) During the controlled pheasant hunting season, hunters may not leave the confines of any permit area and return to hunt on the permit area during the same day.

m) Any person who violates any provision of this Part or 17 Ill. Adm. Code 510.10(c)(1), (4) and (6) or 510.10(d)(7) or Section 2.33(n), (x) or (z) of the Wildlife Code [520 ILCS 5/2.33(n), (x) or (z)] shall be subject to arrest and/or removal from the premises for the remainder of the controlled pheasant hunting season under applicable statutes including 720 ILCS 5/21-5, Criminal Trespass to State Supported Land. Hunters may request a hearing within ten days after the citation by written request addressed to: Legal Division, Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271. Such hearing shall be governed by the provisions of 17 Ill. Adm. Code 2530.

n) Violation of a site regulation is a petty offense (see 520 ILCS 5/2.6, 2.7, 2.13 or 2.27).

(Source: Amended at 34 Ill. Reg. 16429, effective October 8, 2010)

Section 530.85 Youth Pheasant Hunting Permit Requirements

a) Applicants must contact the Department of Natural Resources (Department or DNR) to obtain a permit reservation. Applications for reservations will be accepted on the first Monday of August until 24 hours before the hunt date established in Section 530.95. Methods for making reservations are available on the Department's Website at: http://dnr.state.il.us, by email at: dnr,pheasant@illinois.gov or by writing to the Department's Division of Parks and Recreation. Only applications for reservations submitted by Illinois residents will be accepted during the first two weeks of the application period. Reservations will be confirmed. Providing false information on the application is a Class A misdemeanor (see 520 ILCS 5/2.38).

b) Only one permit per person will be issued until the daily quota is filled. The daily quota is determined by the formula: one hunter per 10 to 40 huntable acres. Huntable acres are determined by, but not limited to, the biological studies on the number of the species available, the condition, topography, and configuration of the land at the site, the condition of the roads at the site, and the number of employees available to work at the site.

c) Methods for transferring permits will be provided on the Department's Website at: http://dnr.state.il.us, by email at: dnr,pheasant@illinois.gov or by writing to:

Illinois Department of Natural Resources
Division of Parks and Recreation − Youth Pheasant Hunt
One Natural Resources Way
Springfield IL 62702-1271

d) Reservations for the Illinois Youth Pheasant Hunt permits will be issued for Chain O'Lakes State Park, Clinton Lake State Recreation Area, Des Plaines Conservation Area, Edward R. Madigan State Park, Eldon Hazlet State Park (Carlyle Lake), Iroquois County Conservation Area, Johnson-Sauk Trail State Park, Lee County Conservation Area (Green River), Moraine View State Park, Wayne Fitzgerrell (Rend Lake) State Park, Mackinaw River State Fish and Wildlife Area, Horseshoe Lake State Park (Madison County), Sand Ridge State Forest, Sangchris Lake State Park, ~~and~~ Jim Edgar Panther Creek State Fish and Wildlife Area-Controlled Unit and the World Shooting and Recreational Complex.

(Source: Amended at 34 Ill. Reg. 16429, effective October 8, 2010)

Section 530.95 Youth Pheasant Hunting Regulations

a) At the following sites, the Illinois Youth Pheasant Hunt will be held on:

1) the Saturday preceding the opening of the statewide upland game season:

Clinton Lake State Recreation Area

Mackinaw River State Fish and Wildlife Area

2) the Sunday following the opening of the statewide upland game season:

Chain O'Lakes State Park

Des Plaines State Conservation Area

Edward R. Madigan State Park

Lee County State Conservation Area (Green River)

Iroquois County State Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit

Johnson-Sauk Trail State Park

Moraine View State Park

Sand Ridge State Forest

Sangchris Lake State Park

3) the second Sunday following the opening of the statewide upland game season:

Eldon Hazlet State Park (Carlyle Lake)

Horseshoe Lake State Park (Madison County)

Wayne Fitzgerell State Park (Rend Lake)

4) the Saturday two weeks before the opening of the statewide upland game season:

World Shooting and Recreational Complex

b) Hunting hours are from 9:00 a.m. to 4:00 p.m., except at Sangchris Lake hunting hours are from 11:00 a.m. to 4:00 p.m., and except at the World Shooting and Recreational Complex hunting hours are from 1:00 p.m. to 4:00 p.m. Hunters

with reservations or permits are required to check in at the check station between 7:00 and 8:00 a.m. (between 10:00 and 10:30 a.m. at Sangchris Lake State Park).

c) All hunters must be between the ages of 10-15 inclusive and have a youth hunting permit. Stand-by permits will not be available except at Sangchris Lake, Mackinaw River State Fish and Wildlife Area and Edward R. Madigan State Park. Hunters under age 16 are not required to pay a daily fee.

d) All hunters are required to deposit their hunting licenses in the check station while hunting. Each permit holder must be accompanied by a non-hunting supervisory adult. If the hunter does not have a valid Firearm Owner's Identification (FOID) card, the supervisory adult is required to have a valid FOID card. Only one supervisory adult in a hunting party is required to have a valid FOID card if the hunters in the hunting party stay under the immediate control (accompany youth hunter at all times) of the supervisory adult possessing the valid FOID card. The supervising adult shall be criminally liable for the actions of the youth in the hunting party and shall be subject to the criminal penalties provided by law.

e) Supervising adults are required to wear a cap and upper outer garment of solid and vivid blaze orange of a least 400 square inches. Hunters must wear a back patch issued by the check station.

f) Persons who have killed game previously and have it in their possession or in their vehicle must declare it with the person in charge of the area prior to hunting on the area. All previously killed game found in a hunter's possession after hunting has started on the area will be considered illegally taken if the hunter has not declared it prior to going afield.

g) All hunting must be done with shotguns. Only shot shells with a shot size of #5 lead or a nontoxic shot size ballistically equivalent to No. 5 lead or smaller may be used, except at Chain O'Lakes State Park, Eldon Hazlet State Park, Johnson-Sauk Trail State Park, Lee County Conservation Area (Green River) and Wayne Fitzgerrell State Park where only shot shells approved as nontoxic by the U.S. Fish and Wildlife Service with a shot size ballistically equivalent to No. 5 lead or smaller may be used.

h) Daily Limit~~limit.~~

1) Two pheasants of either sex at Chain O'Lakes State Park, Des Plaines State Conservation Area, Eldon Hazlet State Park, Iroquois County State Conservation Area, Horseshoe Lake State Park (Madison County), Johnson-Sauk Trail State Park, Moraine View State Park, Sand Ridge State Forest, ~~and~~ Wayne Fitzgerrell State Park and the World Shooting and Recreational Complex.

2) Two cock pheasants only at Clinton Lake State Recreation Area, Lee County State Conservation Area (Green River) and Mackinaw River State Fish and Wildlife Area.

3) Statewide upland game limits at Sangchris Lake State Park and Edward R. Madigan State Park.

4) Two pheasants of either sex, eight quail and four rabbits at Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit.

i) All pheasants must be affixed with a Department tag before they are removed from the area. The tag must remain on the leg of the pheasants until the pheasants are finally prepared for consumption.

j) Violation of this Section is a petty offense (see 520 ILCS 5/2.6).

(Source: Amended at 34 Ill. Reg. 16429, effective October 8, 2010)

Section 530.110 Regulations for Non-Fee Hunting of Cock Pheasant, Hungarian Partridge, Quail, and Rabbit at Various Department-Owned or -Managed Sites

a) General Site Regulations

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

2) Only flu flu arrows may be used by bow and arrow hunters; broadheads are not allowed.

3) On sites that are indicated by (1), hunters must check in and/or sign out as provided for in 17 Ill. Adm. Code 510.

4) On sites that are indicated by (2), only nontoxic shot approved by the U.S. Fish and Wildlife Service of size #3 steel or #5 bismuth shot or smaller may be used or possessed with a shot size of #3 steel or tin, #4 bismuth, #5 tungsten-iron, tungsten-polymer, tungsten-matrix or smaller may be used.

5) Site specific rules or exceptions are noted in parentheses after each site.

b) Site Specific Regulations

1) Statewide regulations apply at the following sites:

Anderson Lake State Conservation Area (1)

Apple River Canyon State Park – Salem and Thompson Units (rabbits only; closed during firearm deer season) (1)

Argyle Lake State Park (closed during firearm deer season) (1)

Banner Marsh State Fish and Wildlife Area (opens the day after the close of the central zone duck season) (1)

Big Bend State Fish and Wildlife Area (hunting for bobwhite quail will terminate at the close of legal shooting hours on December 14) (1)

Big River State Forest (closed during firearm deer season) (1)

Cache River State Natural Area (1)

Campbell Pond State Wildlife Management Area

Cape Bend State Fish and Wildlife Area (1)

Carlyle Lake State Lands and Waters (Corps of Engineers Managed Lands)

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Crawford County State Conservation Area (1)

Cypress Pond State Natural Area (1)

Deer Pond State Natural Area (1)

Devil's Island State Fish and Wildlife Area

Dog Island State Wildlife Management Area (1)

Eagle Creek State Park (open only January 16-22)

Eldon Hazlet State Park (north of Allen Branch and west of Peppenhorst Branch only) (1)

Ferne Clyffe State Park (1)

Fort de Chartres State Historic Site (hunting with muzzleloading shotgun or bow and arrow only) (1)

Ft. Massac State Park (1)

Fulton County State Goose Management Area (opens the day after the close of the Central Illinois Quota Zone goose season) (1)

Giant City State Park (1)

Hamilton County State Conservation Area (1)

Hanover Bluff State Natural Area (1)

Horseshoe Lake State Conservation Area (Alexander County) (Public Hunting Area) (1)

Horseshoe Lake State Conservation Area (Controlled Hunting Area; closed prior to and during the Canada goose season) (1)

Jubilee College State Park (hunting for pheasant and quail will

terminate at sunset on the Sunday after Thanksgiving; closed during all site firearm deer seasons) (1)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to and during duck season; the defined Baldwin Lake Waterfowl Rest Area is closed) (1)

Kinkaid Lake State Fish and Wildlife Area (1)

Marseilles State Fish and Wildlife Area (closed during all site firearm deer seasons; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may only enter the site from designated parking lots) (1)

Marshall State Fish and Wildlife Area (closed during firearm deer season) (1)

Mazonia State Fish and Wildlife Area (upland season does not open until the day after the close of the site's waterfowl season; the site is closed Mondays, Tuesdays, Christmas Day and New Year's Day) (1)

Mermet Lake State Fish and Wildlife Area (1)

Mississippi River Pools 16, 17, 18

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

Mississippi River Pools 21, 22, 24

Mt. Vernon Game Propagation Center (hunting from January 1 to the end of season; rabbits only) (1)

Nauvoo State Park (Max Rowe Unit only)

Oakford State Conservation Area

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Peabody River King State Fish and Wildlife Area (West and North Subunits only) (1)

Pyramid State Park (1)

Rall Woods State Natural Area (1)

Ramsey Lake State Park (8:00 a.m. to 4:00 p.m.; rabbits and quail only may be hunted on Mondays and Tuesdays during the fee pheasant season) (1)

Randolph County State Conservation Area (1)

Ray Norbut State Fish and Wildlife Area (1)

Red Hills State Park (1)

Rend Lake Project Lands and Waters

Sahara Woods State Fish and Wildlife Area (1)

Saline County State Conservation Area (1)

Sam Dale Lake State Conservation Area (8:00 a.m. to 4:00 p.m.) (1)

Sam Parr State Park (8:00 a.m. to 4:00 p.m.) (1)

Sangamon County State Conservation Area

Shawnee National Forest, Oakwood Bottoms (2)

Sielbeck Forest State Natural Area (1)

Skinner Farm State Habitat Area (1)

Snakeden Hollow State Fish and Wildlife Area (opens the day after the close of the Central Illinois Quota zone goose season) (1) (2)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Spoon River State Forest (1)

Stephen A. Forbes State Park (8:00 a.m. to 4:00 p.m.) (1)

Tapley Woods State Natural Area (closed during firearm and muzzleloading rifle deer seasons) (1)

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area (1)

Union County State Conservation Area (Firing Line Management Area only) (1) (2)

Washington County State Conservation Area (1)

Weinberg-King State Park (1)

Weinberg-King State Park (Cecil White Unit)

Weinberg-King State Park (Scripps Unit) (1)

Weinberg-King State Park (Spunky Bottoms Unit) (1)

Weldon Springs/Piatt County Unit (closed during first and second firearm deer seasons) (1)

Wildcat Hollow State Forest

Winston Tunnel State Natural Area (1)

Wise Ridge State Natural Area

Witkowsky State Wildlife Area (rabbit only; opens after second firearm deer season) (1)

Wolf Creek State Park (open only January 16-22)

2) Statewide regulations apply at the following sites except that hunters must

obtain a free site permit from site office; this permit must be in possession while hunting at the site. The permit must be returned, and harvest reported, by February 15 or the hunter will forfeit hunting privileges at the site for the following year:

Chauncey Marsh State Natural Area (obtain permit at Red Hills State Park headquarters)

Clinton Lake State Recreation Area (4:00 p.m. daily closing)

Fox Ridge State Park (4:00 p.m. daily closing; closed during firearm deer season)

Hidden Springs State Forest (no hunting during firearm deer season; 4:00 p.m. daily closing)

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Unit

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

Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit (rabbit hunting only open Monday following the close of the controlled pheasant hunting season through the next following January 22)

Kickapoo State Park (4:00 p.m. daily closing; closed during firearm deer season)

Lake Shelbyville – Kaskaskia and West Okaw Wildlife Management Area (4:00 p.m. daily closing)

Meeker State Habitat Area (obtain permit at Sam Parr State Park headquarters)

Middle Fork State Fish and Wildlife Area (4:00 p.m. daily closing; closed during firearm deer season)

Moraine View State Park (rabbit hunting permitted Mondays and

Tuesdays during the site controlled hunting season; hunting hours are 8 a.m. to 4 p.m. only)

Newton Lake State Fish and Wildlife Area (closed during firearm deer season)

Pyramid State Park – Galum Unit

Sanganois State Fish and Wildlife Area

Ten Mile Creek State Fish and Wildlife Area (nontoxic shot only on posted waterfowl rest areas)

3) Hunting is permitted on the following areas only on the dates listed in parentheses; or on sites indicated by (3), hunting will be permitted on the first and second day of the statewide upland game season and on each subsequent Wednesday and Saturday in November, and on each Thursday and Sunday in December, through December 24. On sites indicated by (4), hunting will be permitted on the first and second day of the statewide upland game season and on each subsequent Wednesday and Saturday in November and on each Thursday and Sunday in December, through December 24, except closed during the firearm deer seasons and open December 27 and 29. Daily hunting permits filled by drawing through DNR Permit Office. Procedures for application and drawings will be publicly announced. Illinois residents will have preference. Only one permit per person will be issued. Each permit authorizes the holder to bring the number of additional hunting partners listed in parentheses for the day's hunt. The permit must be returned and harvest reported by February 15 or permit holders will forfeit hunting privileges at the sites covered in this Section for the following year:

Birkbeck Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Bradford Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Clifton Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Coffeen Lake State Fish and Wildlife Area − Upland Management Area (open every Wednesday during the upland season; daily limit of bobwhite quail is 4; rabbit hunting only after the close of the pheasant and quail season; each permit authorizes the holder to bring 2 hunting partners)

Dublin Highlands Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Eagle Creek State Park (each permit authorizes the holder to bring 3 hunting partners) (3)

Edward R. Madigan State Park (open on Mondays from the opening of upland game season until Christmas Day; each permit authorizes the holder to bring 3 hunting partners; check in required before hunting)

Finfrock State Habitat Area (each permit authorizes the holder to bring 5 hunting partners) (3)

Freeman Mine Habitat Area (open every Wednesday in November and December starting with opening day of upland game season except during firearm deer season and December 24 and 25; each permit authorizes holder to bring 3 hunting partners; hunting hours 8 a.m. to 4 p.m.; daily bag limit is 2 cock pheasants, 4 quail, and 2 rabbits)

Franklin Creek State Natural Area − Nachusa Prairie Sand Farm (each permit authorizes the holder to bring 3 hunting partners) (3)

Gifford Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Green River State Wildlife Area (open only November 6, 10, 11, 13, 17, 24, 27~~7, 11, 12, 14, 18, 25, 28~~ and December 1, 8, 9, 11, 15, 16, 18~~2, 9, 10, 12, 16, 17, 19~~; each permit authorizes the holder to bring 5 hunting partners) (1) (2)

Hallsville Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Harry "Babe" Woodyard State Natural Area (each permit authorizes the holder to bring 3 hunting partners; 8 a.m. to 4 p.m. hunting hours) (4)

Herschel Workman Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Hindsboro Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Hurricane Creek State Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (4)

Ilo Dillin State Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (2)(3)

Jim Edgar Panther Creek State Fish and Wildlife Area (Upland Game Management Area) (open every Tuesday and Saturday in November, December and January starting with opening day of upland game season except during firearm deer season and December 24 and 25; rabbit hunting only after the close of pheasant and quail season; each permit authorizes holder to bring 3 hunting partners)

Little Rock Creek Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Loda Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Mackinaw State Fish and Wildlife Area (each permit authorizes the holder to bring 3 hunting partners) (4)

Manito Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Maytown Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Milks Grove Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Perdueville Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Pyramid State Park – Captain Unit (open only November 6, 10, 13, 17, 24, 27~~7, 11, 14, 18, 25, 28~~; December 1, 8, 11, 15, 18, 26~~16, 19, 23, 26, 30~~; and January 5, 8, 12~~2, 6, 9, 13~~; each permit authorizes the holder to bring 2 hunting partners)

Pyramid State Park – Denmark Unit (open only November 10, 13, 17, 24, 28~~8, 10, 14, 18, 25, 29~~; December 1, 8, 11, 15, 19, 22, 26~~16, 19, 23, 27, 30~~; and January 5, 9, 12~~3, 6, 9, 13~~; each permit authorizes the holder to bring 2 hunting partners)

Pyramid State Park – East Conant Unit (open only November 6, 10, 13, 17, 24, 27~~7, 11, 14, 25, 28~~; December 1, 8, 15, 18, 22, 26~~9, 16, 19, 23, 26, 30~~; and January 5, 8, 12~~2, 6, 9, 13~~; each permit authorizes the holder to bring 2 hunting partners)

Sand Prairie Pheasant Habitat Area (each permit authorizes the holder to bring 5 hunting partners) (3)

Sand Ridge State Forest (Sparks Pond Land and Water Reserve Area) (open on Saturdays and Tuesdays from the opening of the upland game season through the end of December except during firearm deer season; each permit authorizes holder to bring 3 hunting partners)

Sangchris Lake State Park (open every Wednesday and Saturday in November and December after the opening day of upland game season except the Saturday of the second firearm deer season and December 24 and 25; each permit authorizes holder to bring 3 hunting partners; hunting hours 11:00 a.m. to sunset; check in required before hunting)

Saybrook Pheasant Habitat Area (each permit authorizes the holder to bring 5 hunting partners) (3)

Sibley Pheasant Habitat Area (each permit authorizes the holder to bring 5 hunting partners) (3)

Siloam Springs State Park – Buckhorn Unit (open only the first and third days of firearm deer season and every Tuesday and Saturday thereafter until close of the statewide quail season; each permit authorizes the holder to bring 3 hunting partners)

Steward Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Victoria Pheasant Habitat Area (each permit authorizes the holder to bring 5 hunting partners) (3)

Whitefield Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Willow Creek State Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Wolf Creek State Park (each permit authorizes the holder to bring 3 hunting partners) (4)

4) The following sites will be open for pheasant, quail, rabbit and partridge hunting following the site's controlled pheasant hunting season; pheasants of either sex may be taken; all hen pheasants must be tagged by DNR before leaving sites; hunting hours are 8:00 a.m.-4:00 p.m.; hunting dates are noted in parentheses:

Chain O'Lakes State Park (open Wednesday through Friday following permit pheasant season) (1)

Des Plaines State Conservation Area (dates are 5 days following the close of the site's permit pheasant season excluding Mondays, Tuesdays and Christmas) (1)

Eldon Hazlet State Park (no quail or rabbit hunting; controlled pheasant hunting area and for 5 consecutive days only) (1)

Iroquois County State Wildlife Management Area (open Wednesday through Sunday following permit pheasant season, excluding Christmas) (1)

Kankakee River State Park (no quail hunting)

Moraine View State Park (open Monday following the close of the controlled pheasant hunting season through the close of the northern zone season) (1)

Silver Springs State Park (dates are 5 days following the close of the site's permit pheasant season, excluding Mondays and Tuesdays) (1)

c) Violation of a site regulation is a petty offense (see 520 ILCS 5/2.6, 2.7, 2.13 or 2.27).

(Source: Amended at 34 Ill. Reg. 16429, effective October 8, 2010)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Duck, Goose and Coot Hunting

2) Code Citation: 17 Ill. Adm. Code 590

3)

Section Numbers:	Adopted Action:
590.20	Amendment
590.40	Amendment
590.50	Amendment
590.60	Amendment
590.70	Amendment
590.80	Amendment

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7 and 3.8 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7 and 3.8] and Migratory Bird Hunting (50 CFR 20)

5) Effective Date of Amendments: October 8, 2010

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: June 25, 2010; 34 Ill. Reg. 8169

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: Minor changes were made to correct punctuation, capitalization and grammatical errors.

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

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

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

15) Summary and Purpose of Rulemaking: This Part was amended to update sites open for hunting and site-specific information for the 2010 season.

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

George Sisk, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

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

PART 590
DUCK, GOOSE AND COOT HUNTING

Section

590.10 Statewide Regulations
590.15 Duck, Goose and Coot General Hunting Regulations on Department-Owned and -Managed Sites Listed in Sections 590.40 and 590.50
590.20 Permit Controlled Department Sites Only – Duck, Goose and Coot Hunting
590.25 Illinois Youth Waterfowl Hunting Permit Requirements (Repealed)
590.26 Illinois Youth Duck Hunting Permit Requirements (Repealed)
590.30 Duck, Goose and Coot General Hunting Regulations on all Department-Owned and -Managed Sites (Repealed)
590.40 Check Station Department Sites Only – Duck, Goose and Coot Hunting
590.50 Non-Check Station Department Sites Only – Duck, Goose and Coot Hunting
590.60 Various Other Department Sites – Duck, Goose and Coot Hunting
590.70 Ohio River
590.80 Early and Late Goose (all species) Hunting Regulations on Department Sites
590.EXHIBIT A The Non-Toxic Shot Zones of Illinois (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7 and 3.8 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7 and 3.8] and Migratory Bird Hunting (50 CFR 20).

SOURCE: Adopted at 5 Ill. Reg. 8857, effective August 25, 1981; emergency amendment at 5 Ill. Reg. 11386, effective October 14, 1981, for a maximum of 150 days; codified at 5 Ill. Reg. 10638; Part repealed at 6 Ill. Reg. 9647, effective July 21, 1982; new Part adopted at 6 Ill. Reg. 11865, effective September 22, 1982; amended at 7 Ill. Reg. 13229, effective September 28, 1983; emergency amendment at 7 Ill. Reg. 13948, effective October 6, 1983, for a maximum of 150 days; emergency expired March 3, 1984; amended at 8 Ill. Reg. 18968, effective September 26, 1984; amended at 9 Ill. Reg. 14242, effective September 5, 1985; peremptory amendment at 9 Ill. Reg. 15062, effective September 25, 1985; emergency amendment at 9 Ill. Reg. 15928, effective October 8, 1985, for a maximum of 150 days; emergency expired March 5, 1986; amended at 10 Ill. Reg. 16588, effective September 22, 1986; emergency amendment at 10 Ill. Reg. 17773, effective September 26, 1986, for a maximum of 150 days; emergency expired February 23, 1987; amended at 11 Ill. Reg. 10560, effective May 21, 1987; emergency

amendment at 11 Ill. Reg. 15242, effective August 28, 1987, for a maximum of 150 days; emergency expired January 25, 1988; amended at 12 Ill. Reg. 12200, effective July 15, 1988; emergency amendment at 12 Ill. Reg. 16233, effective September 23, 1988, for a maximum of 150 days; emergency expired February 20, 1989; emergency amendment at 12 Ill. Reg. 22244, effective December 7, 1988, for a maximum of 150 days; emergency expired May 6, 1989; amended at 13 Ill. Reg. 10525, effective June 20, 1989; amended at 13 Ill. Reg. 14925, effective September 7, 1989; emergency amendment at 13 Ill. Reg. 16579, effective October 4, 1989, for a maximum of 150 days; emergency expired March 3, 1989; amended at 13 Ill. Reg. 17354, effective October 27, 1989; amended at 14 Ill. Reg. 638, effective January 2, 1990; amended at 14 Ill. Reg. 13529, effective August 13, 1990; emergency amendment at 14 Ill. Reg. 17029, effective September 26, 1990, for a maximum of 150 days; emergency expired February 23, 1991; amended at 15 Ill. Reg. 1487, effective January 22, 1991; amended at 15 Ill. Reg. 13293, effective September 3, 1991; emergency amendment at 15 Ill. Reg. 16745, effective November 5, 1991, for a maximum of 150 days; emergency expired April 3, 1992; amended at 16 Ill. Reg. 570, effective December 31, 1991; amended at 16 Ill. Reg. 12491, effective July 28, 1992; emergency amendment at 16 Ill. Reg. 16672, effective October 15, 1992, for a maximum of 150 days; emergency expired March 9, 1993; emergency amendment at 16 Ill. Reg. 18851, effective November 17, 1992, for a maximum of 150 days; emergency expired April 11, 1993; emergency amendment at 17 Ill. Reg. 1658, effective January 20, 1993, for a maximum of 150 days; emergency expired June 14, 1993; amended at 17 Ill. Reg. 16443, effective September 27, 1993; emergency amendment at 17 Ill. Reg. 18867, effective October 14, 1993, for a maximum of 150 days; emergency expired March 13, 1994; amended at 18 Ill. Reg. 10023, effective June 21, 1994; emergency amendment at 18 Ill. Reg. 15161, effective September 27, 1994, for a maximum of 150 days; emergency expired February 23, 1995; amended at 19 Ill. Reg. 13209, effective September 11, 1995; amended at 20 Ill. Reg. 754, effective December 29, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 12417, effective August 30, 1996; amended at 21 Ill. Reg. 578, effective December 30, 1996; amended at 21 Ill. Reg. 11713, effective August 12, 1997; amended at 22 Ill. Reg. 2182, effective January 2, 1998; amended at 22 Ill. Reg. 15961, effective August 24, 1998; amended at 22 Ill. Reg. 21881, effective December 3, 1998; emergency amendment at 23 Ill. Reg. 3092, effective March 10, 1999, for a maximum of 150 days; emergency expired August 6, 1999; amended at 23 Ill. Reg. 11195, effective August 26, 1999; emergency amendment at 23 Ill. Reg. 14640, effective December 13, 1999, for a maximum of 150 days; emergency expired May 10, 2000; amended at 24 Ill. Reg. 12517, effective August 7, 2000; amended at 25 Ill. Reg. 14131, effective October 22, 2001; amended at 26 Ill. Reg. 16238, effective October 18, 2002; amended at 27 Ill. Reg. 15409, effective September 18, 2003; amended at 28 Ill. Reg. 13562, effective September 24, 2004; amended at 29 Ill. Reg. 9654, effective June 24, 2005; emergency amendment at 29 Ill. Reg. 13900, effective August 30, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 18924,

effective November 4, 2005; amended at 30 Ill. Reg. 15694, effective September 18, 2006; amended at 31 Ill. Reg. 13128, effective August 30, 2007; amended at 32 Ill. Reg. 14761, effective August 27, 2008; amended at 33 Ill. Reg. 14671, effective October 13, 2009; amended at 34 Ill. Reg. 16457, effective October 8, 2010.

Section 590.20 Permit Controlled Department Sites Only − Duck, Goose and Coot Hunting

a) Sites covered in this Section, which allow hunting by permit only, are:

Banner Marsh State Fish and Wildlife Area

Double T State Fish and Wildlife Area

Horseshoe Lake State Fish and Wildlife Area

Marshall State Conservation Area – Duck Ranch Unit

Rice Lake State Fish and Wildlife Area – Walk-in Units

Sangchris Lake State Park subimpoundment

Snakeden Hollow State Fish and Wildlife Area

Spring Lake State Fish and Wildlife Area − Spring Lake Bottoms Unit

Union County State Fish and Wildlife Area

b) Permit Requirements

1) Permit reservations shall be accepted starting in September. Initial acceptance dates and methods for making reservations will be publicly announced. Only applications for reservations submitted by Illinois residents will be processed during the first 2 weeks of the application period. Applicants making reservations will be sent confirmation.

2) Permits shall be issued until the daily quota is filled. The daily quota is determined by the formula: one hunter per 10 to 40 huntable acres. Huntable acres are determined by, but not limited to, the biological studies on the number of the species available; the condition, topography, and

configuration of the land at the site; the condition of the roads at the site; the number of employees available to work at the site; and the number of blinds which can be established on a site as set forth in Section 3.8 of the Wildlife Code [520 ILCS 5/3.8].

3) The permit shall be for the use of the entire blind or staked site/area. It shall be the responsibility of the permit holder to bring one hunting partner or one non-hunting partner or 2 non-hunting partners (3 persons per blind but not more than 2 hunters per blind) for Snakeden Hollow State Fish and Wildlife Area, Horseshoe Lake State Fish and Wildlife Area, and Union County State Fish and Wildlife Area; or 2 partners (hunters or non-hunters; 3 persons per stake/area) for Rice Lake State Fish and Wildlife Area – Walk-in Unit; or 3 partners (hunters or non-hunters; 4 persons per blind or staked site/area) for Banner Marsh State Fish and Wildlife Area, Double T State Fish and Wildlife Area, Marshall State Conservation Area – Duck Ranch Unit, Spring Lake State Fish and Wildlife Area – Spring Lake Bottoms Unit and Sangchris Lake State Park subimpoundment. Non-hunting partners are defined as persons under 21 years of age accompanying the hunter in the blind. Unallocated blinds shall be filled by a drawing at the sites.

4) Permits are not transferrable.

5) Permits will be issued from the Springfield Permit Office for permit-controlled sites. For other information write to:

Illinois Department of Natural Resources
Permit Office − Waterfowl
P.O. Box 19457
Springfield IL 62794-9457

c) General Regulations~~regulations~~

1) All use other than permit hunting as defined in subsection (b)(3) is prohibited at:

A) Snakeden Hollow State Fish and Wildlife Area from two weeks before duck season through close of Central Zone Canada goose season.

B) Double T State Fish and Wildlife Area from October 1 through the close of the Central Zone Duck hunting season.

2) Hours, Permits and Stamp Charges

A) Hunting hours are from legal opening time until 1:00 p.m., except at Horseshoe Lake State Fish and Wildlife Area and Union County State Fish and Wildlife Area, which close at 12 noon.

B) At Snakeden Hollow State Fish and Wildlife Area from opening day through November 30, all hunters must register at the check station by 5:00 a.m. Permits are void after 5:00 a.m. From December 1 through December 31, all hunters must register at the check station by 5:30 a.m. Permits are void after 5:30 a.m. From January 1 through the close of goose season, all hunters must register at the check station by 6:00 a.m. Permits are void after 6:00 a.m. At Banner Marsh State Fish and Wildlife Area, Horseshoe Lake State Fish and Wildlife Area, Rice Lake State Conservation Area – Walk-in Units and Union County State Fish and Wildlife Area hunters with permit reservations are required to check in at the check station between 4:30 a.m. and 5:00 a.m. Permits are void after 5:00 a.m. A drawing shall be held to allocate blind sites at all sites. At Sangchris Lake State Park subimpoundment and at Marshall State Conservation Area – Duck Ranch Unit hunters must be checked in 90 minutes before legal hunting hours (2 hours before sunrise). Permits are void after this time. At ~~Marshall State Conservation Area – Duck Ranch Unit and~~ Spring Lake State Fish and Wildlife Area – Spring Lake Bottoms Unit, hunters are required to check in at the check station no later than one hour before legal shooting time; after that time, permits are void. At Double T State Fish and Wildlife Area, hunters must check in by 4:30 a.m. at the Rice Lake check station. Permits are void after 4:30 a.m. Check out is required at all sites listed in this Section.

C) A $15 Daily Usage Stamp must be purchased at Snakeden Hollow State Fish and Wildlife Area. Partners between 16 and 20 years of age must pay daily usage stamp fee. Partners under 16 are not

required to purchase a daily usage stamp.

D) A $10 Daily Usage Stamp must be purchased at Banner Marsh State Fish and Wildlife Area, Marshall State Conservation Area – Duck Ranch Unit, Spring Lake State Fish and Wildlife Area − Spring Lake Bottoms Unit, Horseshoe Lake State Fish and Wildlife Area, Union County State Fish and Wildlife Area and Sangchris Lake State Park subimpoundment. Non-hunting partners between 16 and 20 years of age must pay daily usage stamp fee. All partners under 16 are not required to purchase a daily usage stamp.

3) Hunting shall be done from assigned locations (blinds, stakes, areas or pits) only and hunters shall not move from assigned location to another location or leave the assigned location and return.

4) Guns must be unloaded and encased at all times when not hunting. Except at Union County and Horseshoe Lake State Fish and Wildlife Areas, all hunting parties shall hunt over a spread of at least 12 decoys during duck season and Canada goose season. The decoys shall be staked, placed or floating, be individually visible, be at least 8 inches long, and not be within a boat, blind or container.

5) The legal hunting seasons for Horseshoe Lake State Fish and Wildlife Area and Union County State Fish and Wildlife Area are the dates of the South Zone duck and goose hunting seasons except that these areas shall be closed on Mondays, Tuesdays (except for the Illinois Youth Waterfowl Hunt) and December 24, 25, 26 and 27. (These sites shall be open only for the Illinois Youth Goose Hunt on December 27, pursuant to Section 685.110.)

6) The legal hunting season at Snakeden Hollow State Fish and Wildlife Area is the dates of the Central Zone goose hunting season except that the area shall be closed on Mondays, Tuesdays, Wednesdays, and December 24, 25 and 26.

7) The legal hunting season at Banner Marsh State Fish and Wildlife Area and Rice Lake State Fish and Wildlife Area – Walk-in Units is the dates of the Central Zone duck hunting season.

8) The legal hunting season for the Sangchris Lake Subimpoundment is the opening day of the Central Zone duck hunting season, Tuesdays, Thursdays and Sundays, and the last day of the Central Zone duck hunting season except during the second firearm deer season when the Subimpoundment will be closed on the first day of the season and hunting hours will close at 10:00 a.m. during the remaining days of the second firearm deer season (on Thursdays blinds will be allocated by a daily drawing at the site pursuant to Section 590.60(b)(41)(B)).

9) The legal hunting season at Spring Lake State Fish and Wildlife Area – Spring Lake Bottoms Unit is the opening day of the Central Zone duck hunting season and every Tuesday, Thursday and Sunday of the Central Zone duck hunting season, except the second Sunday in November, which is closed due to the Youth Hunt.

10) The legal permit hunting season at Double T State Conservation Area will be every Wednesday, Saturday and Sunday of the Central Zone duck hunting season.

11) The legal hunting season at Marshall State Conservation Area – Duck Ranch Unit is every Tuesday, Thursday, Saturday and Sunday during the Central Zone duck season.

12) At Horseshoe Lake State Fish and Wildlife Area and Union County State Fish and Wildlife Area, during duck season hunters shall not possess more than 25 shot shells. When duck season is closed, hunters shall not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit. At Snakeden Hollow State Fish and Wildlife Area, hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit.

13) At Horseshoe Lake State Fish and Wildlife Area and Union County State Fish and Wildlife Area hunters may bring up to 3 dozen decoys per party. No full bodied or supermagnum shell decoys are allowed. At Sangchris Lake Subimpoundment only Department decoys may be used.

14) At Horseshoe Lake State Fish and Wildlife Area and Union County State Fish and Wildlife Area, hunters cannot take guns from the blind to retrieve

crippled waterfowl.

15) Hunters must be at least 16 years of age (except for the Illinois Youth Goose/Duck Hunt) to draw for a pit or blind. Each person under 16 years of age must be accompanied by a supervising adult.

16) At Rice Lake State Fish and Wildlife Area – Walk-in Units, hunting shall be by walk-in or boats without motors only.

d) Violation of this Section is a petty offense (see 520 ILCS 5/2.20).

(Source: Amended at 34 Ill. Reg. 16457, effective October 8, 2010)

Section 590.40 Check Station Department Sites Only – Duck, Goose and Coot Hunting

a) The sites listed in this Section conform to Statewide Regulations (Section 590.10) and General Department Regulations (Section 590.15), except as noted in parentheses and in the remainder of this Section. Daily hunting hours close at 1:00 p.m. unless otherwise indicated in parentheses below.

1) Anderson Lake State Conservation Area – All Management Units (the use of any metal, with the exception of fasteners less than 12 inches in length, carpet, felt paper, plastic snow fence or any mesh material will be prohibited in the construction of waterfowl blinds)

2) Batchtown State Wildlife Management Area(3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

3) Calhoun Point State Wildlife Management Area (3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

4) The Glades State Wildlife Management Area (3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

5) Godar-Diamond State Wildlife Management Area (3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular

Canada goose season shall close at sunset; 3 year blind allocation period)

6) Horseshoe Lake State Park – Madison County (3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation)

7) Lake DePue State Fish and Wildlife Area and Lake DePue Walk-in Unit (aka 3I)

8) Marshall State Fish and Wildlife Area (the use of any metal, with the exception of fasteners less than 12 inches in length, carpet, and plastic snow fence or mesh will be prohibited in the construction of waterfowl blinds; previous year's blind builders shall have until February 1 to salvage blind materials)

9) Mazonia State Fish and Wildlife Area (previous years blind builders shall have until February 1 to salvage blind materials; goose hunting prohibited before and after duck season; closed Mondays and Tuesdays)

10) Rice Lake State Fish and Wildlife Area (the use of any metal, with the exception of fasteners less than 12 inches in length, carpet, felt paper, plastic snow fence or any mesh material will be prohibited in the construction of waterfowl blinds; previous year's blind builders have until May 1 to remove their blinds)

11) Sanganois State Fish and Wildlife Area (check station and walk-in areas, hunters are not required to hunt from a blind site during goose seasons held after the duck season)

12) Spring Lake State Fish and Wildlife Area (the use of any metal, with the exception of fasteners less than 12 inches in length, carpet, felt paper, plastic snow fence or any mesh material will be prohibited in the construction of waterfowl blinds; waterfowl hunters will have the option to either construct a platform blind (4' x 8' with boat hide) or a boat hide blind no less than 7.5' x 18' in dimension and fully enclosed on all four sides, must include four shooting holes or ports and brushed (doors capable of being closed are permitted for boat access); hunters choosing to construct a boat type of blind will not be required to construct a dog hide; blind numbers 2, 5, 6, 7, 8, 9, 10, 11, 12 and~~,~~ 14 ~~and 19~~ must be removed

in their entirety no later than 10 days after the close of the Central Zone waterfowl season, but may be removed beginning November 21; blinds 1, 3, 4, 13, 15, 16, 17, 18, 19 and 20 must be removed in their entirety by the previous year's blind builder no later than 7 days after the next allocation period; hunting from boat blinds is permitted within 10 feet from any numbered stake if the blind has not been constructed, or beginning November 21, at locations where the blind has been dismantled; the maximum horsepower for motors on the lake is 25 h.p.; goose hunting prohibited prior to the regular duck season)

13) Stump Lake State Wildlife Management Area (3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

14) Woodford State Fish and Wildlife Area (the use of any metal, with the exception of fasteners less than 12 inches in length, carpet, and plastic snow fence or mesh will be prohibited in the construction of waterfowl blinds; previous year's blind builders shall have until February 1 to salvage blind materials)

15) William W. Powers Conservation Area (previous years blind builders shall have until May 1 to remove blinds in their entirety, including support posts; failure to comply will result in the blind builder and partners for that blind losing privilege of being a blind builder or partner at this site for the following year; no goose hunting prior to duck season; hunting from boat blinds is permitted within 10 feet at all blind sites; all hunters must sign in prior to occupying blind and must sign out no later than one hour after closing time; closed Mondays and Tuesdays)

b) The following regulations apply to all sites listed in this Section under subsection (a):

1) All hunters must report to the check station to fill out information cards and to turn in hunting licenses or Firearm Owner's Identification Cards before proceeding to blinds. Beginning the day after duck season ends, when the check station is not operating, unclaimed blinds shall be allocated on a first come-first served basis, as per Section 590.50(b)(1), (2) and (3). Goose hunters must sign in prior to hunting and sign out and report their harvest at the end of each day's hunt.

2) Registered blind builders or partners desiring to claim their blinds must report to the check station at least one hour before hunting hour each day and occupy that blind for at least one hour. Hunters wishing to move to another blind during their daily hunt must report back to the check station for reassignment.

3) All hunting must be from registered blinds only and hunters must occupy their blinds within one hour after registering at the check station.

4) All hunters must be checked out within one hour of the close of the legal hunting hours. At this time waterfowl and coots bagged must be checked and hunting licenses or Firearm Owner's Identification Cards shall be returned. At Mississippi River Area Pools 25 and 26, hunters must be checked out within one hour after leaving their blinds.

5) It shall be unlawful to trespass upon the designated duck hunting area during the 7 days prior to the regular duck season as posted at the site. At Mississippi River Area Pools 25 and 26 and Horseshoe Lake State Park (Madison County) it shall be unlawful to trespass upon the designated duck hunting area between sunset of the Sunday immediately preceding opening day of regular duck season through the day before regular duck season as posted at the site.

6) It shall be unlawful to trespass upon areas designated as waterfowl rest areas or refuges from 2 weeks prior to the start of regular duck season through the close of regular duck and Canada goose season, except on areas of Mississippi River Area Pools 25 and 26, Batchtown State Wildlife Management Area, Crull Hollow and Godar Refuge State Wildlife Area, which reopen the day after regular duck season closes.

7) No more than 4 persons shall occupy a blind at one time, except on the statewide Youth Waterfowl Hunting Day, as authorized in Section 590.15(f), 5 persons may occupy a blind at one time only if the party is comprised of 2 youth hunters, their non-hunting parents and one non-hunting guide.

8) Blind sites shall be allocated for a period of one year unless otherwise noted in parentheses under subsection (a).

9) During duck season, blinds not claimed by the builder or partners by one hour before hunting time shall be assigned by a drawing at this time and during the hours from 8:00 a.m. to 11:00 a.m., except at Marshall State Fish and Wildlife Area and Woodford State Fish and Wildlife Area, any blinds left unclaimed after completion of the daily drawing will be assigned on a first come-first served basis up to 30 minutes after the drawing and from 8:00 a.m. to 11:00 a.m., and except at Batchtown State Wildlife Management Area, Calhoun Point State Wildlife Management Area, The Glades State Wildlife Management Area, Godar-Diamond State Wildlife Management Area, Horseshoe Lake State Park (Madison County) and Stump Lake State Wildlife Management Area (9:00 a.m.-1:00 p.m.) after which time the area shall be closed to additional hunters.

10) Previous year's blind builders shall have until 7 days after the next allocation period drawing to salvage materials from their blinds, except as listed in parentheses under subsection (a). After this date, all materials become the property of the new blind builder or the Department.

11) For those sites listed in this subsection that have 3 year blind allocation periods, re-registration of blind sites during the non-draw years must be accomplished in person during a publicly announced period. Failure to re-register during the prescribed period will result in the loss of blind site. Registrants must present current year's Illinois hunting license and State waterfowl stamp for each blind builder. Blinds not re-registered will be allocated by a drawing. No waterfowl blind may be removed until after the close of the waterfowl season.

c) Violation of this Section is a petty offense (see 520 ILCS 5/2.20).

(Source: Amended at 34 Ill. Reg. 16457, effective October 8, 2010)

Section 590.50 Non-Check Station Department Sites Only – Duck, Goose and Coot Hunting

a) The following sites conform to Statewide Regulations (Section 590.10) and General Department Regulations (Section 590.15), except as noted in the remainder of this Section.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Anderson Lake State Fish and Wildlife Area − West Point Management Unit (walk-in or boat; staked sites; daily draw)

Chain O'Lakes State Park (for~~For~~ goose seasons prior to duck season, hunting allowed from numbered blind sites only and blinds need not be completed; blinds must be removed in their entirety, including support posts, by April 1; failure to comply will result in the blind builder and partners for that blind losing the privilege of being a blind builder or partner at this site for the following year)

Clear Lake State Wildlife Management Area (one year blind allocation)

Des Plaines River State Conservation Area (goose hunting permitted during special goose season prior to regular waterfowl season; during special goose season hunting allowed from numbered blind sites only and blinds do not have to be completed; previous years blind builders shall have until February 1 to salvage blind materials)

Fuller Lake State Fish and Wildlife Management Area (daily hunting hours close at 3:30 p.m. CST, except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

Helmbold Slough State Wildlife Management Area (3 year blind allocation period)

Illinois River – Pool 26 (3 year blind allocation period)

Kankakee River State Park (no boat hide required; no goose hunting permitted prior to duck season; previous years blind builders shall have until February 1 to salvage blind materials)

Lake Sinnissippi State Fish and Wildlife Area (Department Owned Land; the use of any metal, with the exception of fasteners less than 12 inches in length, will be prohibited in the construction of waterfowl blinds; waterfowl hunters allocated blind numbers 1, 2, 3, 4, 13, 14, 15, 16, 20, 21, 26, 27, 28, 29, 30, 31 or 32 will have the option to either construct a platform blind (4' x 8' with boat hide) or a boat hide blind no less than 7.5' x 18' in dimension fully enclosed on all four sides, must include 4

shooting holes or ports and brushed (doors capable of being closed are permitted for boat access); hunters choosing to construct a boat hide type of blind will not be required to construct a dog hide; blind numbers 1, 2, 3, 4, 13, 14, 15, 16, 20, 21, 26, 27, 28, 29, 30, 31 and 32 must be removed in their entirety no later than 10 days after the close of the Northern Zone waterfowl season, but may be removed beginning November 15; backwater blinds 5, 6, 7, 8, 9, 10, 11, 12, 18, 19, 22, 23, 24 and 25 must be removed in their entirety by the previous years' blind builder by no later than 7 days after the next allocation period; hunting from boat blinds is permitted within 10 feet from any numbered stake if the blind has not been constructed)

Marshall State Conservation Area – Sparland Unit (the use of any metal, with the exception of fasteners less than 12 inches in length, carpet, and plastic snow fence or mesh will be prohibited in the construction of waterfowl blinds; previous year's blind builders shall have until February 1 to salvage blind materials; hunters are required to check in and check out at the self-check box located at the Lacon boat ramp)

Meredosia Lake State Fish and Wildlife Area (one year blind allocation period) – Rules and Regulations will be publicly announced.

Mississippi River Pool 16 (Federal Lands; no permanent blinds – temporary blinds only above Velie Chute except for Goose Pond, Sunfish Slough, and Milan Bottoms (landward area upriver from River Mile 474); 2 year blind allocation period; scull boat hunting for waterfowl is permitted but hunters must not get closer than 200 yards from a permanent duck blind or in areas posted as closed to scull hunting)

Mississippi River Pool 17 (Federal Lands; scull boat hunting for waterfowl is permitted but hunters must not get closer than 200 yards from a permanent duck blind or in areas posted as closed to scull hunting; 2 year blind allocation period)

Mississippi River Pool 18 (Federal Lands; scull boat hunting for waterfowl is permitted but hunters must not get closer than 200 yards from a permanent duck blind or in areas posted as closed to scull hunting; 2 year blind allocation period)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Mississippi River Pools 21, 22, 24 (Federal Lands; hunting allowed from a portable blind or anchored boat, in Illinois waters, maintaining > 200 yard intervals at the following locations: Pool 21 – west of Long Island (river mile 332.5-340.5), Pool 22 – west of Ward Island (river mile 314.0-324.0), Pool 24 – west of Denmark Island (river mile 291.0-294.5); 2 year blind allocation period)

Mississippi River Pools 25, 26 (Federal Lands; 3 year blind allocation period)

Momence Wetlands State Natural Area (hunting allowed from a portable blind or anchored boat blind only; no more than 3 persons per blind site; no hunting during firearm deer seasons)

Pekin Lake State Fish and Wildlife Area (all hunting must be from portable boat blinds within 10 yards of the assigned numbered stake or buoy; no more than 3 persons shall use one blind; exceptions will be announced at the site's annual duck blind drawing; goose hunting prohibited prior to the regular duck season)

Piasa Island State Wildlife Management Area (3 year blind allocation period)

Quincy Bay (Mississippi River Pool 21) (hunting hours legal opening to 1:00 p.m. for blinds 1 through 25 during regular duck season only)

Red's Landing State Wildlife Management Area (3 year blind allocation period; that portion of Red's Landing that is north of the access road will be noted as a walk-in/boats without motors area only; no permanent blinds; daily hunting hours will close at 12:00~~3:30~~ p.m. CST~~, except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset~~; hunting parties shall not hunt over less than 12 decoys nor more than 24 decoys)

Redwing Slough/Deer Lake State Natural Area (closed on Mondays, Tuesdays, Thursdays and Fridays except that hunting will be allowed on opening day of duck season; no goose hunting except during duck season; previous years blind builders shall have until February 1 to salvage blind materials; daily hunting hours will close at 1:00 p.m.~~)~~; ~~(~~hunting from boat

blinds is permitted within 10 feet of marked blind sites)

Riprap Landing State Wildlife Management Area (3 year blind allocation period; that portion of Riprap Landing that is south of blind 5, known as Rust Land Company, will be noted as a walk-in; boats without motors in area only; no permanent blinds; hunting parties shall not hunt over less than 12 decoys or more than 24 decoys; decoys must be picked up daily; no vehicles allowed; walk-in area shooting hours end at 12:00 p.m. CST daily)

Shabbona Lake State Recreation Area (Hunting will be allowed between November 1 and December 31 but only when the North Zone duck and/or Canada goose seasons are open; permanent, pre-constructed blinds will be awarded for either November or December; boat and dog hides are not required; persons awarded blinds at the drawing, or their partners, must claim their blinds one hour before legal shooting hours; hunting hours will end at 1:00 p.m. daily)

Starved Rock State Park (Department managed areas; the use of any metal, with the exception of fasteners less than 12 inches in length, will be prohibited in the construction of waterfowl blinds; all blinds must be removed in their entirety no later than 10 days after the close of the Central Zone duck season; blinds may be removed beginning November 15; hunting from boat blinds is permitted within 10 feet of staked blind sites beginning November 15 for those blinds removed on or after November 15; staked blind locations that have not had a blind built may be hunted the entire season from a boat blind anchored within 10 feet of the numbered blind stake; blind locations not built shall be available on a first come-first served basis; hunting from boat blinds within 10 feet of staked blind sites is allowed until the end of the regular Central Zone Canada goose season)

b) The following regulations apply to all sites listed in this Section under subsection (a).

1) Blind builders or partners must occupy their blinds by one-half hour before opening hunting hour each day in order to claim their blind for the day. Blinds not legally occupied may be claimed on a first come-first served basis.

2) Attempts to claim blinds by any manner other than actual occupation shall be considered in violation of this Part and shall be cause for arrest. The insertion of a boat into the boat hide and/or the spreading of decoys before a blind shall not be considered legal occupation of a blind.

3) All hunting must be from registered blinds only unless otherwise noted in parentheses under subsection (a).

4) Blind sites shall be allocated for a period of one year unless otherwise noted in parentheses under subsection (a).

5) Previous year's blind builders shall have until 7 days after the next allocation period drawing to salvage materials from their blinds, except as listed in parentheses under subsection (a). After that date, blinds become the property of the new blind builders.

6) No more than 4 persons shall occupy a blind at one time, except on Mississippi River Pools 16, 17, 18, 21, 22 and 24 and Blanding State Wildlife Area.

7) On Mississippi River Pools 16, 17, 18, 21, 22 and 24 and Blanding State Wildlife Area the limit of 4 persons does not apply.

8) For those sites listed in subsection (a) that have 3 year blind allocation periods, re-registration of blind sites during the non-draw years must be accomplished in person during a publicly announced period. Failure to re-register during the prescribed period will result in the loss of blind site. Registrants must present current year's Illinois hunting license and State waterfowl stamp for each blind builder. Blinds not re-registered will be allocated by a drawing. No waterfowl blind may be removed until after the close of the waterfowl season.

9) It shall be unlawful to trespass upon areas designated as waterfowl rest areas or refuges 2 weeks prior to the start of regular duck season through the close of regular duck and Canada goose season as posted at the site.

10) It shall be unlawful to trespass upon the designated waterfowl hunting area during the 7 days prior to the waterfowl season as posted at the site. At

Mississippi River Area Pools 25 and 26 it shall be unlawful to trespass upon the designated waterfowl hunting area between sunset of the Sunday immediately preceding the opening date of regular duck season through the day before regular duck season as posted at the site.

c) Blind winners on the following sites will be provided forms for the purpose of maintaining waterfowl harvest records. The forms must be completed and returned within 15 days after the close of the site's waterfowl season or the blind builder and partners for that blind shall not be allowed to be a blind builder or partner at these sites for the following year.

Chain O'Lakes State Park

Clear Lake State Wildlife Management Area

Des Plaines State Conservation Area

Kankakee River State Park

Pekin Lake State Fish and Wildlife Area

Redwing Slough/Deer Lake State Natural Area

d) Violation of this Section is a petty offense (see 520 ILCS 5/2.20).

(Source: Amended at 34 Ill. Reg. 16457, effective October 8, 2010)

Section 590.60 Various Other Department Sites – Duck, Goose and Coot Hunting

The sites listed in this Section conform to Statewide Regulations (Section 590.10) and the following regulations, except as noted.

a) Regulations

1) Hunting hours are from legal opening to 1:00 p.m., except hunting shall be permitted until sunset on those sites indicated by (1) following the location in subsection (b).

2) No permanent blinds allowed, except for Department constructed blinds;

all blinds must be of a portable nature and constructed with natural vegetation at the blind site and no pits can be dug. All materials must be removed or dismantled at the end on the day's hunt.

3) Portable boat blinds must have been completed, including final brushing, before entering the water and must be removed at the end of the day's hunt.

4) Waterfowl hunters must maintain a distance of 200 yards between hunting parties, except for Department constructed blinds or staked locations.

5) No hunting is permitted within 200 yards of developed recreation areas, public use facilities, and construction or industrial sites.

6) No check station is operated nor is any check in/check out required, except as indicated in the remainder of this Section.

7) It shall be unlawful to trespass upon areas designated as waterfowl rest areas or refuges from 2 weeks prior to the start of regular duck season through the close of regular duck and Canada goose season except as indicated in the remainder of this Section.

8) It shall be unlawful to trespass upon the designated waterfowl hunting area during the 7 days prior to the regular duck season unless otherwise posted at the site.

b) Site Specific Regulations~~specific regulations~~

1) Blanding State Wildlife Area
Federal lands, boat access only; scull boat hunting for waterfowl is permitted but hunters must not get closer than 200 yards from a permanent duck blind or in areas posted as closed to scull hunters.

2) Boston Bay (Mississippi River Pool 18)
No permanent blinds may be built; temporary blinds only; 200 yards apart.

3) Cache River State Natural Area (1)

4) Campbell Pond State Wildlife Management Area (1)

5) Cape Bend State Fish and Wildlife Area (1)

6) Carlyle Lake Project Lands and Waters

A) No one may enter the subimpoundment area to hunt waterfowl before 4:30 a.m. each day of the waterfowl hunting season, or remain in the area after 3:00 p.m. each day of the waterfowl hunting season, except during the last 3 days of the Canada goose season and during any goose seasons that occur before or after Canada goose season, hunters must be out of the area by one hour after sunset and not return until 4:30 a.m. The subimpoundment area is defined as that area bordered by the Kaskaskia River on the east and south and extending north and west to the Carlyle Lake project boundary, and includes impoundment areas 1, 2, 3, and 4 and within the impoundments on the East Side Management Area located east of the Kaskaskia River.

B) The waters of Carlyle Lake are defined as the lake and that portion of the Kaskaskia River, northfork, eastfork, Peppenhorst Branch and Allen Branch north of the buoys only, and Hurricane Creek that are within the boundaries of the Carlyle Lake property.

C) Walk-in hunting shall be permitted in subimpoundment areas. Boats with no motors are allowed in the subimpoundments. Department personnel will designate boat launching locations.

D) When the water level in the subimpoundment area is too high (due to flooding) to allow walk-in hunting, Department personnel shall post that the area is open to boats with motors of 10 hp or less and will designate boat launching locations.

E) Known eagle protection areas will be posted by the Site Superintendent and will be closed to waterfowl hunting.

F) Each hunting party is required to hunt over a minimum of 12 decoys. Decoys shall not be left out unattended or after 3:00 p.m. each day of the waterfowl season, except during the last 3 days of the Canada goose season and during any goose seasons that occur

after Canada goose season, decoys shall not be left out unattended or later than one hour after sunset.

G) All waterfowl hunters must register prior to hunting each day of the waterfowl hunting season at the nearest accessible registration box. All hunters must sign out and record their harvest daily before they exit the area.

H) The Army Corps of Engineers may build blinds on Corps managed lands and waters for management purposes only.

I) During the last 3 days of Canada goose season, hunting hours shall close at sunset daily.

J) The following rules apply to North Allen Branch Waterfowl Management Area (Eldon Hazlet State Park) only:

i) Three designated blind sites are available on a first come-first served basis. Walk-in hunting only is permitted with a maximum of 4 hunters per site. All hunting must be from one blind site located between identically numbered stakes.

ii) Hunters must sign in prior to hunting, and sign out and report their harvest at the end of each day. All hunters must be checked out by 2:00 p.m. daily, except the last 3 days of the Canada goose season, and during any goose seasons that may occur after the Canada goose season, hunters must be checked out by one hour after sunset.

iii) Decoys shall not be left out unattended.

iv) When the lake floods this area and designated blind sites are not usable for walk-in hunting, the Department, by public announcement and/or posting, will open the affected area to hunting from boats per Carlyle Lake Project Lands and Waters' rules.

7) Chauncey Marsh State Natural Area (1)
Permit required, may be obtained at Red Hills State Park Headquarters and

must be returned by February 15.

8) Clinton Lake State Recreation Area (1)

A) Hunters must obtain a free site hunting permit and windshield card from the site office prior to hunting. While hunting, the windshield card must be visible in the windshield with the permit number clearly visible. Site hunting permits must be in the hunter's possession while in the field. Hunters must return the permit and report harvest by February 15 of the following year, or hunting privileges for the following season shall be forfeited.

B) Except as described in subsections (b)(8)(C) and (D), hunting is allowed only from anchored portable blinds, except that no waterfowl hunting is permitted in the area extending from a line between the west side boat ramp and the southern-most point of the central peninsula to the Davenport Bridge.

C) Waterfowl hunting is also permitted from staked sites in designated areas on a first come-first served basis. Walk-in or boat hunting only. Hunting parties must hunt within 25 yards of a staked site. No more than 4 hunters per party are permitted.

D) Hunting from permanent land-based blinds is permitted only from Disabled Hunting Program and Salt Creek Waterfowl Management Area blinds.

E) Each party must hunt over a minimum of 12 decoys. Decoys must be removed from the sites following each day's hunt. Decoys must not be left unattended.

F) Except for the Handicap Hunting Program facilities and Salt Creek Waterfowl Management Area, blinds must be portable or built from material brought in or available at the blind site. Blinds must be dismantled and removed at the end of each day's hunt. No trees or bushes may be cut.

G) There will be no hunting within 200 yards of developed areas or construction zones and 300 yards of electrical power lines.

H) Hunting within the Salt Creek Waterfowl Management Area will, on designated days, be available only through a drawing conducted at the site. Procedures for applying for a permit at the site will be publicly announced.

9) Coffeen Lake State Fish and Wildlife Area

A) Hunters must sign in prior to hunting and sign out, reporting harvest at the end of each day.

B) Hunting from staked sites only.

C) No permanent blinds.

D) Hunting by boat access only.

E) No cutting vegetation on site.

F) Hunting north of railroad tracks only.

G) Hunting hours from legal opening to 1 p.m. Fishing allowed between the railroad tracks and the county road after 1:00 p.m.

H) Four hunters per blind site.

I) No hunting during firearm deer seasons.

J) All hunters must be checked out at sign in box by 2:00 p.m.

10) Copperhead Hollow State Wildlife Area (1)
Hunters must obtain a free permit from the site office; permit must be in possession while hunting; permit must be returned and harvest reported by February 15; failure to return the permit will result in loss of hunting privileges at the site for the following year.

11) Cypress Pond State Natural Area (1)
Hunters must sign in prior to hunting and sign out reporting harvest at the end of each day.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

12) Deer Pond State Natural Area (1)
Hunters must sign in prior to hunting and sign out reporting harvest at end of each day.

13) Devil's Island State Fish and Wildlife Area (1)

14) Dog Island State Wildlife Management Area (1)
Hunters must sign in prior to hunting and sign out reporting harvest at end of each day.

15) Donnelley State Wildlife Area

A) Hunting is prohibited on Tuesdays and Wednesdays except open on opening day and on the first Sunday immediately preceding the first firearm deer season as set forth in 17 Ill. Adm. Code 650.10 except as indicated in Section 590.25.

B) Goose hunting is prohibited after the close of the duck season.

C) All hunting shall be from designated blinds only. Refilling or changing blinds is not permitted.

D) All hunters must report to the check station to fill out an information card and turn in hunting licenses or Firearm Owner's Identification Cards before proceeding to blinds.

E) A hunter may bring one or 2 hunting partners under the age of 21.

F) $10 daily usage stamp must be purchased to hunt this area. Non-hunting partners between 16 and 20 years of age must pay daily usage stamp fee. Non-hunting partners under 16 are not required to purchase a daily usage stamp.

G) No outboard motors are allowed by public – only by authorized DNR personnel.

H) No more than 3 persons shall occupy a blind at any one time.

I) All parties are required to report to check station within one hour after termination of hunt or no later than 2:00 p.m.

J) All parties must hunt over a minimum of 12 decoys and a maximum of 48 decoys can be used, which must be removed upon the termination of the hunt.

K) The first weekend and the third Saturday of the regular duck season shall be designated as youth hunt days. This shall consist of youth or youths 15 and under plus one adult per blind. There shall be no charge for the youth on these days. Those blinds not allocated to youths shall be available to adults on those days.

L) One blind shall be made available by priority claim to "disabled" persons (as defined in Section 2.33 of the Wildlife Code).

16) Fort de Chartres Historic Site (1)

A) Hunting is allowed from anchored, portable boat blinds only on a first come-first served basis.

B) Each hunting party is required to hunt over a minimum of 12 decoys which must be removed at the end of each hunting day.

C) No hunting is allowed during firearm deer season.

17) Fox Ridge State Park (1)
Hunting restricted to Embarras River and its flood waters.

18) Fox River (1)

A) Waterfowl hunting is prohibited on that portion of the Fox River running from the Kendall-Kane County line downstream to a line extending from the intersection of Route 71 and Douglas Street in Oswego, across the Fox River to the intersection of Hickory Lane and Riverview Drive.

B) Waterfowl hunting shall be from Department designated sites only on that portion of the Fox River downstream from the line

extending from the intersection of Route 71 and Douglas Street in Oswego, across the Fox River to the intersection of Hickory Lane and Riverview Drive downstream to the Fox River Drive Bridge. Hunting at the designated sites will be on a first come-first served basis. Statewide regulations shall be in effect with no other Sections of this Part being applicable.

19) Fox River – Chain of Lakes (Lake and McHenry Counties) (1) Waterfowl blind regulations ~~promulgated in accordance with the Illinois Administrative Procedure Act [5 ILCS 100] under the authority~~ of the Fox Waterway Agency are in full force and effect on those public waters under their jurisdiction. Failure to comply with such regulations constitutes a violation of this Section. ~~Statewide regulations shall be in effect with no other Sections of this Part applicable.~~

20) Freeman Mine
Hunting regulations will be publicly announced.

21) Heidecke State Fish and Wildlife Area, Braidwood State Fish and Wildlife Area and Powerton Lake State Fish and Wildlife Area

A) Blind sites shall be allocated on a daily draw basis conducted at the check stations 60 minutes before hunting time. Hunters shall register as parties for the drawing; each party drawn shall be allowed to select blind site in order drawn; only those hunters registered in party shall be allowed to hunt with their party; no more than 3 hunters per party; persons under the age of 16 shall not be allowed to hunt unless accompanied by an adult.

B) Blind sites not selected during the drawing shall be allocated on a first come-first served basis. Vacant blind sites shall not be allocated after the drawing until one hour after legal hunting time. No blind sites shall be allocated after 10:00 a.m. Hunters wishing to move to another blind site must report this move to the check station attendant in person before such a move.

C) Access to water blind sites must be by boat only and from designated boat launch sites.

D) All hunting must be from portable boat blinds, within 10 yards of the assigned numbered stake or buoy. No more than 3 persons shall use one blind.

E) Upon vacating blind sites, all hunters must report to the check station within one hour. At this time, waterfowl bagged must be checked in and displayed to the station operator and hunting licenses returned.

F) Each hunting party is required to hunt over a minimum of 12 decoys. Decoys must be picked up immediately after the hunt is over.

G) Heidecke Lake and Braidwood Lake shall be closed to all fishing and boat traffic except for legal waterfowl hunters from 10 days prior to regular duck season until the close of the regular duck and Canada goose season. Powerton Lake shall be closed to boat traffic from 7 days prior to opening of regular duck season until February 15, except for legal waterfowl hunters, and closed to all unauthorized entry during the regular duck season.

H) No hunting on Monday and Tuesday at Heidecke and Braidwood Lakes. No hunting at Powerton Lake on Monday through Thursday except hunting permitted on State holidays.

I) It is unlawful to hunt waterfowl on the water area in any watercraft less than 16 feet long and 60 inches in beam and without a gas-powered motor.

J) No guns may be carried from water blinds to retrieve waterfowl that fall on land.

K) Hunting is closed on Christmas Day and New Year's Day.

L) All water areas not posted with blind site numbers shall be refuge and are closed to all boat traffic except by authorized personnel.

M) It is unlawful to shoot across any dike.

N) Waterfowl hunting shall close with the conclusion of the duck season at Powerton Lake. At Heidecke and Braidwood Lakes, waterfowl hunting closes at the end of duck or goose season, whichever is later. No goose hunting is allowed prior to duck season.

22) Hidden Springs State Forest (hunting restricted to Richland Creek and its floodwaters) (1)

23) Horseshoe Lake (Alexander County) Public Hunting Area

A) Closed to waterfowl hunting on Mondays and Tuesdays.

B) When duck season is closed, goose hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit.

24) Horseshoe Lake Refuge
No hunting allowed, no boat motors except trolling motors will be allowed on Horseshoe Lake from October 15 to March 1.

25) Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Unit
Site permit required.

26) Kaskaskia River State Fish and Wildlife Area (1)
The last 3 days of both the duck season and the regular Canada goose season.

A) No waterfowl hunters may remain in the area after 3:00 p.m. For those lands lying south of Illinois Route 154 and north of Illinois Route 13, the legal hunting hours shall be from statewide opening hour until statewide closing hour.

B) All waterfowl hunting parties must use at least 12 decoys. Hunting is allowed on a first come-first served basis.

C) It is unlawful to leave duck and goose decoys unattended. Decoys must be picked up at the end of each day's hunt.

D) All waterfowl hunters must register prior to hunting each day of the waterfowl season at the nearest check station, and must sign out and record their harvest daily before they exit the area.

E) The following regulations apply to the Doza Creek Waterfowl Management Area:

i) No waterfowl hunters may enter the area before 4:30 a.m. each day of the waterfowl hunting season. No waterfowl hunters may remain in the area after 3:00 p.m. During the second firearm deer season, waterfowl hunting closes at 11:00 a.m. and no waterfowl hunters may remain in the area after 1:00 p.m.

ii) Only waterfowl, coot, firearm deer hunting (during the second firearm deer season only), archery deer and fall archery turkey hunting (as provided by 17 Ill. Adm. Code 670 and 720) allowed in this area during the duck hunting season; goose hunting is closed during the second firearm deer season if the second firearm deer season occurs after duck season.

iii) For the first 4 days of the duck season, all waterfowl hunting must occur within 10 yards of an assigned, numbered stake. Staked hunting locations shall be allocated on a daily draw basis at the Highway 154 Boat Ramp at 4:00 a.m. Hunters shall register as parties for the drawing; each party drawn shall be allowed to select a staked location in order drawn; only those hunters registered in a party shall be allowed to hunt with their party; no less than 2 hunters and no more than 4 hunters per party; moving from staked location to staked location is not allowed. Staked locations not allocated during the drawing will not be hunted that day. Starting on day 5 and for the remainder of the waterfowl season, hunting is allowed on a first come-first served basis and hunting need not occur by a stake. Waterfowl hunters must maintain a distance of 200 yards between hunting parties.

F) Handicapped accessible waterfowl hunting blind (Dry Lake Access Area)

i) Application for hunting dates should be received at the site office September 1-10 and will be allocated on a first request basis or via a drawing, if needed.

ii) Three hunters are allowed in the blind. At least one hunter must have a P-2 handicapped certification.

iii) Hunters must sign in/out and report harvest at check station after hunting.

27) Kickapoo State Recreation Area

A) Hunting permitted only from staked sites. Hunters must sign in prior to hunting and sign out and report harvest at the end of each day's hunt.

B) Hunters must register and hunt as parties. No more than 4 hunters per party are permitted. No non-hunting partners.

C) Upon vacating their blinds, all hunters must take their completed harvest cards, issued daily on site, and place them in the collection box at the designated check station.

D) Each hunting party must hunt over a minimum of 12 decoys.

E) Waterfowl hunting is permitted only during the first 7 weekdays of the November portion of the Central Zone Canada goose season.

F) Hunting from staked sites only. Hunting must be within 10 feet of the staked location. All hunting must be from one portable blind or one anchored boat blind. Electric motors only for all boats.

G) Blind material must be brought in and taken out each day. No vegetation may be cut at the site.

H) Hunting hours are from legal opening to 1:00 p.m. Hunters must be out of the field by 2:00 p.m.

I) Hunters wishing to move to another vacant blind location may do so on a first come-first served basis, provided they include the blind change on the harvest card and report their harvest for each blind.

28) Kinkaid Lake State Fish and Wildlife Area (1)

29) Mermet Lake State Conservation Area

A) Waterfowl hunting shall be permitted during duck season only.

B) No fishing on the area during duck season.

C) Hunting hours are from legal opening until 1:00 p.m. each day, except the last 3 days of duck season, when hunting shall be allowed until sunset.

D) Manned check station will be closed Christmas Day and every Sunday and Monday during regular duck hunting season. Walk-in hunting will be allowed on Sundays and Mondays.

E) Blind/pool~~stake~~ sites shall be allocated on a daily drawing basis at the manned waterfowl check station 90 minutes before legal hunting time (except Sunday and Monday when the manned check station is closed). All hunters are required to deposit their hunting licenses before entering the areas. One additional drawing will be held at the manned check station at 9 a.m. for any unoccupied waterfowl blinds/pools~~stakes~~.

F) Hunters shall register as a party/group of up to 4 hunters for the drawing (except on the statewide youth waterfowl hunting day, as authorized in 17 Ill. Adm. Code 685.110(c) when 5 people may occupy a blind/pool~~stake~~ at one time if the party includes 2 youth hunters); each party/group drawn shall be allowed to select a blind/pool~~stake~~ in the order drawn; only those hunters registered in that party/group shall be allowed to hunt with the party.

G) Upon allocation of blinds/pools~~stakes~~, all hunting parties/hunters must accept and hunt the blind/pool~~stake~~ chosen, or reject the allocation of the blind/pool~~stake~~ immediately. All those rejecting the allocation of a blind/pool~~stake~~ shall be ineligible to hunt within the blind/pool area for the remainder of that day. Individual hunters, or hunting parties, can only be allocated one blind/pool~~stake~~ per day.

H) Hunters must occupy their blinds/hunting area within one hour after registering at the manned check station.

I) Waterfowl hunters must have their waterfowl hunting tag filled out with the date and blind/stake number or hunting location. The card must be in possession of the hunter while hunting. All waterfowl harvested must be reported on the waterfowl hunting tag and returned daily to the drop box at the hunter check station no later than 2:00 p.m.

J) All hunters must park in designated areas only. All areas are marked with corresponding numbers or area designations. Only one vehicle per hunting party will be allowed, unless approval is granted by check station operator.

K) Within the blind area, a minimum of 12 decoys per hunting party are required while hunting waterfowl. No decoys are required within the walk-in areas. All decoys must be removed from the area at the end of the day's hunt.

L) A 25 shotgun shell limit per hunter, per day, applies on this area. It is unlawful for a hunter to have in his or her possession more than 25 shotgun shells while on the site.

M) Hunting must be from allocated blind (or within 10 yards of blind) or pool~~staked~~ location. Hunters may hunt other designated waterfowl hunting areas that do not have blinds or pools~~stakes~~; however, they must maintain a minimum distance of 200 yards from the nearest blind/pool~~, stake~~ or other hunting parties.

N) Attempts to claim a blind/pool~~stake~~ by any manner other than actual occupation shall be considered in violation of this Part and shall be cause for arrest. Insertion of a boat into a boat hide and/or the spread of decoys before a blind/pool~~stake~~ shall not be considered legal occupation of a blind/pool.

O) Due to safety factors, persons under 16 years of age shall not hunt, or attempt to hunt, unless accompanied by a parent, legal guardian, or person designated by the parent or guardian who is 18 years of age or older.

P) Claiming or attempting to claim any blind/pool~~stake~~ that is legally occupied and/or harassing, in any manner, the occupants of a blind/pool~~stake~~ that is legally occupied is unlawful.

Q) Boats without motors may be used within the walk-in areas.

30) Newton Lake State Fish and Wildlife Area

A) Blind sites shall be allocated by a daily drawing to be conducted at 4:30 a.m. Blind sites not selected during the drawing (or in the event that personnel are not available to conduct drawing) shall be allocated on a first come-first served basis until one hour before shooting time; and then after 9:00 a.m. All hunters must register before entering the hunting area. Hunting hours end at 1:00 p.m.; all hunters must be off the water or out of the field by 2:30 p.m. daily.

B) Upon vacating their blinds, all hunters must place their completed harvest cards in the collection box located at the boat ramp or site headquarters.

C) There will be duly posted waterfowl refuges. These areas shall be closed to all boat traffic and boat fishing during the waterfowl season.

D) No more than 4 persons shall occupy a blind at one time.

E) The west arm of the lake shall be closed to all waterfowl hunting.

F) Blind sites shall be determined by the Department of Natural Resources and marked with numbered stakes. When it is deemed necessary, the Department shall remove, move or close blind sites in order to carry out the operations of the overall management program.

G) Hunters wishing to move to another vacant blind location may do so on a first come-first served basis, providing they include the blind change on the harvest card and report their kill for each blind. If hunters do not occupy the stake they have drawn by legal shooting time, they forfeit the right to the staked hunting location.

H) Access to water blind sites shall be by boat only and from the east side boat ramps. Access to land sites shall be by walk-in only and from nearby hunter parking lots. No parking is allowed along county roads.

I) All water hunting must be from one portable blind or one anchored portable boat blind located between the assigned numbered stakes, no more than 10 yards from shore. All land hunting must be done from a position within 50 feet of the assigned numbered stake.

J) Crippled waterfowl that fall on land, other than areas designated as refuge, shall be retrieved by foot. However, no gun may be carried while attempting to recover such birds.

K) Blind site water: A position between 2 like numbered stakes where a blind may be located. Blind site land: A position within 50 feet of numbered stakes where a hunter may set up or a temporary blind may be located.

L) Fishing shall be prohibited in the east arm of the lake during the waterfowl season.

M) Each party must hunt over a minimum of 12 decoys, and all decoys must be removed at the end of each day's hunt.

N) When it is deemed necessary for public safety reasons, such as

flooding, high winds, or heavy fog, the Department will close the lake area to all fishing and all boating activity except for non-water hunting programs.

O) This site is closed to all users except firearm deer hunters during the firearms deer seasons.

P) During the last 3 days of Canada Goose season, hunting hours shall close at sunset daily.

31) Oakford State Conservation Area (1)

32) Pyramid State Park – Captain Unit

A) All vehicles must have a site hunting permit displayed in windshield. Permits must be returned by February 15.

B) Hunting hours are from legal opening to 1:00 p.m.; hunters must be out of the field by 2:00 p.m.

C) Each hunting party is required to hunt over a minimum of 12 decoys; all decoys must be picked up at the end of each day's hunt.

D) All hunters must register as a group not to exceed 4 names per card. A hunter's name may only appear on one lottery card.

E) Blind sites will be allocated by daily drawing at the Galum Unit Office beginning at 4:30 a.m. in November, 5:00 a.m. in December and 5:30 a.m. in January. All hunting must occur within 10 yards of an assigned, numbered stake, except for stakes identified at the check station where hunters may hunt from any place in the wetland in which the stake is located. There will be no moving to staked locations after initial drawing.

F) Successful participants must have their lottery card stamped with the date and blind number. The card must be in the possession of the hunter or group while hunting. Waterfowl harvested must be reported on blind selection card and returned daily to a hunter check station box.

G) Waterfowl hunters not participating in daily draw must report their harvest on site hunting permit by February 15.

H) Entry time for hunters not participating in daily lottery is 4:30 a.m. in November, 5:00 a.m. in December and 5:30 a.m. in January.

I) Waterfowl hunters may not hunt on main lakes other than staked locations. Hunters may hunt crop fields and wetlands that have not been staked; however, they must be a minimum of 200 yards from the nearest staked location or another hunter.

J) No waterfowl hunting is allowed within 200 yards of the Captain Unit Waterfowl Rest Area or within 100 yards of any private property boundary.

K) The land and water portion of the Captain Unit Waterfowl Rest Area is closed to all entry from October 28 through February 28. The location of the Captain Unit Waterfowl Rest Area is described as follows: All land and water west of Panda Bear Road north to Northern Haul Road, then south on Beltline Road to Western Haul Road, then east on Pyatt-Cutler Road.

L) After duck season is closed and during the Canada goose hunting season, hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag.

M) The area is closed to waterfowl hunting on Mondays and December 25.

33) Pyramid State Park – Denmark Unit

A) All vehicles must have a site hunting permit displayed in windshield. Permits must be returned by February 15.

B) Hunting hours are from legal opening to 1:00 p.m.; hunters must be out of the field by 2:00 p.m.

C) Each hunting party is required to hunt over a minimum of 12

decoys; all decoys must be picked up at the end of each day's hunt.

D) All hunters must register as a group, but no more than 4 names shall be listed per card. A hunter's name may only appear on one lottery card.

E) Blind sites will be allocated by daily drawing at the Galum Unit office beginning at 4:30 a.m. in November, 5:00 a.m. in December and 5:30 a.m. in January. All hunting must occur within 10 yards of an assigned, numbered stake, except for stakes identified at the check station where hunters may hunt from any place in the wetland in which the stake is located. There will be no moving to staked locations after initial drawing.

F) Successful participants must have their lottery card stamped with the date and blind number. The card must be in the possession of the hunter or group while hunting. Waterfowl harvested must be reported on blind selection card and returned daily to a hunter check station box.

G) Waterfowl hunters not participating in daily draw must report their harvest on site hunting permit by February 15.

H) Entry time for hunters not participating in daily lottery is 4:30 a.m. in November, 5:00 a.m. in December and 5:30 a.m. in January.

I) Waterfowl hunters may not hunt on main lakes other than staked locations. Hunters may hunt crop fields and wetlands that have not been staked; however, they must be a minimum of 200 yards from the nearest staked location or another hunter.

J) No waterfowl hunting within 200 yards of Denmark Unit Waterfowl Rest Area and 100 yards of any private property boundary.

K) The land and water portion of the Denmark Unit Waterfowl Rest Area is closed to all entry from October 28 through February 28. The location of the Denmark Unit Waterfowl Rest Area is described as follows: All land and water east of field DM 72

following Pipestone Creek, north and then east along Seven Island Trust Property Boundary, then east to Eastern Haul Road, then north to Pyatt-Cutler Road.

L) After duck season is closed and during the Canada goose hunting season, hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag.

M) The area is closed to waterfowl hunting on Mondays and December 25.

34) Pyramid State Park – East Conant Unit

A) All vehicles must have a site hunting permit displayed in windshield. Permits must be returned by February 15.

B) Hunting hours are from legal opening to 1:00 p.m.; hunters must be out of the field by 2:00 p.m.

C) Each hunting party is required to hunt over a minimum of 12 decoys; all decoys must be picked up at the end of each day's hunt.

D) No more than 4 hunters to a party.

E) No waterfowl hunting within 100 yards from any private property boundary.

F) After duck season is closed and during the Canada goose hunting season, hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag.

G) Entry time for hunters not participating in daily lottery is 4:30 a.m. in November, 5:00 a.m. in December and 5:30 a.m. in January.

H) Hunters may hunt crop fields and wetlands; however, they must be a minimum of 200 yards from the nearest staked location or another hunter.

I) The area is closed to waterfowl hunting on Mondays and

December 25.

35) Pyramid State Park – Galum Unit

A) All vehicles must have a site hunting permit displayed in windshield. Permits must be returned by February 15.

B) Hunting hours are from legal opening to 1:00 p.m.; hunters must be out of the field by 2:00 p.m.

C) Each hunting party is required to hunt over a minimum of 12 decoys; all decoys must be picked up at the end of each day's hunt.

D) All hunters must register as a group, but no more than 4 names shall be listed per card. A hunter's name may only appear on one lottery card.

E) Blind sites will be allocated by daily drawing at the Galum Unit Office beginning at 4:30 a.m. in November, 5:00 a.m. in December and 5:30 a.m. in January. All hunting must occur within 10 yards of an assigned, numbered stake, except for stakes identified at the check station where hunters may hunt from any place in the wetland in which the stake is located. There will be no moving to staked locations after initial drawing.

F) Successful participants must have their lottery card stamped with the date and blind number. The card must be in the possession of the hunter or group while hunting. Waterfowl harvested must be reported on blind selection card and returned daily to a hunter check station box.

G) Waterfowl hunters not participating in daily draw must report their harvest on site hunting permit by February 15.

H) Entry time for hunters not participating in daily lottery is 4:30 a.m. in November, 5:00 a.m. in December and 5:30 a.m. in January.

I) Waterfowl hunters may not hunt on main lakes other than staked locations. Hunters may hunt crop fields and wetlands that have not

been staked; however, they must be a minimum of 200 yards from the nearest staked location or another hunter.

J) No waterfowl hunting within 100 yards of any private property boundary.

K) After duck season is closed and during the Canada goose hunting season, hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag.

L) The area is closed to waterfowl hunting on Mondays and December 25.

36) Ray Norbut State Fish and Wildlife Area (1)

37) Rend Lake Project Lands and Waters

A) All waterfowl hunters and all boats must be out of the Casey Fork and Big Muddy subimpoundments by 2:00 p.m. each day of the waterfowl season and not return until 4:30 a.m., except during the last 3 days of the Canada goose season, hunters must be out of the areas by one hour after sunset and not return until 4:30 a.m.

B) No hunting permitted from the subimpoundment dams.

C) While waterfowl hunting, no one may have in his/her possession any tool or device designed to cut brush or limbs, except common hunting knives and pocket knives.

D) No waterfowl hunting permitted within 200 yards of the refuge boundary, or within 100 yards of any private property boundary.

E) All boat traffic is prohibited from entering the subimpoundments from the closing of youth~~one week before~~ waterfowl season until opening day of regular waterfowl season.

F) All waterfowl hunters must sign in prior to hunting and sign out and report their harvest at the end of each day's hunt.

G) Air boats will not be allowed in the Casey Fork Subimpoundment, the Big Muddy Subimpoundment, and the impoundments on Corps of Engineers' managed areas such as Atchison Creek, Gun Creek and Rend City Wetland during the regular duck and Canada goose seasons. When ice conditions do not allow access at boat ramps by normal watercraft, then air boats can be used in the Casey Fork and Big Muddy Subimpoundments.

H) Permanent blinds at the Whistling Wings Access Area shall be regulated as follows:

i) During goose season, a separate drawing will be held for the pits at Whistling Wings. This drawing will be held at the Cottonwood check station following the drawing for staked hunting sites. Hunters may not register for more than one drawing per day. Unsuccessful hunters in the drawing for Whistling Wings pits may select any unclaimed staked location after the drawings.

ii) Hunters who wish to hunt together must register as a hunting party and be present at the drawing.

iii) All hunters must have the registration card from the check station in their possession while hunting.

iv) Hunting parties can only hunt from the pit location that they chose in that day's drawing. No moving to or hunting from any other pit location is allowed.

v) No more than 6 dozen decoys may be used per pit.

vi) No more than 4 hunters will be allowed in a pit or hunting party.

I) Each hunting party is required to hunt over a minimum of 12 decoys at each blind site, and all decoys must be picked up at the end of each day's hunt.

J) During the last 3 days of Canada goose season, hunting hours shall

close at sunset daily.

K) The land and water portion of the Rend Lake Refuge is closed to trespassing during waterfowl season. The location of the Rend Lake Refuge is described as follows:

i) Bounded on the south by a buoy line, approximating the Jefferson-Franklin County Line.

ii) Bounded on the east by a buoy line and/or signs approximating the channel of the Casey Fork Creek.

iii) Bounded on the west by a buoy line and/or signs approximating the channel of the Big Muddy River.

iv) Bounded on the north portion of the Big Muddy River by a buoy line and/or signs approximating a line which would extend west from Ina, Illinois.

v) Bounded on the north portion of the Casey Fork Creek by the Casey Fork Subimpoundment Dam.

vi) Bounded on Nason Point by refuge boundary signs at project limits.

L) After the close of regular duck season, goose hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit.

M) Staked Hunting Areas – Those areas designated as a staked hunting area will be publicly announced and the following regulations will apply:

i) All hunting must occur within 10 yards of an assigned, numbered stake except for stakes identified at the check station where hunters may hunt from any place in the field in which the stake is located.

ii) Stakes will be assigned via a daily drawing held at 4:00

a.m. during November, 4:30 a.m. in December and 5:00 a.m. in January.

iii) Check station at the Bonnie Dam Access Area will be operated on a daily basis through the second weekend of the waterfowl season. Thereafter, Bonnie Dam check station will only be open on weekends and holidays as posted at the check station. Cottonwood Access Area will be operated on a daily basis throughout the waterfowl season for both Bonnie Dam and Cottonwood Hunting Areas. Hunters who wish to hunt together at a staked location must register as a hunting party and be present for the drawing. Only those persons in that party may hunt at the assigned stake. No more than 5 persons shall be in a hunting party.

iv) All hunters must register at the check station. Hunters arriving at the check station after the initial draw will have the opportunity to select any stakes that are still available up to one hour before legal shooting time. Hunters may enter the subimpoundment up to ½ hour before legal shooting time or between 9:00 a.m. and 9:30 a.m.

v) Hunting parties can only hunt from the staked hunting location that they chose in that day's drawing. No moving to or hunting from any other staked hunting location is allowed. Once a staked hunting location is killed out, no other hunting party may hunt from that stake for the remainder of that day.

vi) When hunting parties have killed their legal daily bag limit of ducks (not including coots and mergansers) and/or Canada geese in respect to the legal hunting season dates they must vacate the hunting site.

vii) Hunters must sign in and out and report their harvest on the cards at the access area where they launch.

38) Sahara Woods State Fish and Wildlife Area (1)

39) Saline County State Conservation Area (1)

A) Waterfowl hunting is allowed north of the township road only.

B) Walk-in hunting only.

C) Hunters must sign in prior to hunting and sign out reporting harvest at the end of each day.

40) Sand Ridge State Forest (Sparks Pond Land and Water Reserve) (1)

A) Hunting is permitted on Tuesdays and Saturdays during the duck season. Permits are issued on a first come-first served basis.

B) Two hunters are allowed per blind. At least one hunter must have a P-2 handicapped certification.

C) Hunters must report harvest to site office.

41) Sanganois State Fish and Wildlife Area

A) Hunters using the main walk-in hunting area from opening day of the Central Zone duck season through the first Sunday of the Central Zone duck season must have a permit issued from the site office. Procedures for issuance of permits will be publicly announced.

B) Hunters using the walk-in area shall use the check station at the headquarters area located 8 miles northwest of Chandlerville just off Route 78 or the check station on the west side of the Illinois River one mile north of Browning near Route 100.

C) Walk-in waterfowl hunting shall be permitted only in the area posted for this purpose.

D) All hunters using a walk-in area must report to the check station to fill out information cards and to turn in hunting licenses or Firearm Owner's Identification Cards before proceeding to area.

E) Topper's Hole is a walk-in area accessed by boat only, no check-in, check-out, no permanent blinds, hunting parties must stay at least 200 yards apart, hunting parties shall hunt over no less than 12 decoys, daily hunting hours are legal shooting hours through 1:00 p.m. CST.

F) The Baker tract is a daily-draw walk-in area with 4 separate hunting compartments. One party of hunters (up to 4 hunters per party) will be permitted to hunt in each hunting compartment. The allocation of the 4 Baker tract hunting compartments will be by daily draw as part of the site's daily draw vacant blind allocation. Parties must register for the draw together on the same card.

G) Upon the completion of hunting, hunters must report to the check station within one hour.

H) Fishing is prohibited in the impoundment areas during the duck season, except that walk-in only access for fishing from the bank is permitted after 1:00 p.m.

I) No person shall trespass on the Barkhausen Refuge during the period from October 1 through end of goose season.

J) No person shall trespass on the Marion-Pickerel Waterfowl Refuge during the period from October 1 through the last day of the waterfowl season, unless prior permission for a specific reason (such as access to private land or to retrieve dead or wounded game) is granted by the site superintendent.

K) When the Central Zone goose season extends beyond the duck season, goose hunting shall be permitted with statewide hunting hours in effect. Hunters need not occupy a blind. All hunting must be conducted within non-refuge areas.

L) No hunting permitted from the walk-in area subimpoundment levee.

M) Hunters may use boats without motors in the walk-in area; the

construction and/or use of permanent blinds in the walk-in area is prohibited.

42) Sangchris Lake State Park

A) During the last 3 days of the regularly scheduled Canada goose season, hunting hours will close at statewide closing.

B) Blind sites shall be allocated by a daily drawing to be conducted 90 minutes prior to hunting time. Blind sites not selected during the drawing (or in the event that personnel are not available to conduct the drawing) shall be allocated on a first come-first served basis. (During that portion of the Canada goose season which follows the duck season, the west side goose pit area, the west arm blind sites and east arm blind sites south of power lines shall be available for goose hunting and shall be allocated on a daily drawing basis to be held at 5:30 a.m. daily.)

C) During that portion of the light goose season which follows the regular Canada goose season, the west-side goose pit area blinds, subimpoundment blinds, and designated fields west of the west boat ramp shall be available daily on a first come-first served basis. Hunters must sign in at the appropriate parking area no earlier than 5 a.m.

D) All hunting must be from registered blind sites only and hunters must occupy their blinds within one hour after registering at the check station.

E) Upon vacating their blinds, hunters must place their completed harvest cards in the collection boxes located at either the east or west boatdock.

F) There will be a duly posted waterfowl refuge. These areas shall be closed to all boat traffic (except as allowed in subsection (b)(42)(K)) and boat fishing during the waterfowl season. Bank fishing along the dam shall be permitted.

G) No more than 4 persons shall occupy a blind at one time.

H) The center arm of the lake shall be closed to all waterfowl hunting.

I) Blind sites shall be determined by the Department of Natural Resources and marked with a numbered stake. When it is deemed necessary, the Department of Natural Resources shall remove, move or close blind sites in order to carry out the operations of the overall management program.

J) Hunters wishing to move to another blind location may do so after 10 a.m. providing they include the blind change on the harvest card and report their kill for each blind.

K) Access to water blind sites shall be by boat only and from designated boat launch sites. Blinds on the peninsula subimpoundment shall be accessed on foot once the hunter has reached the peninsula by boat. Corridors located along the edges of the existing refuge will be established to provide access to all available blind sites as designated by site superintendent when conditions warrant.

L) All hunting must be from one portable blind or one anchored portable boat blind located within a numbered cove and between the assigned numbered stakes or from one Department designated blind or pit.

M) Crippled waterfowl that fall on land, other than areas designated as refuge, shall be retrieved by foot. However, no gun may be carried while attempting to recover such birds.

N) No unauthorized pits or blinds shall be built on State managed land.

O) Blind sites: A position between 2 like numbered stakes within a cove or other Department designated site where a blind may be located.

P) Fishing shall be prohibited in the east and west arms of the lake during the period from 10 days prior to the duck season through

the end of the duck season, unless the youth waterfowl hunt is more than 10 days before the regular duck season, then the east and west arms will be closed to accommodate the youth waterfowl hunt. Fishing shall be prohibited in the west arm of the lake and the east arm of the lake south of the power lines during that portion of the Canada goose season that follows the duck season.

Q) Each party must hunt over a minimum of 12 decoys, and all decoys must be removed at the end of each day's hunt.

R) When it is deemed necessary for public safety reasons, such as flooding, high winds, or heavy fog, the Department of Natural Resources will close the lake area to all fishing and all boating activity except for non-water hunting programs.

S) During flood conditions, waterfowl hunters may hunt the tailwaters of Sangchris Lake dam including Clear Creek and the South Fork of the Sangamon River. Decoys must be removed at the end of each day's hunt.

T) West-side goose pit area blinds will be available every day each week except Tuesday and Wednesday, through the regular Canada goose season, except for the Tuesday and Wednesday preceding the last day of the Canada goose season.

U) Hunters in the west-side goose pit area may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit after the close of the Central Zone duck season.

V) All blinds will be closed during the first day of the second firearm deer season; hunting hours will be from statewide hunting hours until 10:00 a.m. the remaining days of the second firearm deer season.

43) Shawnee National Forest, Upper and Lower Bluff Lakes
Goose hunting is prohibited at Lower Bluff Lake. Legal entry time is 4:30 a.m. and exit time is 2:00 p.m. for all hunters in flooded management compartments.

44) Shawnee National Forest, LaRue Scatters
All hunting must be by walking in or in boats without motors. Legal entry time is 4:30 a.m. and exit time is 2:00 p.m. for all hunters in flooded management compartments.

45) Shawnee National Forest, Oakwood Bottoms (Green Tree Reservoir west of the Big Muddy levee)

A) All hunting must be by walking into the area.

B) Each hunting party must hunt over a minimum of 12 decoys in Compartments 19, 20 and 21.

C) No person shall tamper with or attempt to manipulate any of the gates, pumps or structures in the subimpoundment area.

D) Legal entry time is 4:30 a.m. and exit time is 2:00 p.m. for all hunters in flooded management compartments.

46) Shelbyville State Fish and Wildlife Area

A) Waterfowl hunting shall be permitted as described in this subsection (b)(46)~~(47)~~ except in duly posted restricted and "No Hunting" areas.

B) Waterfowl hunting in the Fish Hook, North Dunn, McGee, and Jonathan Creek Waterfowl Areas shall be allotted by a daily drawing for the first 2 days of the regular waterfowl season. Parties must register for drawings between 3:00 a.m. and 4:00 a.m. Central Standard Time at the check station on those days. Each party drawn shall be allowed to choose one of the staked sites in the waterfowl area. Parties must select sites in the order they are drawn. Maximum party size is 4 persons. In addition, the following regulations shall apply.

i) All parties must hunt within 10 yards of their assigned stake.

ii) All parties must be in place by ½ hour before hunting time.

iii) All parties are required to report their harvest by 2:00 p.m. following each hunt.

C) Hunting in the Jonathan Creek, North Dunn and McGee Waterfowl Areas shall be restricted to designated, staked sites on a first come-first served basis except as noted in this subsection (b)(46)(C)~~(47)(B)~~. Hunting in the Fish Hook Area shall be restricted to designated, staked sites on a first come-first served basis for the first 14 days of the Illinois Central Zone duck season, except as noted in this subsection (b)(46)(C)~~(47)(B)~~. A hunting party must hunt within 10 yards of the stake.

D) Each hunting party in the Fish Hook, Dunn, Jonathan Creek and McGee Waterfowl Areas is required to hunt over a minimum of 12 decoys.

E) Motors of over 10 horsepower shall not be operated in the Fish Hook, Jonathan Creek, Dunn and McGee Waterfowl Areas.

F) Waterfowl hunting only is permitted in the Fish Hook, Dunn, Jonathan Creek and McGee Waterfowl Areas during the regular waterfowl season, except that pheasant, rabbit and quail hunting is permitted after 1:00 p.m. daily beginning the day after the close of the Central Zone Duck Season.

G) During the regular waterfowl season, only licensed waterfowl hunters with valid site waterfowl permits who are in the pursuit of waterfowl are permitted on the Kaskaskia River from the Strickland Boat Access north to the Illinois Central Railroad bridge from ½ hour before sunrise until 1:00 p.m.

H) A free permit is required, which can be obtained from the site office. Permits must be in possession while hunting waterfowl. The permit must be returned and harvest reported by February 15 or the hunter will forfeit hunting privileges at this site for the following year.

47) Sielbeck Forest State Natural Area (1)

48) Stephen A. Forbes State Park

A) On the main lake hunting is allowed from a boat blind only in the designated areas.

B) Only walk-in hunting is allowed in the subimpoundment.

C) Hunting shall be allowed on a first come-first served basis. All hunters must use 12 decoys, minimum.

49) Ten Mile Creek State Fish and Wildlife Area (1)

A) Waterfowl hunters must obtain permits prior to hunting. Permits must be returned by February 15.

B) Each hunting party is required to hunt over a minimum of 12 decoys at each blind site, and all decoys must be picked up at the end of each day's hunt.

C) Areas designated as Rest Areas are closed to all access during the Canada Goose Season only. Rest Area designation has been given to that part of the Belle Rive unit that lies south of Auxier Creek and is posted as Rest Area, and the 250 acre tract at the Western edge of the Eads Mine unit.

50) Turkey Bluffs State Fish and Wildlife Area (1)
All hunters must sign in and out and report kill.

51) Union County State Fish and Wildlife Area (Firing Line Waterfowl Management Area)

A) Blind sites shall be allocated on a daily draw basis at the site shop building 60 minutes prior to hunting time. Hunters shall register as parties for the drawing; each party drawn shall be allowed to select a blind site in order drawn; only those hunters registered in a party shall be allowed to hunt with their party; no less than 2 hunters and no more than 4 hunters per party; persons under the age of 16 shall not be allowed to hunt unless accompanied by an adult.

B) Blinds not allocated during the drawing will not be hunted that day. Moving from blind to blind is not allowed.

C) Access to blind sites is from Clear Creek Levee only.

D) Each hunting party must hunt over a minimum of 12 decoys. Decoys must be picked up immediately after the hunt is over.

E) Hunting hours end at 1:00 p.m. and all hunters must be out of the area by 2:00 p.m. Daily entry into the area is restricted until after the drawing for hunting sites.

F) When duck season is closed, hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit.

52) Weinberg-King State Park – Spunky Bottoms Unit (1)
No access restrictions; sign in/sign out required.

53) Wise Ridge State Natural Area (1)

(Source: Amended at 34 Ill. Reg. 16457, effective October 8, 2010)

Section 590.70 Ohio River

a) Waterfowl hunting will be allowed on the Ohio River bordering Illinois. Season dates and bag limits are governed by the regulations which apply to the Southern Zone (Section 590.10(i)(5)).

b) The following areas of the Ohio River shall be designated as waterfowl refuges and shall be closed to all hunting from October 15 through March 15:

1) The Ohio River from Smithland Lock and Dam upstream to a power line crossing the river at approximately River Mile 911.5 and Stewart Island.

2) The Ohio River in the vicinity of the Ballard Wildlife Management Area located in Ballard County, Kentucky, from a point 50 yards upstream from Dam 53, downstream to a line from the confluence of Hodges Creek to a point fifty yards downstream of the downstream boundary of the Ballard

Wildlife Management Area.

c) Waterfowl hunting hours shall end at 2:00 p.m. local time daily within areas open to hunting on the Ohio River Islands Wildlife Management Area and the Kentucky portion of the Ohio River from the power line crossing at river mile 911.5 north to Carrsville, Kentucky.

d)~~e)~~ Violation of this Section is a petty offense (see 520 ILCS 5/2.2).

(Source: Amended at 34 Ill. Reg. 16457, effective October 8, 2010)

Section 590.80 Early and Late Goose (all species) Hunting Regulations on Department Sites

a) During goose hunting seasons that begin before or extend beyond the regular duck season, statewide regulations and site specific regulations for goose hunting, as indicated in Sections 590.40, 590.50 and 590.60, shall apply to all sites (except those closed in subsections (c), (d), (e) and (f)) with the following exceptions:

1) Check in and check out (or sign in and out) is required only at sites with an asterisk (*).

2) No fees will be charged for hunting for seasons before duck season or for seasons after the regular Canada goose season.

3) No sites are closed to fishing during seasons before the regular duck season or for seasons after the regular Canada goose season.

4) Hunting from a completed blind or staked site is waived during seasons held before the regular duck season or for seasons held after the regular Canada goose season at sites marked with an @.

5) Hunting from a staked site (blind need not be completed) is required during seasons held before the regular duck season at sites marked with a #.

6) During goose seasons held prior to regular duck season, no hunting is allowed in designated dove management fields or within 100 yards of such fields.

7) During goose seasons held after the Canada goose season all restrictions regarding the use of decoys or the number of shotgun shells that hunters can possess are no longer in force.

8) During goose seasons held after Canada goose season, statewide hunting hours apply.

b) The following sites will be open to all goose hunting seasons:

Blanding State Wildlife Area @

Cache River State Natural Area *

Carlyle Lake Project Lands and Waters, including North Allen Branch Waterfowl Management Area (no early goose hunting east of Kaskaskia River from Cox's Bridge Access north to the Department's boundary line) *

Chain O'Lakes State Park #

Chauncey Marsh State Natural Area (permit required, available at Red Hills State Park)

Clinton Lake State Recreational Area – early season goose hunting in waterfowl hunting areas east of Parnell Bridge and North of Route 54 only. Any goose hunting seasons after the regular Canada goose seasons will close March 15.

Des Plaines State Conservation Area #

Devil's Island State Fish and Wildlife Area

Dog Island State Wildlife Management Area *

Fort de Chartres Historic Site

Horseshoe Lake State Park (Madison County) (blind builders or partners must occupy their blinds by ½ hour before opening hunting hour each day in order to claim their blind for the day; attempts to claim blinds by any manner other than actual occupation shall be considered in violation of this Part and shall be cause

for arrest; the insertion of a boat into the boat hide and/or the spreading of decoys before a blind shall not be considered legal occupation of a blind) # *

Kaskaskia River State Fish and Wildlife Area (Baldwin Lake Waterfowl Rest Area is closed to hunting) *

Kinkaid Lake Fish and Wildlife Area

Lake Shelbyville (except West Okaw and Kaskaskia Fish and Wildlife Area)

Marshall State Fish and Wildlife Area – Sparland and Duck Ranch Units @

Marshall State Fish and Wildlife Area – Spring Branch and Marshall Units * @

Meredosia Lake State Fish and Wildlife Area

Mississippi River State Fish and Waterfowl Management Area (Pools 25 and 26) (no hunting is allowed in the designated Batchtown Waterfowl Rest Area, Crull Hollow Rest Area and Godar Rest Area; blind builders or partners must occupy their blinds by ½ hour before opening hunting hour each day in order to claim their blind for the day; attempts to claim blinds by any manner other than actual occupation shall be considered in violation of this Part and shall be cause for arrest; the insertion of a boat into the boat hide and/or the spreading of decoys before a blind shall not be considered legal occupation of a blind) @

Mississippi River Pools 16, 17, and 18 @

Mississippi River Pools 21, 22, and 24 @

Oakford State Conservation Area

Rend Lake Project Lands and Waters @

Saline County State Conservation Area *

Sanganois State Fish and Wildlife Area * @

Shawnee Forest, LaRue Scatters

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Shawnee Forest, Oakwood Bottoms

Shawnee Forest, Upper Bluff Lake

Ten Mile Creek State Fish and Wildlife Area (permit required; rest areas open to hunting during goose season before and after the regular goose season)

Turkey Bluffs State Fish and Wildlife Area *

Weinberg-King State Park – Spunky Bottoms Unit (1)

Woodford State Fish and Wildlife Area * @

c) The following sites will be open to any goose hunting seasons that occur before the regular duck season through the end of the regular Canada goose season:

Anderson Lake (closed after regular duck season) * @

Coffeen Lake State Fish and Wildlife Area (hunting north of County Road N6th only; no fishing north of County Road N6th during this season) * #

Lake Shelbyville − West Okaw and Kaskaskia State Fish and Wildlife Area (must have site specific permit)

Ray Norbut State Fish and Wildlife Area *

Rice Lake (season opens with teal season; sunrise until 1:00 p.m.; closed after regular duck season) * @

Siloam Springs State Park (open prior to regular duck season only) * #

d) The following sites will be open to all goose hunting during any Canada goose hunting seasons that occur after the regular duck season:

Banner Marsh State Fish and Wildlife Area * @

Braidwood State Fish and Wildlife Area (when duck season is closed, goose hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit)*

Double T State Fish and Wildlife Area (hunters must check in and out at the self-check box on the site; hunting from stakes or pits only; 4 persons per stake; hunters cannot check in before 5:00 a.m. the day of the hunt; stakes or pots allocated on a first come-first served basis)*

Heidecke State Fish and Wildlife Area *

Kankakee River State Park

Lake DePue State Fish and Wildlife Area *

Lake Sinnissippi State Fish and Wildlife Area

Mermet Lake State Fish and Wildlife Area * @

Newton Lake State Fish and Wildlife Area *

Pekin Lake Fish and Wildlife Area

Spring Lake State Fish and Wildlife Area (hunting from registered blinds or within 10 yards of staked blind sites is permitted after the close of the duck season) *

Starved Rock State Park *

William W. Powers State Conservation Area

e) The following sites will be open to any goose hunting seasons that occur after the regular Canada goose hunting season:

Double T State Fish and Wildlife Area (from pits or staked blind sites only)*

Horseshoe Lake Conservation Area (controlled hunting and public hunting areas) * @

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Units (site permit and harvest report required)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Jim Edgar Panther Creek State Fish and Wildlife Area (Open Unit, West Open Unit, Quail Management Unit only)

Peabody River King State Fish and Wildlife Area (East Subunit only; no hunting on or adjacent to lakes or within 200 yards of roads, developed recreation areas, public use facilities and construction or industrial sites; hunting is on a first come-first served basis; no entry before 4:30 a.m.; waterfowl hunters must maintain a distance of 200 yards between hunting parties; no permanent blinds allowed; all blinds must be of a portable nature and/or constructed with natural vegetation at the blind site; no pits can be dug; all materials must be removed or dismantled at the end of the day's hunt; all waterfowl hunting parties must use at least 12 decoys that must be attended at all times and must be picked up at the end of each day's hunt) *

Pyramid State Park – Captain Unit (no hunting in Captain Unit Waterfowl Rest Area) @

Pyramid State Park – Denmark Unit (no hunting in Denmark Unit Waterfowl Rest Area) @

Pyramid State Park – East Conant Unit

Pyramid State Park – Galum Unit @

Sangchris Lake State Park *

Stephen A. Forbes State Park *

Snakeden Hollow State Fish and Wildlife Area (from pits only) *

Union County State Conservation Area (firing line and controlled hunting area) * @

f) The following sites will be closed to all goose hunting seasons that occur outside the regular duck season dates:

Donnelley State Fish and Wildlife Area

Mazonia State Fish and Wildlife Area *

~~Mermet Lake State Fish and Wildlife Area~~

Powerton Lake State Fish and Wildlife Area

Redwing Slough/Deer Lake State Natural Area

g) The following sites will be open to any goose hunting seasons that occur before the regular duck season and after the regular Canada goose season:

Kidd Lake State Natural Area

h) Violation of this Section is a petty offense (see 520 ILCS 5/2.20).

(Source: Amended at 34 Ill. Reg. 16457, effective October 8, 2010)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Late-Winter Deer Hunting Season

2) Code Citation: 17 Ill. Adm. Code 680

3)

Section Numbers:	Adopted Action:
680.20	Amendment
680.30	Repeal
680.80	Amendment

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36]

5) Effective Date of Amendments: October 8, 2010

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: June 25, 2010; 34 Ill. Reg. 8230

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary

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

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

15) Summary and Purpose of Rulemaking: This Part was amended to: raise the fee for a permit from $15 to $17.50 in Section 680.20, repeal Section 680.30 because group permits are now sold over-the-counter, and update language in Section 680.80 pertaining to a daily site lottery.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

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

George Sisk, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

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

PART 680
LATE-WINTER DEER HUNTING SEASON

Section
680.10 Statewide Season
680.20 Statewide Deer Permit Requirements
680.25 Deer Permit Requirements – Free Landowner/Tenant Permits (Repealed)
680.30 Deer Permit Requirements – Group Hunt (Repealed)
680.40 Statewide Firearm Requirements for Late-Winter Deer Hunting
680.50 Statewide Deer Hunting Rules
680.60 Reporting Harvest
680.70 Rejection of Application/Revocation of Permits
680.80 Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].

SOURCE: Adopted at 15 Ill. Reg. 13353, effective September 3, 1991; amended at 16 Ill. Reg. 15446, effective September 28, 1992; amended at 17 Ill. Reg. 18810, effective October 19, 1993; amended at 18 Ill. Reg. 15739, effective October 18, 1994; amended at 19 Ill. Reg. 15422, effective October 26, 1995; amended at 20 Ill. Reg. 10906, effective August 5, 1996; amended at 21 Ill. Reg. 9128, effective June 26, 1997; amended at 22 Ill. Reg. 14875, effective August 3, 1998; amended at 24 Ill. Reg. 8975, effective June 19, 2000; amended at 26 Ill. Reg. 13820, effective September 5, 2002; emergency amendment at 28 Ill. Reg. 1032, effective January 6, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 2197, effective January 26, 2004; amended at 28 Ill. Reg. 15503, effective November 19, 2004; amended at 29 Ill. Reg. 20462, effective December 2, 2005; amended at 30 Ill. Reg. 14508, effective August 24, 2006; amended at 31 Ill. Reg. 13180, effective August 30, 2007; amended at 32 Ill. Reg. 19736, effective December 3, 2008; amended at 33 Ill. Reg. 11601, effective July 27, 2009; amended at 34 Ill. Reg. 16518, effective October 8, 2010.

Section 680.20 Statewide Deer Permit Requirements

a) Illinois resident hunters must have a current, valid Late-Winter Deer Season Permit ($17.50~~$15~~), or an unfilled firearm, muzzleloader or youth deer permit

valid for the previous firearm, muzzleloader or youth deer season and valid for one of the open counties. Nonresident hunters must have an unfilled firearm or muzzleloader deer permit valid for the previous firearm or muzzleloader deer season and valid for one of the open counties. A Late-Winter Deer Season Permit is issued for one county or special hunt area and is valid only in the county or special hunt area stated on the permit. Unfilled firearm, muzzleloader or youth deer permits are valid only for the county for which they were originally issued, except that unfilled landowner property-only hunting firearm deer permits are valid only for the farmlands that the person to whom it was issued owns, leases, or rents within the open counties/portions of counties.

1) Unfilled firearm, muzzleloader or youth deer permits that were originally issued for special hunt areas are not valid during the Late-Winter Season unless:

A) the hunter's name is redrawn at the daily site lottery to hunt at the same special hunt area during the Late-Winter Season; or

B) the special hunt area is open to persons with a county permit and the special hunt area does not conduct a daily site lottery.

2) Sites conducting a daily site lottery will be announced publicly.

b) Resident Late-Winter Deer Permits will be available for sale over-the-counter (OTC) from agents designated by the Department (pursuant to 17 Ill. Adm. Code 2520) beginning the second Tuesday in December ~~1~~ through the last day of the Late-Winter Deer Season. For counties in Unit A, there shall be no limitation on permit sales; hunters may purchase as many permits as they wish for any or all of the included counties. For counties in Unit B, hunters may purchase only a single permit for each of the included counties.

c) For a Special Hunt Area permit, resident hunters may apply online at http://www.dnr.state.il.us/admin/deer.htm for a site-specific permit valid for one of the Department's Special Hunt Areas. The application period begins the last Tuesday in October and ends the fourth Monday in November. Permits will be allocated via a lottery drawing. Unallocated permits will be available for sale over-the-counter.

d)~~c)~~ For the applicant to be eligible to receive a Late-Winter Deer Permit ($17.50~~$15~~),

he/she must be an Illinois resident and not have had his/her deer hunting privileges suspended or revoked in this State pursuant to Section 3.36 of the Wildlife Code [520 ILCS 5/3.36]. Lifetime licenses issued after August 15, 2006 shall not qualify a non-resident of Illinois for a resident deer permit.

e)~~d)~~ Hunters purchasing Late-Winter Deer Permits must supply all necessary application information to the agents in order to properly complete the permit.

f)~~e)~~ Recipients of the Late-Winter Deer Hunting Permit shall record their signature on the permit and must carry it on their person while hunting.

g)~~f)~~ Permits are not transferable. Refunds shall not be granted unless the Department has erroneously issued the permit.

h)~~g)~~ A $3 service fee shall be charged for replacement permits. Monies derived from this source shall be deposited in the Wildlife and Fish Fund.

i)~~h)~~ Hunting without a valid permit is a Class B misdemeanor (see 520 ILCS 5/2.24).

(Source: Amended at 34 Ill. Reg. 16518, effective October 8, 2010)

Section 680.30 Deer Permit Requirements – Group Hunt (Repealed)

~~a) Up to six individuals may apply to hunt as a group.~~

~~b) Each individual must sign his or her own application.~~

~~c) Applicants applying as a group shall be rejected if they do not list the same county choice and complete the group leader information listing the identical group leader.~~

(Source: Repealed at 34 Ill. Reg. 16518, effective October 8, 2010)

Section 680.80 Regulations at Various Department-Owned or -Managed Sites

Sites will be opened to Late-Winter deer hunting only if the site is announced as being open via a public announcement. A drawing will be held at 5:00 a.m. at the site if more hunters show up than can be accommodated at sites announced as having a daily site lottery~~hunter quota~~ (e.g., press release, site posting and publication in Outdoor Illinois). Violation of a site specific

regulation is a Class B misdemeanor (see 520 ILCS 5/2.24).

(Source: Amended at 34 Ill. Reg. 16518, effective October 8, 2010)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Pyrotechnic Distributor and Operator Licensing Rules

2) Code Citation: 41 Ill. Adm. Code 230

3)

Section Numbers:	Adopted Action:
230.20	Amend
230.25	Amend
230.30	Amend
230.40	Amend
230.50	Amend
230.55	New
230.60	Amend
230.65	New
230.70	Amend
230.80	Amend
230.90	Amend
230.100	Amend
230.105	New
230.110	Amend
230.120	Amend
230.130	Amend
230.140	Amend
230.150	Amend
230.160	Amend
230.170	Amend
230.180	Amend
230.190	Amend
230.200	Amend
230.210	Amend
230.220	Amend
230.230	Amend
230.250	Amend
230.280	Amend
230.290	New

4) Statutory Authority: Implementing and authorized by Section 30 of the Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227/30]

5) Effective Date of Rulemaking: October 6, 2010

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

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

7) Does this adopted rulemaking contain incorporations by reference? Yes

8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, IL 62703, and is available for public inspection.

9) Date Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 8236; June 25, 2010

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

11) Differences between proposal and final version: Changed "BATFE" to "ATF" for consistency throughout the text of the rulemaking.

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

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

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

15) Summary and Purpose of Rulemaking: This Part is being amended and added to as a result of PA 96-708 amending The Pyrotechnic Distributor and Operator Licensing Act to add a production company licensing scheme. Specifically, this rulemaking removes the requirement that the license fee be submitted with the application, changes the definitions to match the Act and adds 3 new sections to implement changes in the Act: (1), Section 230.55 lists qualifications for the production company license, (2) Section 230.65 lists qualifications for production company lead operator licensing approvals, and (3) Section 230.290 creates the Music Task Force.

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

William Barnes
General Counsel
Office of the State Fire Marshal 217/785-0969
1035 Stevenson Dr.
Springfield, IL 62703-4259

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

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

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

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

PART 230
PYROTECHNIC DISTRIBUTOR AND OPERATOR LICENSING RULES

Section	
230.10	Scope
230.20	Definitions
230.25	Incorporated and Referenced Materials
230.30	General Requirements for Pyrotechnic Displays
230.40	Compliance Standards
230.50	Qualifications for Distributor License
230.55	Qualifications for Production Company License
230.60	Qualifications for Limited Distributor License
230.65	Qualifications for Production Company Lead Operator Licensing Approval
230.70	Qualifications for Outdoor Professional License
230.80	Qualifications for Proximate Audience License
230.90	Qualifications for Flame Effect License
230.100	Application for License
230.105	Applications Received Between June 16 and July 5
230.110	Proximate Audience and Flame Effect Licensing Review Committee
230.120	Written Examination for Proximate Audience License and/or Flame Effect License
230.130	Use of Assistants
230.140	License Renewal
230.150	Fees
230.160	Possession of License
230.170	Notification to OSFM~~Office~~
230.180	Replacement and Duplicate License
230.190	Report of Theft or Loss of Fireworks
230.200	Reporting of Professional, Proximate Audience and Flame Effect Displays
230.210	Report of Injury or Property Damage
230.220	Inspections
230.230	Immediate Suspension
230.240	Administrative Actions
230.250	Appeal of an Administrative Action
230.260	Modifications to NFPA 1126
230.270	Modifications to NFPA 160

230.280 Criminal History Investigation
230.290 Music Entertainment Pyrotechnics Task Force
230.APPENDIX A Propane Flow Diagram: Standard with No Accumulator
230.APPENDIX B Propane Flow Diagram: Standard with Accumulator

AUTHORITY: Implementing and authorized by Section 30 of the Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227/30] and Section 4.1 of the Pyrotechnic Use Act [425 ILCS 35/4.1].

SOURCE: Emergency rules adopted at 30 Ill. Reg. 1485, effective January 23, 2006; emergency expired June 21, 2006; adopted at 31 Ill. Reg. 8757, effective June 5, 2007; amended at 34 Ill. Reg. 16524, effective October 6, 2010.

Section 230.20 Definitions

For purposes of this Part, the term:

"1.3G fireworks" means fireworks that are used for professional outdoor displays and classified as fireworks UN0333, UN0334 or UN0335 by the United States Department of Transportation (USDOT) under 49 CFR 172.101. [225 ILCS 227/5] USDOT assigns the following division numbers to the above-referenced fireworks identification numbers: UN0333 (1.1G), UN0334 (1.2G), and UN0335 (1.3G). (See 49 CFR 172.101.)

"Act" means the Pyrotechnic Distributor and Operator Licensing Act.

"Applicant" means an individual applying for a license under this Part.

"Assistant" means an on-site individual who is at least 18 years of age and who, under the supervision of the lead operator, assists with the safety, setup and discharge of a pyrotechnic display.

"ATF" *means the federal Bureau of Alcohol, Tobacco, Firearms* and Explosives. [225 ILCS 227/5]

"Consumer fireworks" means fireworks that must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Products Safety Commission, as set forth in 16 CFR ~~Parts~~ 1500 and 1507, and classified as fireworks UN0336 or UN0337 by USDOT under 49 CFR 172.101. "Consumer

fireworks" does not include a substance or article exempted under the Pyrotechnic~~Fireworks~~ Use Act. [225 ILCS 227/5] USDOT assigns the following division numbers to the above-referenced fireworks identification numbers: UN0336 (1.4G) and UN0337 (1.4S). (See 49 CFR 172.101.)

"Display fireworks" means any substance or article defined as a *Division 1.3G explosive or special effects fireworks*. [225 ILCS 227/5]

"DNR" means the Illinois Department of Natural Resources.

"Facility" means an area being used for the conducting of a pyrotechnic display business, but does not include residential premises except for the portion of any residential premises that is actually used in the conduct of a pyrotechnic display business. [225 ILCS 227/5]

"FBI" means the Federal Bureau of Investigation.

"*Flame effect" means the detonation, ignition, or deflagration of flammable gases, liquids, or special materials to produce a thermal, physical, visual, or audible effect before the public, invitees, or licensees, regardless of whether admission is charged in accordance with NFPA 160.* [225 ILCS 227/5]

"Flame effect license" means a license issued to a qualified lead pyrotechnic operator for flame effect displays. A license may be limited to a certain type of display, effect or location.

"Illinois Display Report~~display report~~" means the report filed by the lead operator with OSFM~~the Office~~ providing certain information with respect to the pyrotechnic display.

"ISP" means the Illinois Department of State Police.

"Lead pyrotechnic operator" or "lead operator" *means the* on-site *individual*, who is at least 21 years of age, *with overall responsibility for safety, setup, discharge, and supervision of a pyrotechnic display or pyrotechnic service*. [225 ILCS 227/5]

"License" means the license issued by OSFM~~the Office~~ pursuant to the Act and this Part.

"Licensee" means the individual licensed in accordance with the Act and this Part.

"NFPA" means the National Fire Protection Association, a nationally recognized standards-making organization.

~~*"Office" means the Office of the State Fire Marshal.* [225 ILCS 227/5]~~

"Officer" means:

if the applicant is a political subdivision of the State, an appointed or elected official; or

if the business is a sole proprietorship, the owner of the business or any person exercising managerial control; or

if the business is a partnership, any partner who has at least 10% ownership interest or any person exercising managerial control; or

if the business is a corporation, any officer or director of the corporation, any person who has at least 10% ownership interest in the corporation, or any person exercising managerial control.

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

"Outdoor professional display" means an outdoor pyrotechnic display that uses 1.3G fireworks and is at least 75' from the audience in accordance with NFPA 1123.

"Outdoor professional license" means the license issued to a qualified lead pyrotechnic operator for 1.3G fireworks.

"Person" means an individual, firm, corporation, association, partnership, company, consortium, joint venture, commercial entity, state, municipality, or political subdivision of a state or any agency, department, or instrumentality of the United States and any officer, agent, or employee of these entities. [225 ILCS 227/5]

"Production company" means any person in the film, digital and video media, television, commercial, and theatrical stage industry who provides pyrotechnic services or pyrotechnic display services as part of a film, digital and video media, television, commercial, or theatrical production in the State of Illinois. [225 ILCS 227/5]

"Proscenium curtain" means the curtain covering the opening of the stage that is constructed and mounted in a manner that intercepts hot gases, flames and smoke and that prevents flame from a fire on the stage from becoming visible from the auditorium side.

"Proximate audience display" means a display of special effects fireworks that occurs within a building or structure or that occurs outside before an audience closer than 75' to the pyrotechnic or flame devices.

"Proximate audience license" means a license issued to a qualified lead pyrotechnic operator for proximate audience displays. The license may be limited to a certain type of display, effect or location.

"Pyrotechnic display" or "display" means the detonation, ignition, or deflagration of display fireworks or flame effects to produce a visual or audible effect of an exhibitional nature before the public, invitees, or licensees, regardless of whether admission is charged. [225 ILCS 227/5]

"Pyrotechnic distributor" or "distributor" means any person~~, company, association, group of persons, or corporation~~ who distributes display fireworks for sale in the State of Illinois or provides them as part of a pyrotechnic display service in the State of Illinois or provides only pyrotechnic services. [225 ILCS 227/5]

"Pyrotechnic service" means the detonation, ignition or deflagration of display fireworks, special effects or flame effects to produce a visual or audible effect. [225 ILCS 227/5]

"Special effects fireworks" means pyrotechnic devices used for special effects by professionals in the performing arts in conjunction with theatrical, musical, or other productions that are similar to consumer fireworks in chemical compositions and construction, but are not intended for consumer use and are not labeled as such and must be identified as "intended for indoor use". Special

effects fireworks are classified as fireworks UN0431 or UN0432 by USDOT under 49 CFR 172.101. [225 ILCS 227/5] USDOT assigns the following division numbers to the above-referenced pyrotechnic article identification numbers: UN0431 (1.4G) and UN0432 (1.4S). (See 49 CFR 172.101.)

"Supervision" means direction and management of the activities of personnel in the safety, setup and display of a pyrotechnic display.

"USDOT" means the United States Department of Transportation.

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.25 Incorporated and Referenced Materials

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

1) National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471:

A) NFPA 101, Life Safety Code (2000)

B) NFPA 140, Standard on Motion Picture and Television Production Studio Soundstages, Approved Production Facilities, and Production Locations (2008)

C~~B~~) NFPA 160, Standard for the Use of Flame Effects Before an Audience (2006)

D~~C~~) NFPA 1123, Code for Fireworks Display (2006)

E~~D~~) NFPA 1126, Standard for the Use of Pyrotechnics Before a Proximate Audience (2006)

2) Federal Statutes

Federal Explosives Law, 40 USC 841

3) Federal Regulations

A) ATF

27 CFR 555, Commerce in Explosives (2006)

B) Consumer Product Safety Commission

i) 16 CFR 1500, Hazardous Substance and Articles; Administration and Enforcement Regulations

ii) 16 CRF 1507, Fireworks Devices

C) USDOT

49 CFR 172.101, Purpose and Use of Hazardous Materials Table (2005)

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

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

1) Statutes

A) Pyrotechnic~~Fireworks~~ Use Act [425 ILCS 35]

B) Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227]

C) Illinois Explosive Act [225 ILCS 210]

2) State Regulations

~~Department of Central Management Services~~

Travel (80 Ill. Adm. Code 2800)

Department of Natural Resources (62 Ill. Adm. Code)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

The Illinois Explosive Act (62 Ill. Adm. Code 200)

Department of State Police (20 Ill. Adm. 1215.50)

Illinois Uniform Conviction Information Act (20 Ill. Adm. Code 1215)

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.30 General Requirements for Pyrotechnic Displays

a) All pyrotechnic displays or pyrotechnic services require a permit issued by the appropriate local governmental authority in accordance with the Pyrotechnic~~Fireworks~~ Use Act [425 ILCS 35].

b) All pyrotechnic displays or pyrotechnic services require the services of a licensed pyrotechnic distributor or a licensed production company and a licensed lead pyrotechnic operator in accordance with this Part.

c) A licensed lead pyrotechnic operator shall be present during any pyrotechnic display or pyrotechnic services and shall personally supervise all assistants, including all phases of the pyrotechnic display.

d) The fire chief of the local jurisdiction or his/her designee must inspect and approve the display site for all pyrotechnic displays or pyrotechnic services to ensure that the site is safe to conduct a display.

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.40 Compliance Standards

a) All pyrotechnic displays shall be conducted in accordance with the edition of the following copyrighted standards and recommended practices:

1) NFPA 1123;

2) NFPA 1126, as modified by Section 230.260; ~~or~~

3) NFPA 160, as modified by Section 230.270; or~~.~~

4) NFPA 140.

b) Storage of display fireworks (1.3G and above) shall comply with the storage requirements set forth by ATF at 27 CFR 555 or by DNR pursuant to Article 3 of the Illinois Explosive Act. Should there be a conflict between the requirements established by ATF and DNR, those requirements that are more specific, more stringent, or impose requirements for which no like requirements are contained in the other agency's requirements shall control.

c) In addition to the preceding standards, all indoor pyrotechnic displays must meet the requirements of the Pyrotechnic~~Fireworks~~ Use Act and shall only be held in one of the following types of buildings:

1) Buildings having an automatic sprinkler system protecting the seating area and stage [425 ILCS 35/2.1];

2) Buildings having an automatic sprinkler system protecting the stage that is equipped with a proscenium curtain, as required by NFPA 101, that will automatically deploy in the event of a fire. In no event may an effect be downstage of the proscenium curtain, i.e., on the audience side of the curtain; or

3) Stadia and arenas without automatic sprinkler system protection over the floor area used for contest, performance, or entertainment; over the seating areas; or over open-air concourses where, as required by NFPA 101, Section 12.3.5, Exception 4, an approved engineering analysis substantiated the ineffectiveness of the sprinkler protection due to building height and combustible loading.

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.50 Qualifications for Distributor License

a) Except as provided in this Section, no license shall be granted to an applicant who has not reached the age of 21 and met the requirements of the Act (in particular Section 35) and paid the required application fee.

b) The applicant must have a current license from ATF for the type of pyrotechnic service or pyrotechnic display service provided. In the event the applicant's

license has expired, the applicant must submit proof from ATF that the license is in the process of being renewed. OSFM~~The Office~~ may issue the applicant temporary authorization to act until ATF renews the applicant's license. In the event the applicant distributes only flame effect pyrotechnic displays, the applicant must submit an affidavit, signed under penalties of perjury, identifying the full extent of pyrotechnic services the applicant provides, and all materials used. With respect to these pyrotechnic services, the applicant shall acknowledge that he or she does not transport, receive, distribute, possess, store~~,~~ or acquire for use any material that requires an ATF license.

c) The applicant must have a current Identification Number and Hazardous Materials Registration Number issued by USDOT. In the event the applicant distributes only flame effect pyrotechnic displays and/or the applicant never transports materials in quantities that require registration with USDOT, the applicant must submit an affidavit, signed under penalty of perjury. In this affidavit, the applicant shall identify all materials he/she uses in the display services provided, the quantity of each material transported for these displays, and an acknowledgement that the applicant never transports materials in quantities that require registration with USDOT. If the applicant never transports materials in quantities that require registration with USDOT, but takes possession of such materials at the display site, the applicant must maintain a file of all documentation concerning the transportation of those materials and provide copies of the documents to OSFM~~the Office~~ upon request.

d) At least one officer of a pyrotechnic distributor must be a licensed lead pyrotechnic operator for the type of display services provided.

e) An out-of-state person hired for or engaged in pyrotechnic services or a pyrotechnic display must have a pyrotechnic distributor license issued by OSFM ~~the Office~~, or be employed by a licensed pyrotechnic distributor and hold a lead pyrotechnic operator license issued by OSFM. [225 ILCS 227/10]

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.55 Qualifications for Production Company License

a) Except as provided in this Section, no license shall be granted to an applicant who is not a production company that provides pyrotechnic display services or pyrotechnic services as part of any production, has not reached the age of 21, has

not met the requirements of the Act (in particular Section 35) and paid the required application fee.

b) The applicant must have a current Identification Number and Hazardous Materials Registration Number issued by USDOT. In the event the applicant distributes only flame effect pyrotechnic displays, and/or the applicant never transports materials in quantities that require registration with USDOT, the applicant must submit an affidavit, signed under penalty of perjury. In this affidavit the applicant shall identify all materials he/she uses in the display services provided, the quantity of each material transported for these displays, and an acknowledgement that the applicant never transports materials in quantities that require registration with USDOT. If the applicant never transports materials in quantities that require registration with USDOT, but takes possession of those materials at the display site, the applicant must maintain a file of all documentation concerning the transportation of those materials and provide copies of the documents to OSFM upon request. Alternatively, this information may be provided by the licensed lead pyrotechnic operator for the production company.

(Source: Added at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.60 Qualifications for Limited Distributor License

a) Except as provided in this Section, no limited distributor's license shall be granted to an applicant that is not a political subdivision of the State, met the requirements of the Act (in particular Section 35) and paid the required application fee.

b) Pursuant to Section 845(a)(3) of the Federal Explosives Law, the transportation, shipment, receipt, or importation of explosive materials for delivery to a political subdivision of the State does not require the political subdivision of the State to hold a license issued by ATF.

c) The applicant must have a current Identification Number and Hazardous Materials Registration Number issued by USDOT. In the event the applicant distributes only flame effect pyrotechnic displays, and/or the applicant never transports materials in quantities that require registration with USDOT, the applicant must submit an affidavit, signed under penalty of perjury. In this affidavit, the applicant shall identify all materials he/she uses in the display services provided, the quantity of each material transported for these displays, and an acknowledgement that the applicant never transports materials in quantities that

require registration with USDOT. If the applicant never transports materials in quantities that require registration with USDOT, but takes possession of such materials at the display site, the applicant must maintain a file of all documentation concerning the transportation of those materials and provide copies of the documents to OSFM~~the Office~~ upon request.

d) The applicant must provide, for approval by OSFM~~the Office~~, *proof of having the requisite knowledge, through training, examination, or continuing education,* of the pyrotechnic materials and pyrotechnic displays it provides. [225 ILCS 227/35(c)(8)]

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.65 Qualifications for Production Company Lead Operator Licensing Approval

a) Outdoor Professional Licensing Approval

1) No licensing approval shall be granted to an applicant who has not reached the age of 21 and met the requirements of the Act.

2) The applicant must have a current license or Letter of Clearance from ATF for the type of pyrotechnic service or pyrotechnic display provided. In the event the applicant's license has expired, the applicant must submit proof from ATF that the license is in the process of being renewed. If an applicant has applied for, but not received, an ATF explosives license or a Letter of Clearance, or if the license is being renewed, OSFM may issue the applicant temporary authorization to act until ATF issues the applicant an explosives license or Letter of Clearance, or renews the license.

3) The applicant must provide proof of successful completion of the DNR training program for pyrotechnic displays, including a current DNR individual explosives license number, or another program that OSFM determines to be substantially equivalent.

b) Proximate Audience Licensing Approval

1) No licensing approval shall be granted to an applicant who has not reached the age of 21 and met the requirements of the Act.

2) The applicant must have a current license or a Letter of Clearance from ATF for the type of pyrotechnic service or pyrotechnic display provided. In the event the applicant's license has expired, the applicant must submit proof from ATF that the license is in the process of being renewed. If an applicant has applied for, but not received, an ATF explosives license or a Letter of Clearance, or if the license is being renewed, OSFM may issue the applicant temporary authorization to act until ATF issues the applicant an explosives license or Letter of Clearance, or renews the license.

3) The applicant must provide proof of successful completion of the DNR training program for pyrotechnic displays, including a current DNR individual explosives license number, or another program that OSFM determines to be substantially equivalent.

4) An applicant for a proximate audience licensing approval must achieve a passing score of 80% on a written examination administered by OSFM in accordance with Section 230.120.

5) The applicant must submit evidence of experience that includes active participation in the safe performance of at least 10 proximate audience displays. The applicant must have performed the duties of a lead operator in at least 2 of these displays (either pursuant to a license from another state or under the supervision of a lead operator).

6) Acceptable documentation of experience includes:

A) A copy of a display permit from an issuing authority that lists the applicant as an operator or assistant, including a letter from the issuing authority documenting that there were no injuries or property damage sustained from the display; or

B) A copy of the Illinois Display Report (see Section 230.200).

c) Flame Effect Licensing Approval

1) No licensing approval shall be granted to an applicant who has not reached the age of 21 and met the requirements of the Act.

2) An applicant for a flame effect licensing approval must achieve a passing score of 80% on a written examination administered by OSFM in accordance with Section 230.120.

3) The applicant must submit evidence of experience, which must include active participation as a lead operator or assistant in the safe performance of at least 10 flame effect displays. The applicant must have performed the duties of a lead operator in at least 2 of these flame effect displays (either pursuant to a license from another state or under the supervision of a lead operator).

4) Acceptable documentation of experience includes:

A) A copy of a display permit from an issuing authority that lists the applicant as an operator or assistant, including a letter from the issuing authority documenting that there were no injuries or property damage sustained from the flame effect display; or

B) A copy of the Illinois Display Report (see Section 230.200).

d) Additional Requirements for Licensed Lead Pyrotechnic Operator Employed by Production Company
The lead pyrotechnic operator employed by a licensed production company may be required by the production company to have and provide an Identification Number and Hazardous Materials Registration Number issued by USDOT or provide OSFM the appropriate information and affidavit as is required in Section 230.55(b).

(Source: Added at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.70 Qualifications for Outdoor Professional License

a) No license shall be granted to an applicant who has not reached the age of 21 and met the requirements of the Act and paid the required application fee.

b) The applicant must have a current license or a Letter of Clearance from ATF. In the event the applicant's license has expired, the applicant must submit proof from ATF that the license is in the process of being renewed. If an applicant has applied for, but not received, an ATF explosives license or a Letter of Clearance, or if the license is being renewed, OSFM~~the Office~~ may issue the applicant temporary authorization to act until ATF issues the applicant an explosives license or Letter of Clearance, or renews the license.

c) The applicant must provide proof of successful completion of the DNR training program for pyrotechnic displays, including a current DNR individual explosives license number, or another program that OSFM determines to be substantially equivalent.

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.80 Qualifications for Proximate Audience License

a) No license shall be granted to an applicant who has not reached the age of 21 and met the requirements of the Act and paid the required application fee.

b) The applicant must have a current license or a Letter of Clearance from ATF. In the event the applicant's license has expired, the applicant must submit proof from ATF that the license is in the process of being renewed. If an applicant has applied for, but not received, an ATF explosives license or a Letter of Clearance, or if the license is being renewed, OSFM~~the Office~~ may issue the applicant temporary authorization to act until ATF issues the applicant an explosives license or Letter of Clearance, or renews the license.

c) The applicant must provide proof of successful completion of the DNR training program for pyrotechnic displays, including a current DNR individual explosives license number, or another program that OSFM determines to be substantially equivalent.

d) An applicant for a proximate audience license must achieve a passing score of 80% on a written examination administered by OSFM~~the Office~~ in accordance with Section 230.120.

e) The applicant must submit evidence of experience that includes active participation in the safe performance of at least 10 proximate audience displays.

The applicant must have performed the duties of a lead operator in at least 2 of these displays (either pursuant to a license from another state or under the supervision of a lead operator).

f) Acceptable documentation of experience includes:

1) A copy of a display permit from an issuing authority that lists the applicant as an operator or assistant, including a letter from the issuing authority documenting that there were no injuries or property damage sustained from the display; or

2) A copy of the Illinois Display Report (see Section 230.200).

g) Due to the special nature of proximate audience displays, OSFM~~the Office~~ may issue either a proximate audience license or a limited proximate audience license that will license the individual to conduct only certain types of displays or effects or limit the show to a certain venue.

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.90 Qualifications for Flame Effect License

a) No license shall be granted to an applicant who has not reached the age of 21 and met the requirements of the Act and paid the required application fee.

b) An applicant for a flame effect license must achieve a passing score of 80% on a written examination administered by OSFM~~the Office~~ in accordance with Section 230.120.

c) The applicant must submit evidence of experience, which must include active participation as a lead operator or assistant in the safe performance of at least 10 flame effect displays. The applicant must have performed the duties of a lead operator in at least 2 of these flame effect displays (either pursuant to a license from another state or under the supervision of a lead operator).

d) Acceptable documentation of experience includes:

1) A copy of a display permit from an issuing authority that lists the applicant as an operator or assistant, including a letter from the issuing

authority documenting that there were no injuries or property damage sustained from the flame effect display; or

2) A copy of the Illinois Display Report (see Section 230.200).

e) Due to the special nature of a flame effect display, OSFM~~the Office~~ may issue a flame effect license or a limited flame effect license that will license the individual to conduct only certain types of effects or conduct shows limited to a certain venue.

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.100 Application for License

a) All applications for a pyrotechnic distributor license shall be signed and submitted on forms provided by OSFM~~the Office~~ and shall include the following information:

1) The name and address of the business. The address shall be an actual street address and shall include the city, state and zip code. A post office box number is not acceptable as an address.

2) The names and personal addresses of all officers of the business, including a copy of each officer's driver's license or other government issued ID showing date of birth and photograph. This information shall be required from only one officer of a political subdivision of the State.

3) In accordance with Section 230.150, no license shall be issued until the applicable fee has been paid. After reviewing the application, OSFM will invoice the licensee for the fee.~~The applicable license fee identified in Section 230.150.~~

4) A Certificate of Insurance showing proof of not less than *$1,000,000 in product liability insurance, $1,000,000 in general liability insurance that covers the pyrotechnic display service or pyrotechnic service provided and proof of Illinois Workers' Compensation~~worker's compensation~~ insurance.* [225 ILCS 227/35(c)] The insurance coverage shall provide for 30 days minimum coverage prior to written notice of cancellation to OSFM~~the Office~~. Insurance coverage shall be an occurrence based policy,

or its equivalent, and it shall cover all periods of time when pyrotechnic materials, including flame effect materials, are in the insured's actual or constructive possession, including those times when the materials are being stored, transported, handled, used, discharged and displayed. If a political subdivision of the State is self-insured, the applicant shall submit an affidavit acknowledging its self-insurance.

5) A copy of the current license issued by ATF for the type of pyrotechnic service or pyrotechnic display service provided or proof from ATF that a license is in the process of being renewed. In the event the applicant distributes only flame effect pyrotechnic displays, the applicant shall submit a sworn affidavit as set forth in Section 230.50(b). In the event the applicant is a political subdivision of the State, the applicant shall submit an affidavit acknowledging its status.

6) The Identification Number and Hazardous Materials Registration Number issued by USDOT. In the event the applicant distributes only flame effect pyrotechnic displays and the applicant never transports materials in quantities that require registration with USDOT, the applicant shall submit a sworn affidavit as set forth in Section 230.50(c).

7) Proof that the applicant met the requirements of Section 230.50.

8) If providing display services, the name of the officer who is licensed for those types of services.

9) In accordance with Section 230.280~~ of this Part~~, a fingerprint card in the form and manner required by ISP and the fee specified by ISP for processing fingerprint cards through the ISP criminal history record files (see 20 Ill. Adm. Code 1215.50) and through the FBI criminal history record files.

b) The pyrotechnic distributor shall submit to OSFM~~the Office~~ the applications of its employees applying for a lead pyrotechnic operator license. All applications for the license shall be signed by the applicant and submitted on forms provided by OSFM~~the Office~~ and must be accompanied by the following additional information:

1) A copy of the applicant's driver's license or other government issued identification that includes the date of birth and photograph.

2) A photograph, approximately 1¼" x 1½", taken within the preceding 2 years. The photograph must show the applicant from a front view with his or her full-face and head and shoulders visible. OSFM~~The Office~~ will reject photographs showing the applicant wearing sunglasses, hats, scarves, or any object that obscures the applicant's identity.

3) A copy of a current license or a Letter of Clearance from ATF for the type of pyrotechnic service or pyrotechnic display provided. In the event the applicant's license has expired, the applicant must submit proof from ATF that the license is in the process of being renewed. A current license or Letter of Clearance from ATF is required for both the outdoor display and proximate audience licenses. In the event the applicant has only applied for an ATF explosives license or Letter of Clearance, the applicant shall submit an affidavit, signed under penalty of perjury, with a copy of the completed ATF application attached, acknowledging when he/she submitted an application to ATF for processing.

4) In the event the applicant participates in only flame effect pyrotechnic displays, the applicant shall submit an affidavit, signed under penalty of perjury, acknowledging that he/she only participates in the safety, setup, discharge, and supervision of flame effect pyrotechnic displays. The affidavit shall acknowledge that, with regard to the services provided, the applicant does not transport, receive, distribute, possess, store, or acquire for use any material that requires an ATF license.

5) In accordance with Section 230.150, no license shall be issued until the applicable fee has been paid. After reviewing the application, OSFM will invoice the licensee for the fee.~~The applicable license fee identified in Section 230.150.~~

6) Proof that the applicant met the requirements of Section 230.70(c), 230.80(c) or 230.90(b), whichever is applicable to the respective license.

7) References from at least 3 individuals, who are not affiliated with the pyrotechnic distributor who employs the applicant, who can verify the experience reported or any training received by the applicant. All

references must include the name, address, phone number, and agency or organization represented by the person submitting the reference. These references can be from permitting officials, law enforcement officials who had oversight at a display, fire department personnel who approved and reviewed pyrotechnic displays performed by the applicant in the past, and other individuals who can attest to the applicant's training, experience, and manner in performing displays. In addition, these letters should identify the basis for the opinion expressed in the letter, i.e., how does that person know the applicant and what facts support the opinion expressed in the letter. A copy of a fully signed Illinois Display Report may serve as a letter of reference.

8) In accordance with Section 230.280 ~~of this Part~~, a fingerprint card in the form and manner required by ISP and the fee specified by ISP for processing fingerprint cards through the ISP criminal history record files (see 20 Ill. Adm. Code 1215.50) and through the FBI criminal history record files.

c) All applications for a production company license shall be signed and submitted on forms provided by OSFM and shall include the following information:

1) The name and address of the business. The address shall be an actual street address and shall include the city, state and zip code. A post office box number is not acceptable as an address.

2) The names and personal addresses of all officers of the business, including a copy of each officer's driver's license or other government issued ID showing date of birth and photograph.

3) In accordance with Section 230.150, no license shall be issued until the applicable fee has been paid. After reviewing the application, OSFM shall invoice the licensee for the fee.

4) A Certificate of Insurance and a copy of the insurance policy showing *proof of not less than $2,000,000 in commercial general liability insurance that covers any damage or injury resulting from the pyrotechnic display services or pyrotechnic services provided.* [225 ILCS 227/35] The insurance coverage shall provide for a minimum of 30 days coverage after written notice to OSFM of cancellation. Insurance coverage shall be

an occurrence based policy, or its equivalent, and it shall cover all periods of time when pyrotechnic materials, including flame effect materials, are in the insured's actual or constructive possession, including those times when the materials are being stored, transported, handled, used, discharged and displayed. *The insurer shall not cancel the insured's coverage or remove an additional insured from the policy coverage without notifying OSFM in writing at least 15 days before cancellation.* [225 ILCS 227/35]

5) *Proof of Illinois Workers' Compensation insurance*. [225 ILCS 227/35(c-3)]

6) *The Identification Number and Hazardous Materials Registration Number issued by USDOT*. In the event the applicant distributes only flame effect pyrotechnic displays and the applicant never transports materials in quantities that require registration with USDOT, the applicant shall submit a sworn affidavit as set forth in Section 230.50(c). *Alternatively, the production company's lead pyrotechnic operator may provide such proof.* [225 ILCS 227/35(c-3)]

7) *Identify the OSFM approved lead pyrotechnic operator being employed by the company*. [225 ILCS 227/35(c-3)]

8) In accordance with Section 230.280, a fingerprint card in the form and manner required by ISP and the fee specified by ISP for processing fingerprint cards through the ISP criminal history record files (see 20 Ill. Adm. Code 1215.50) and through the FBI criminal history record files.

d) All applications for approval of lead operators that may be employed by a production company shall be signed by the applicant and submitted on forms provided by OSFM and must be accompanied by the following additional information:

1) A copy of the applicant's driver's license or other government issued identification that includes the date of birth and photograph.

~~1)~~ 2) A photograph, approximately 1¼" x 1½", taken within the preceding 2 years. The photograph must show the applicant from a front view with his or her full face and head and shoulders visible. OSFM will

reject photographs showing the applicant wearing sunglasses, hats, scarves, or any object that obscures the applicant's identity.

3) A copy of a current license or a Letter of Clearance from ATF issued to the applicant for the type of pyrotechnic service or pyrotechnic display service provided. In the event the applicant's license has expired, the applicant must submit proof from ATF that the license is in the process of being renewed. A current license or Letter of Clearance from ATF is required for both outdoor and proximate audience licensing approvals. In the event the applicant has only applied for an ATF explosives license or Letter of Clearance, the applicant shall submit an affidavit, signed under penalty of perjury, with a copy of the completed ATF application attached, acknowledging when he/she submitted an application to ATF for processing.

4) In the event the applicant participates in only flame effect displays, the applicant shall submit an affidavit, signed under penalty of perjury, acknowledging that he/she only participates in the safety, setup, discharge and supervision of flame effect pyrotechnic displays. The affidavit shall acknowledge that, with regard to the services provided, the applicant does not transport, receive, distribute, possess, store or acquire for use any material that requires an ATF license.

5) List previous production company licenses held by the operator.

6) List pyrotechnic licenses issued to the operator by other states.

7) Proof that the applicant met the requirements of Section 230.65(a), (b) or (c), whichever is applicable to the respective license.

8) References from at least 3 individuals, who are not affiliated with the pyrotechnic distributor who employs the applicant, who can verify the experience reported or any training received by the applicant. All references must include the name, address, phone number, and agency or organization represented by the person submitting the reference. These references can be from permitting officials, law enforcement officials who had oversight at a display, fire department personnel who approved and reviewed pyrotechnic displays performed by the applicant in the past, and other individuals who can attest to the applicant's training, experience, and

manner in performing displays. In addition, these letters should identify the basis for the opinion expressed in the letter, i.e., how does that person know the applicant and what facts support the opinion expressed in the letter. A copy of a fully signed Illinois Display Report may serve as a letter of reference.

9) In accordance with Section 230.280, a fingerprint card in the form and manner required by ISP and the fee specified by ISP for processing fingerprint cards through the ISP criminal history record files (see 20 Ill. Adm. Code 1215.50) and through the FBI criminal history record files.

e~~e~~) Upon receipt and review of the application, OSFM~~the Office~~ shall issue the appropriate license or shall approve issuance of a license when employed by a production company or shall notify the applicant of the reason for the denial of the license.

f~~d~~) Depending on an applicant's professional qualifications, as evidenced by information and documents submitted with his/her application, and on the nature and extent of an applicant's planned participation in permitted pyrotechnic displays, the Office may, within its sole discretion, issue a temporary license to an individual during the application process. The temporary license shall expire upon receipt of the appropriate license or notification of denial of the license.

g) Upon issuance of a license to a production company, OSFM shall also issue a license to the lead pyrotechnic operator that has been approved in accordance with Section 230.100(d) and identified by the production company in its license application as required in Section 230.100(c)(7).

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.105 Applications Received Between June 16 through July 5

With the exception of an application for a production company license or the issuance of a lead operator license to an individual that was approved for a production company lead operator's license, OSFM will not process any application for a new license or to renew a license during the period of June 16 through July 5.

(Source: Added at 34 Ill. Reg. 16524, effective October 6, 2010)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

Section 230.110 Proximate Audience and Flame Effect Licensing Review Committee

The State Fire Marshal shall appoint a review committee to review the experience and qualifications of an applicant for a proximate audience or flame effect license, and recommend the type of license to be issued.

a) The committee shall consist of the following 3 members:

1) The State Fire Marshal or his/her designee, as chair;

2) One representative from a fire department that has experience in permitting proximate audience and flame effect displays within its jurisdiction; and

3) One representative from a company that has experience in setting up and firing proximate audience and flame effect displays.

b) Members shall serve without salary, but may receive reimbursement for reasonable expenses from OSFM~~the Office~~ from appropriations for such purposes, in accordance with 80 Ill. Adm. Code 2800.

c) All members shall have one vote.

d) Members shall serve a term of 2 years.

e) Upon the expiration of a member's term of office, the State Fire Marshal shall reappoint that member or appoint a successor who is a representative of the same interests, as identified in subsection (a).

f) The State Fire Marshal may, at any time, remove any of the respective appointees for inefficiency or neglect of duty in office. In such instances, the State Fire Marshal shall fill the vacancy for the remainder of the unexpired term by appointing a member who is a representative of the same interests. Upon the death or incapacity of a member, the State Fire Marshal shall fill the vacancy for the remainder of the unexpired term by appointing a member who is a representative of the same interests.

g) The committee shall meet each calendar quarter to review applications and at additional times as the committee deems necessary. The committee does not need to meet if there are no applications to review.

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.120 Written Examination for Proximate Audience License and/or Flame Effect License

a) An applicant for a proximate audience or flame effect license must have completed a written examination administered by OSFM~~the Office~~ and achieved a passing score of at least 80%.

b) The written examination is designed to demonstrate the applicant's knowledge of the Act, this Part, and NFPA 1126 and/or NFPA 160 standards relating to safe practices for the storage, use, handling, discharge and display of fireworks and flame effects.

c) The examinations are administered by OSFM~~the Office~~ at times scheduled during each calendar year. Contact OSFM~~the Office~~ to obtain the examination schedule. There is a $25 fee for taking the examination.

d) Persons failing to achieve a passing score of at least 80% are eligible to retake the examination after 30 days.

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.130 Use of Assistants

No person may act as an assistant at any pyrotechnic display or flame effect display who has not reached the age of 18 and met the requirements of Section 35 of the Act. The pyrotechnic assistant must be registered *with OSFM by the licensed distributor or the licensed production company on a form provided by OSFM prior to the time when the assistant begins work as an employee on the pyrotechnic display or pyrotechnic service.* [225 ILCS 227/35(e)]

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.140 License Renewal

a) A license issued pursuant to this Part for distributors and their respective lead pyrotechnic operators is valid for 3 years from the date of issuance.

b) An approval for a lead pyrotechnic operator for a production company is valid for a period of 3 years from the date of issuance.

c) A license issued to a production company and its lead pyrotechnic operator is valid for the term of the production company's insurance policy or for the time specified by the production company, if shorter than the term of the insurance, and shall in no event exceed one year from the date of issuance. The license must be returned to OSFM upon expiration. If the license is not returned within 15 days after expiration, the production company or lead pyrotechnic operator shall not be issued a new license until the previous license is returned.

d~~b~~) Outdoor professional, proximate audience and flame effect licensees, and holders of production company lead operator approvals may renew their license during the 60-day period preceding and 60-day period following the expiration date by submitting a renewal application on forms provided by OSFM~~the Office~~, together with the required fee. Renewal applications shall be submitted by the distributor by whom the licensee is employed.

e~~c~~) Any license that is not renewed within 60 days following its expiration will be cancelled. Except as set forth in subsection (g), any requests after that date to renew or restore will be treated as a new application.

f~~d~~) The extended renewal periods under subsections (b) and (g) do not allow a licensee to engage in any conduct or activities for which a license is required during the 60-day period after the license's expiration date.

g~~e~~) In addition, a licensee seeking to renew his/her outdoor professional, proximate audience or flame effect license or production company lead pyrotechnic operator licensing approval must include with the renewal application evidence that the licensee participated in at least:

1) 2 pyrotechnic displays as a lead operator for an outdoor professional display license;

2) 6 proximate audience displays for a proximate audience license; or

3) 6 flame effect displays for a flame effect license.

h~~f~~) Licensees or production company lead pyrotechnic operator licensing approvals must provide evidence of satisfactory completion of at least 6 hours of continuing education in their respective area of licensure to ensure continued qualification of the licensee. Continuing education may be conducted by a federal or state agency, by an independent organization that has experience in the subject matter, or by the distributor.

i~~g~~) *Renewal and reinstatement fees shall be waived for persons who did not renew while on active duty in the military and who file for renewal or restoration within one year after discharge from the service.* [225 ILCS 227/50(b)] These licensees must satisfy all other requirements of this Section in order to renew a license. Proof of service discharge date will be required to receive a waiver of fees.

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.150 Fees

The following license fees will be invoiced to the applicant upon review and approval of the application, shall be paid to OSFM~~the Office~~ for administration of the Act and are non-refundable:

Production Company License	$200
Production Company Lead Pyrotechnic Operator License	$100
Pyrotechnic Distributor License and each renewal	$500
Limited Pyrotechnic Distributor License and each renewal (only available for political subdivisions of the State)	$50
Production Company Lead Operator Approval	$0
Outdoor Professional License and each renewal	$100
Proximate Audience License, Limited Proximate Audience License and each renewal	$300

Flame Effect License, Limited Flame Effect License and each renewal	$300
Replacement license (lost, stolen, or destroyed) or duplicate license (worn, damaged, or address change)	$25

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.160 Possession of License

The lead operator must be in possession of, and be able to produce, his/her license upon request at all times during delivery, setup, and performance of the display or pyrotechnic service.

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.170 Notification to Office

a) Written communication with OSFM~~the Office~~, as identified in this Part, shall be mailed to:

Office of the State Fire Marshal
Pyrotechnic Licensing
1035 Stevenson Drive
Springfield, Illinois 62703-4259

b) The licensee shall notify OSFM ~~the Office~~ in writing within 5 business days after the following events:

1) Discovery that his/her license has been lost, stolen or destroyed.

2) ATF license has expired or ATF has terminated, suspended or revoked a license or Letter of Clearance. A copy of any written notice of termination, suspension or revocation shall be sent to OSFM~~the Office~~.

3) DNR explosives license has expired or DNR has terminated, suspended or revoked the license. A copy of any written notice of termination, suspension or revocation shall be sent to OSFM~~the Office~~.

4) USDOT has changed the licensee's Identification Number. Proof of the licensee's new Identification Number shall be sent to OSFM~~the office~~.

5) USDOT has changed the licensee's Hazardous Materials Registration Number. Proof of the licensee's new registration number shall be sent to OSFM~~the Office~~.

6) The licensee's insurance company or the licensee has changed any of its insurance coverage. A new Certificate of Insurance showing proof of not less than *$1,000,000 in product liability insurance, $1,000,000 in general liability insurance and proof of Illinois Workers' Compensation~~worker's compensation~~ insurance* shall be sent to OSFM~~the Office~~. [225 ILCS 227/35] The insurance coverage shall provide for 30 days minimum coverage prior to written notice of cancellation to OSFM~~the Office~~ and shall comply with Section 230.100(a)(4). A production company distributor licensee shall send a new Certificate of Insurance and copy of the policy showing *proof of not less than $2,000,000 in general liability insurance and proof of* Illinois *Workers' Compensation insurance*. The insurance coverage shall provide for a minimum of 30 days coverage after written notice to OSFM of cancellation and shall comply with Section 230.100. *The insurer shall not cancel the insured's coverage or remove an additional insured from the policy coverage without notifying OSFM in writing at least 15 days before cancellation.* [225 ILCS 227/35]

7) A distributor licensee or production company licensee has changed its officers. A sworn statement listing all of the distributor's current officers' names and personal addresses, and copies of each officer's driver's license, shall be sent to OSFM~~the Office~~.

8) A distributor licensee or production company licensee no longer employs a lead operator. The distributor licensee or production company licensee shall provide OSFM~~the Office~~ with the full name and last known address of the lead operator.

c) The licensee shall notify OSFM~~the Office~~ in writing within 10 days after a change in his/her address or name. Proof that the change in address or name had been done in accordance with the law shall be sent to OSFM~~the Office~~.

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.180 Replacement and Duplicate License

a) At any time a license has been lost, stolen or destroyed, the licensee shall notify OSFM~~the Office~~ as required in Section 230.170. Upon receipt of the written notification and the replacement license fee, OSFM~~the Office~~ will issue a replacement license.

b) At any time a license becomes worn or damaged to the extent that it is illegible in any respect, or the licensee changes his/her address or name, the license must be returned to OSFM~~the Office~~. Upon receipt of the original license, proof of any changes necessary to maintain correct information as required in Section 230.170, and the duplicate license fee, OSFM~~the Office~~ will issue a duplicate license.

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.190 Report of Theft or Loss of Fireworks

a) A licensee shall report the theft or loss of fireworks to local law enforcement, DNR, and ATF ~~immediately~~ and to OSFM~~the Office~~, by telephone, immediately~~within 8 hours~~ after discovery. OSFM~~The Office~~ may be reached at 217-785-0969 during normal working hours and at the Illinois Emergency Management Agency dispatch number, 800-782-7860, outside normal working hours.

b) Within 24 hours after discovery of the loss or theft, OSFM~~the Office~~ must be provided written notice that includes a complete description of the fireworks, including the manufacturer, brand name, any manufacturer marking and quantity, and a description of the circumstances surrounding the theft or loss. The written notice shall also identify local law enforcement agencies contacted by the licensee and shall be executed under penalty of perjury.

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.200 Reporting of Professional, Proximate Audience and Flame Effect Displays

a) Each licensee shall file an Illinois Display Report with OSFM~~the Office~~ within 30 days following any pyrotechnic display in which he/she acted as the lead operator.

The report shall be filed on forms provided by OSFM~~the Office~~ and shall include the names and signatures of all lead operators and assistants.

b) The lead operator shall fill out the Pyrotechnic Duties Report of assistants. The Illinois Display Report shall be signed by the chief of the fire department providing fire protection to the area of display or pyrotechnic service, or his or her designee.

c~~b~~) The licensee shall maintain a copy of the Illinois Display Report and also record and maintain with the report the manufacturer or type, quantity and description of the fireworks.

d~~c~~) Licensee shall keep the record for a minimum of 4 years from the date of the display.

e~~d~~) OSFM~~The Office~~ may require other information from the licensee relating to displays (for example, how safe was the device, how was the device used, why was this device chosen over another, what type of powder was used, etc.).

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.210 Report of Injury or Property Damage

a) The licensee shall notify OSFM~~the Office~~ immediately~~within 8 hours~~ after the following incident:

1) A fire;

2) An injury to any person resulting from the display; or

3) Damage to property in excess of $500, in the aggregate, resulting from the display.

b) OSFM~~The Office~~ may be reached at 217-785-0969 during normal working hours and at the Illinois Emergency Management Agency dispatch number, 800-782-7860, outside normal working hours.

c) The licensee shall submit a written report to OSFM~~the Office~~ within 3 days following a fireworks display conducted by the licensee if any of the following occurred:

1) Any of the incidents identified in subsection (a); or

2) Whenever an unsafe or defective pyrotechnic product or equipment was used or observed.

d) OSFM~~The Office~~ may require other information from the licensee relating to fireworks displays.

e) All pyrotechnic materials must be stored in accordance with regulations following personal injury, property damage in excess of $500 or a fire until an investigation has been completed by OSFM.

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.220 Inspections

a) A licensee shall make all records required pursuant to Sections 230.190, 230.200 and 230.210 available to authorized representatives of OSFM~~the Office~~ or the local governmental agency having jurisdiction.

b) A licensee shall permit the display site and licensee's facility to be inspected at all reasonable times by representatives of OSFM~~the Office~~ or the local governmental agency.

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.230 Immediate Suspension

a) OSFM~~The Office~~ shall issue an order immediately suspending the license whenever OSFM~~the Office~~ finds, based upon reasonable belief from on-site observation, record inspection by OSFM~~Office~~ personnel, information received from law enforcement personnel or information received from the public, that a licensee:

1) Permitted a person to act as an assistant who did not meet the requirements of Section 230.130; or

2) Permitted a lead operator to work for a production company under a license previously issued to a separate production company; or

3~~2~~) Violated the Act, this Part or compliance standard that may cause death or serious injury.

b) OSFM~~The Office~~ shall serve its order of immediate suspension of a license under this Section by personal service. The order shall also be sent by certified mail to the licensee's last known address.

c) OSFM~~The Office~~ shall serve with the order of immediate suspension a notice containing the information set forth in subsection (a).

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.250 Appeal of an Administrative Action

a) Any person aggrieved by a decision, order or ruling of OSFM~~the Office~~ may, as a matter of right, appeal that action.

b) All appeal requests shall:

1) Be in writing;

2) Contain an address and telephone number where the appellant may be notified of the time and place of the hearing; and

3) Set forth the reasons why the action of OSFM~~the Office~~ should be reversed or modified.

c) Appeals from a decision, order or ruling of the State Fire Marshal or his/her designees shall be instituted by filing a written request for a hearing no later than 10 days following receipt of the notice of the action. Requests will be deemed to be timely if they are postmarked no later than the time period allowed.

d) The appeal request shall be mailed to:

Office of the State Fire Marshal
1035 Stevenson Drive
Springfield, Illinois 62703-4259

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.280 Criminal History Investigation

a) The applicant shall submit with his or her application a fingerprint card, using one of the methods identified in subsection~~subsections~~ (b) or (c) ~~below~~ *to enable* ISP *to conduct a criminal history check on the applicant.* [225 ILCS 227/40]

b) An applicant may submit his/her fingerprints electronically to ISP through a certified Livescan vendor. The applicant must notify the Livescan vendor that the Purpose Code for the criminal history check is PDA, and the ORI number for OSFM~~the Office~~ is IL920690Z. When the Livescan vendor transmits the applicant's fingerprints to ISP, the Livescan vendor will collect the fee specified by ISP for processing fingerprint cards through the ISP and FBI criminal history record files and any additional processing fee charged by the Livescan vendor.

c) In the event the applicant cannot submit his/her fingerprints through electronic means, he/she must obtain a Fee Applicant Card from ISP. An applicant may telephone the ISP Supply Room, 815-740-5160~~5216~~, listen to the automated attendant and select Customer Support~~to request a Fee Applicant Card~~. Because the Fee Applicant Card has a unique Transaction Control Number assigned to it, which ISP uses to process the criminal history check, fingerprint cards from other jurisdictions will not be accepted. Once completed, the applicant should mail the Fee Applicant Card directly to ISP at the address shown on the card, with the required processing fee described in subsection (d)~~ below~~.

d) An applicant who submits his/her fingerprints directly to ISP on a Fee Applicant Card shall pay the fee specified by ISP for processing fingerprint cards through the ISP criminal history record files (see 20 Ill. Adm. Code 1215.50) and through the FBI criminal history record files. The ISP required processing fee may be made payable to the State Police Services Fund and shall be remitted to ISP for deposit into that Fund (see 225 ILCS 227/40).

e) If an applicant is a business entity, all officers of the applicant shall submit a fingerprint card for a criminal history investigation in the form and manner identified in this Section.

(Source: Amended at 34 Ill. Reg. 16524, effective October 6, 2010)

Section 230.290 Music Entertainment Pyrotechnics Task Force

The Music Entertainment Task Force is established to study pyrotechnic displays and pyrotechnic services in the indoor and outdoor music industry in the State.

a) The Task Force shall consist of five members.

1) The Speaker of the House of Representatives shall appoint two members.

2) The Minority Leader of the House of Representatives shall appoint two members.

3) OSFM shall appoint one member.

b) The Task Force members shall serve without salary.

c) The Task Force will meet as necessary.

d) OSFM will provide all staffing and administrative support for the Task Force.

e) The findings of the Task Force shall be reported to the House of Representatives by filing copies of the report with the Clerk of the House of Representatives no later than January 1, 2011.

(Source: Added at 34 Ill. Reg. 16524, effective October 6, 2010)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Pyrotechnic and Consumer Display Permitting Rules

2) Code Citation: 41 Ill. Adm. Code 235

3)

Section Numbers:	Adopted Action:
235.20	Amend
235.25	Amend
235.30	Amend
235.40	Amend
235.50	Amend
235.60	Amend
235.70	Amend
235.80	Amend
235.90	Amend
235.100	Amend
235.110	Amend
235.120	Amend
235.130	Amend
235.140	Amend
235.160	Amend
235.170	Amend

4) Statutory Authority: Implementing and authorized by Section 4.1 of the Pyrotechnic Use Act [425 ILCS 35/4/1]

5) Effective Date of the Rulemaking: October 6, 2010

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

7) Does this adopted rulemaking contain incorporations by reference? Yes

8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, IL 62703, and is available for public inspection.

9) Date Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 8274; June 25, 2010

10) Has JCAR issued a Statement of Objection to this rulemaking? No

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

11) Differences between proposal and final version: Changed "BATFE" to "ATF" for consistency throughout the text of the rulemaking.

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

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

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

15) Summary and Purpose of the Rulemaking: This Part is being amended and added to as a result of PA 96-708 amending The Pyrotechnic Distributor and Operator Licensing Act and Pyrotechnic Use Act to add a production company licensing scheme.

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

William Barnes
General Counsel
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

217/785-0969

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

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

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

PART 235
PYROTECHNIC AND CONSUMER DISPLAY PERMITTING RULES

Section
235.10 Scope
235.20 Definitions
235.25 Incorporated and Referenced Materials
235.30 General Requirements for All Pyrotechnic Displays and Consumer Fireworks Displays
235.40 Pyrotechnic Display Permit Requirements
235.50 1.3G Fireworks Display Compliance Standards
235.60 Indoor Special Effects Fireworks and Flame Effect Display Compliance Standards
235.70 Possession of License by Lead Operator
235.80 Consumer Operator Training
235.90 Consumer Fireworks Display Permit Requirements
235.100 Consumer Fireworks Display Compliance Standards
235.110 Consumer Distributors and Retailers
235.120 Forms
235.130 List of Approved Consumer Fireworks
235.140 Consumer Fireworks Review Committee
235.150 Record of Permits Issued
235.160 Report of Fire, Injury, or Property Damage
235.170 Report of Theft or Loss of Fireworks
235.180 Local Authority

AUTHORITY: Implementing and authorized by Section 4.1 of the Pyrotechnic Use Act [425 ILCS 35/4.1] and Section 30 of the Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227/30].

SOURCE: Emergency rules adopted at 30 Ill. Reg. 1515, effective January 23, 2006; emergency expired June 21, 2006; adopted at 31 Ill. Reg. 8792, effective June 5, 2007; amended at 34 Ill. Reg. 16562, effective October 6, 2010.

Section 235.20 Definitions

For purposes of this Part, the term:

"1.3G fireworks" means those fireworks that are used for professional outdoor displays and classified as fireworks UN0333, UN0334, or UN0335 by the United States Department of Transportation (USDOT) *under 49 CFR 172.101.* [425 ILCS 35/1] USDOT assigns the following division numbers to the above-referenced fireworks identification numbers: UN0333 (1.1G), UN0334 (1.2G), and UN0335 (1.3G). (See 49 CFR 172.101.)

"Act" means the Pyrotechnic~~Fireworks~~ Use Act [425 ILCS 35].

"Applicant" means the individual who is applying for a pyrotechnic or consumer display permit.

"Assistant" means an on-site individual who is at least 18 years of age and who, under the supervision of the lead operator, assists with the safety, setup and discharge of a pyrotechnic display.

"ATF" means the federal Bureau of Alcohol, Tobacco, Firearms and Explosives.

"Certificate of training" means the consumer operator has successfully completed training on the safe handling of consumer fireworks from a training program approved by the Office of the State Fire Marshal.

"Consumer distributor" means any person who distributes, offers for sale, sells, or exchanges for consideration consumer fireworks in Illinois to another distributor or directly to any retailer or person for resale. [425 ILCS 35/1]

"Consumer fireworks" means those fireworks that must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Products Safety Commission, as set forth in 16 CFR 1500 and 1507, and classified as fireworks UN0336 or UN0337 by USDOT under 49 CFR 172.101. "Consumer fireworks" shall not include snake or glow worm pellets; smoke devices; trick noisemakers known as "party poppers", "booby traps", "snappers", "trick matches", "cigarette loads", and "auto burglar alarms"; hand-held wire *sparklers; toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing .25 grains or less of explosive compound are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for the explosion; and toy pistol paper or plastic caps that*

contain less than .20 grains of explosive mixture; the sale and use of which shall be permitted at all times. [425 ILCS 35/1] USDOT assigns the following division numbers to the above-referenced fireworks identification numbers: UN0336 (1.4G) and UN0337 (1.4S). (See 49 CFR 172.101.)

"Consumer fireworks display" or "consumer display" means the detonation, ignition, or deflagration of consumer fireworks to produce a visual or audible effect. [425 ILCS 35/1]

"Consumer operator" means an adult individual who is responsible for the safety, setup, and discharge of the consumer fireworks display and who has completed the training required in Section 2.2 of the Act. [425 ILCS 35/1]

"Consumer retailer" means any person who offers for sale, sells, or exchanges for consideration consumer fireworks in Illinois directly to any person with a consumer display permit. [425 ILCS 35/1]

"Display fireworks" means any substance or article defined as a Division *1.3G* explosive *or special effects fireworks or as further defined in the Pyrotechnic Distributor and Operator Licensing Act*. [425 ILCS 35/1]

"DNR" means the Illinois Department of Natural Resources.

"Fire chief of the local jurisdiction" means the chief of the fire department providing fire protection coverage to the area of display, or his/her designee when expressly provided in the Act.

"Flame effect" means the detonation, ignition, or deflagration of flammable gases, liquids, or special materials to produce a thermal, physical, visual, or audible effect before the public, invitees, or licensees, regardless of whether admission is charged, in accordance with NFPA 160 guidelines, and as may be further defined in the Pyrotechnic Distributor and Operator Licensing Act. [425 ILCS 35/1]

"Lead pyrotechnic operator" means an individual who is responsible for the safety, setup, and discharge of the pyrotechnic display, who is responsible for the supervision of personnel at the pyrotechnic display, *and who is licensed pursuant to the Pyrotechnic Distributor and Operator Licensing Act.* [425 ILCS 35/1]

"License" means the license issued by OSFM~~the Office~~ pursuant to the Pyrotechnic Distributor and Operating Licensing Rules.

"Local governmental authority" means the appropriate city councils in cities, the president and board of trustees in villages and incorporated towns, and outside the corporate limits of cities, villages and incorporated towns, the county board.

"NFPA" means the National Fire Protection Association, a nationally recognized standards-making organization.

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

"Officer" means:

if the applicant is a political subdivision of the State, an appointed or elected official; or

if the business is a sole proprietorship, the owner of the business or any person exercising managerial control; or

if the business is a partnership, any partner who has at least 10% ownership interest or any person exercising managerial control; or

if the business is a corporation, any officer or director of the corporation, any person who has at least 10% ownership interest in the corporation, or any person exercising managerial control.

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

"Person" means an individual, firm, corporation, association, partnership, company, consortium, joint venture, commercial entity, state, municipality, or political subdivision of a state, or any agency, department, or instrumentality of the United States and any officer, agent, or employee of these entities. [225 ILCS 227/5]

"Production company" means any person in the film, digital and video media, television, commercial, and theatrical stage industry who provides pyrotechnic services or pyrotechnic display services as part of a film, digital and video media, television, commercial, or theatrical production in the State of Illinois and is

licensed by OSFM pursuant to the Pyrotechnic Distributor and Operator Licensing Act. [425 ILCS 35/1]

"Proscenium curtain" means the curtain covering the opening of the stage that is constructed and mounted in a manner that intercepts hot gases, flames and smoke and that prevents flame from a fire on the stage from becoming visible from the auditorium side.

"Pyrotechnic display" means the detonation, ignition, or deflagration of display fireworks or flame effects to produce visual or audible effects of an exhibitional nature before the public, invitees, or licensees, regardless of whether admission is charged. [425 ILCS 35/1]

"Pyrotechnic distributor" means any person, ~~company, association, group of persons, or corporation~~ who distributes display fireworks for sale in the State of Illinois or provides them as part of a pyrotechnic display service in the State of Illinois or provides only pyrotechnic services and is licensed by OSFM pursuant to the Pyrotechnic Distributor and Operator Licensing Act. [425 ILCS 35/1]

"Pyrotechnic service" means the detonation, ignition or deflagration of display fireworks, special effects or flame effects to produce a visual or audible effect. [425 ILCS 35/1]

"Special effects fireworks" means pyrotechnic devices used for special effects by professionals in the performing arts in conjunction with theatrical, musical, or other productions that are similar to consumer fireworks in chemical compositions and construction, but are not intended for consumer use and are not labeled as such and must be *identified as "intended for indoor use". Special effects fireworks are classified as fireworks UN0431 or UN0432 by the USDOT under 49 CFR 172.101.* [425 ILCS 35/1] USDOT assigns the following division numbers to the above-referenced pyrotechnic article identification numbers: UN0431 (1.4G) and UN0432 (1.4S). (See 49 CFR 172.101.)

"USDOT" means the United States Department of Transportation.

(Source: Amended at 34 Ill. Reg. 16562, effective October 6, 2010)

Section 235.25 Incorporated and Referenced Materials

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

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

1) National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471:

A) NFPA 101, Section 12.3.5, Exception 4, Life Safety Code (2000)

B) NFPA 140, Standard on Motion Picture and Television Production Studio Soundstages, Approved Production Facilities, and Production Locations (2008)

B) NFPA 160, Standard for the Use of Flame Effects Before an Audience (2006)

C) NFPA 1123, Code for Fireworks Display (2006)

D) NFPA 1126, Standard for the Use of Pyrotechnics Before a Proximate Audience (2006)

2) Federal Regulations

A) ATF
27 CFR 555, Commerce in Explosives (2006)

B) Consumer Product Safety Commission

i) 16 CFR 1500, Hazardous Substance and Articles; Administration and Enforcement Regulations

ii) 16 CRF 1507, Fireworks Devices

C) USDOT
49 CFR 172.101, Purpose and Use of Hazardous Materials Table (2005)

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

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

1) Statutes

A) Pyrotechnic~~Fireworks~~ Use Act [425 ILCS 35]

B) Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227]

C) Illinois Explosive Act [225 ILCS 210]
State Regulations

A) Office of the State Fire Marshal
Pyrotechnic Distributor and Operating Licensing Rules (41 Ill. Adm. Code 230)

B) Department of Natural Resources
The Illinois Explosives Act (62 Ill. Adm. Code 200)

C) Department of Central Management Services
Travel (80 Ill. Adm. Code 2800)

(Source: Amended at 34 Ill. Reg. 16562, effective October 6, 2010)

Section 235.30 General Requirements for All Pyrotechnic Displays and Consumer Fireworks Displays

a) All pyrotechnic displays, pyrotechnic services or~~and~~ consumer fireworks displays require a permit issued by the appropriate local governmental authority in accordance with the Act and this Part.

b) All pyrotechnic displays or pyrotechnic services require the services of a licensed pyrotechnic distributor or licensed production company and a licensed lead pyrotechnic operator employed by a licensed pyrotechnic distributor or a licensed production company in accordance with this Part.

c) A licensed lead pyrotechnic operator shall be present during any pyrotechnic display or pyrotechnic services and shall personally supervise all assistants, including all phases of the pyrotechnic display.

d) All consumer fireworks displays must be personally supervised by a consumer operator.

e) The fire chief of the local jurisdiction must inspect and approve the display site for all pyrotechnic displays, pyrotechnic services or~~and~~ consumer fireworks displays to ensure that the site is safe to conduct a display or perform the services.

(Source: Amended at 34 Ill. Reg. 16562, effective October 6, 2010)

Section 235.40 Pyrotechnic Display Permit Requirements

a) The local governmental authority may issue a pyrotechnic display permit to any adult applicant who meets the following minimum requirements:

1) Proof of License. The issuing local governmental authority must verify that the pyrotechnic display services or pyrotechnic services are provided by a licensed pyrotechnic distributor or licensed production company and that the individual responsible for the setup and firing of the display is a licensed lead pyrotechnic operator for the licensed distributor or licensed production company to whom the permit is issued.

2) Proof of Insurance. The local governmental authority issuing the permit shall require *proof of liability insurance in a sum not less than $1,000,000* [425 ILCS 35/2.1]. The insurance shall be carried with an insurer authorized to do business in Illinois and shall insure the applicant against liabilities, judgments, costs, damages, and expenses that may accrue against, be charged to, or be recovered from the applicant on the reason of damage to property or injury to or death of any person arising from the pyrotechnic display, pyrotechnic service or flame effect display. The insurance coverage shall be an occurrence based policy and it shall cover all periods of time when pyrotechnic materials, including flame effect materials, are in the insured's actual or constructive possession, including those times when the materials are being stored, transported, handled, used, discharged and displayed.

3) Fire Chief Approval. The fire chief of the local jurisdiction must have inspected the site and determined that the display or pyrotechnic service can be performed in full compliance with Sections 235.50 and 235.60 *and*

that the display or pyrotechnic service shall not be hazardous to property or endanger any person or persons. [425 ILCS 35/2.1]

b) Time Frame to Apply. The applicant must submit a written application for a permit *at least 15 days in advance of the date of the pyrotechnic display or pyrotechnic service, unless agreed to otherwise by the local jurisdiction issuing the permit and the fire chief of the jurisdiction in which the display or pyrotechnic service will occur.* [425 ILCS 35/2.1]

c) No Permit Required. *No permit shall be required for supervised public displays by State or County Fair Associations.* [425 ILCS 35/2.1]

d) Age of Assistants. The issuing local governmental authority must verify that all assistants will be at least 18 years of age. In accordance with Section 2001 of the Illinois Explosives Act, no person shall possess, use, purchase or transfer explosive materials unless at least 21 years of age and licensed by DNR, except as otherwise provided by the Illinois Explosives Act and the Pyrotechnic Distributor and Operator Licensing Act.

e) Identification and Signatures Required on the Permit. Each pyrotechnic display or pyrotechnic service permit must identify the lead pyrotechnic operator and must contain the signature of the issuing officer for the local governmental authority and the fire chief.

f) *After a permit has been granted, sales, possession, use, and distribution of display fireworks for the display or pyrotechnic service shall be lawful for that purpose only. No permit shall be transferable.* [425 ILCS 35/2.1]

(Source: Amended at 34 Ill. Reg. 16562, effective October 6, 2010)

Section 235.50 1.3G Fireworks Display Compliance Standards

All 1.3G fireworks displays and storage shall be conducted in accordance with NFPA 1123. Storage of display fireworks (1.3G and above) shall comply with the storage requirements set forth by ATF at 27 CFR 555 or by DNR pursuant to Article 3 of the Illinois Explosive Act. Should there be a conflict between the requirements established by ATF and DNR, those requirements that are more specific, more stringent, or impose requirements for which no like requirements are contained in the other agency's requirements shall control.

(Source: Amended at 34 Ill. Reg. 16562, effective October 6, 2010)

Section 235.60 Indoor Special Effects Fireworks and Flame Effect Display Compliance Standards

a) All indoor special effects, ~~and/or~~ flame effect displays and pyrotechnic services and storage shall be conducted in accordance with:

1) NFPA 1126, as modified by 41 Ill. Adm. Code 230.260; ~~and/or~~

2) NFPA 160, as modified by 41 Ill. Adm. Code 230.270; and/or~~.~~

3) NFPA 140.

b) The building in which the display or pyrotechnic service will occur must meet one of the following requirements:

1) The building must be protected throughout, including both the seating area and stage, by an automatic sprinkler system; or

2) The stage must be protected by an automatic sprinkler system and have a proscenium curtain, as required by NFPA 101, that will automatically deploy in the event of a fire. No special effects fireworks device and/or flame effect device may be set up on the stage forward of the curtain, i.e., on the audience side of the curtain; or

3) In stadia and arenas without automatic sprinkler system protection over the floor area used for contest, performance, or entertainment; over the seating areas; or over open-air concourses where, as required by NFPA 101, Section 12.3.5, Exception 4, an approved engineering analysis substantiated the ineffectiveness of the sprinkler protection due to building height and combustible loading. In the event a display will occur in a stadium or arena that does not have an automatic sprinkler system protecting the floor area used for contest, performance or entertainment, the seating areas or the open-air concourses, the applicant shall submit, to the local governmental authority and to the fire chief of the local jurisdiction or his/her designee, a written engineering analysis prepared by a licensed professional engineer and the written permission of the building owner.

c) At any time pyrotechnic materials are on-site, they must be stored in the on-site storage magazine that must be, at minimum, a Type 3 Storage "Day Box" that complies with ATF and DNR (62 Ill. Adm. Code 200.700) requirements for Type 3 magazines.

d) Each local governmental authority that intends to approve permits for indoor special effects displays, ~~or~~ indoor flame effect displays or pyrotechnic services must have at least one inspector who is knowledgeable about NFPA 140, 160 and 1126 and who has received training from OSFM~~the Office~~ in the safe setup of special fireworks and/or flame effect devices and the inspection of those displays.

e) At least one inspector from the local jurisdiction must be present during the actual display or pyrotechnic service in a building that meets the requirements of subsection (b)(1). A minimum of one inspector and one member of the local fire service must be present during the actual display or pyrotechnic service in a building that meets the requirements of subsections (b)(2) and (b)(3). During the event, the inspector shall be in the immediate area of the lead pyrotechnic operator and the member of the local fire service shall be on the audience side of the proscenium curtain. In the event the show is of a repetitive nature and will be performed more than 3 times, continued stand-by of the inspector and the member of the local fire service after the third performance is at the fire chief's discretion. In the event the performance of the display is modified in a manner that affects the location or timing of the effects or the materials and/or products being used, then the inspector must be present during the initial 3 performances of the modified display.

f) Each inspector or member of the local fire service assigned in subsection (e) must have working knowledge of the supplemental fixed or portable fire fighting equipment located at the display area and have a radio for direct communication in an emergency. They shall also be knowledgeable about crowd management and how to evacuate the building.

g) *At the time an individual applies for an indoor pyrotechnic permit from the local jurisdiction, written notice of the permit application and the indoor display or pyrotechnic service information shall be made in writing at least 15 days in advance of the date of the pyrotechnic display or pyrotechnic service to OSFM unless agreed to otherwise by OSFM.* [425 ILCS 35/2.1]

h) *Permits shall be signed by the chief of the fire department providing fire protection to the area of display or pyrotechnic service, or his or her designee, and must identify the licensed pyrotechnic distributor or licensed production company and the lead pyrotechnic operator.* [425 ILCS 35/2.1]

(Source: Amended at 34 Ill. Reg. 16562, effective October 6, 2010)

Section 235.70 Possession of License by Lead Pyrotechnic Operator

The lead pyrotechnic operator must be in possession of, and be able to produce, his/her license (see 41 Ill. Adm. Code 230) upon request at all times during the delivery, setup, and performance of the display or pyrotechnic service.

(Source: Amended at 34 Ill. Reg. 16562, effective October 6, 2010)

Section 235.80 Consumer Operator Training

a) OSFM~~The Office~~ shall develop consumer fireworks training materials and related documents designed to instruct a person about the standards relating to safe practices for the storage, use, handling, discharge and display of consumer fireworks.

b) OSFM~~The Office~~ shall offer training classes periodically during the year, depending on demand, to individuals who a local governmental authority designates its Consumer Fireworks Trainer. OSFM~~The Office~~ has the authority to charge a reasonable fee for this training and the related materials and documents. Upon completion of the class, the Consumer Fireworks Trainer will receive a certificate, valid for two years, that permits him/her to conduct consumer fireworks training classes in his/her jurisdiction. The Consumer Fireworks Trainer will also receive training materials and related documents from OSFM~~the Office~~ to use when training consumer operators.

c) Local governmental authorities may only offer consumer fireworks training classes if their Consumer Fireworks Trainers have valid training certificates from OSFM~~the Office~~.

d) All consumer operators must successfully complete a consumer fireworks training class approved by OSFM~~the Office~~. The local governmental authority from which a consumer operator seeks a Consumer Operator Display Permit shall offer

this class. The local governmental authority may charge a fee for such a class, not to exceed the reasonable costs of providing the class. Upon completion of the class, the consumer operator will receive a certificate of completion that is valid for one year.

(Source: Amended at 34 Ill. Reg. 16562, effective October 6, 2010)

Section 235.90 Consumer Fireworks Display Permit Requirements

a) The local governmental authority may issue a consumer fireworks display permit to any competent adult applicant who meets the following minimum requirements:

1) Certificate of Training. The applicant must provide the issuing local governmental authority his/her certificate of training as evidence of successful completion of a consumer fireworks training class approved by OSFM~~the Office~~. If an applicant holds a valid Lead Pyrotechnic Operator License for Outdoor Pyrotechnic Displays, he/she may provide a copy of his/her license to the local governmental authority as an alternative certificate of training.

2) Fire Chief Approval. The fire chief of the local jurisdiction must have inspected the site and determined that the display can be performed in full compliance with Section 235.100.

b) Time Frame to Apply. The applicant must submit a written application for a permit *at least 15 days in advance of the date of the display, unless agreed to otherwise by the local jurisdiction issuing the permit and the fire chief of the jurisdiction in which the display will occur.* [425 ILCS 35/3.1]

c) *After a permit has been granted, sales, possession, use, and distribution of consumer fireworks for display shall be lawful for that purpose only. No permit shall be transferable* to another individual. [425 ILCS 35/2.2]

d) Signatures Required on the Permit. Each consumer display permit must contain the signature of the issuing officer for the local governmental authority and the fire chief.

e) Assistants. If a consumer operator uses assistants at the display site, each assistant shall have successfully completed a consumer fireworks training class approved by OSFM~~the Office~~ and must provide proof of his/her valid certificate of training to the local governmental authority prior to issuance of the permit.

(Source: Amended at 34 Ill. Reg. 16562, effective October 6, 2010)

Section 235.100 Consumer Fireworks Display Compliance Standards

All outdoor consumer displays shall be conducted in accordance with the following minimum requirements:

a) The location at which the consumer fireworks display will be detonated must be at least 200 feet, in all directions, away from any spectators, buildings, structures, or property lines, and must be free of any overhead obstructions.

b) A fire extinguisher or water hose or buckets of water, sand and a shovel must be present while consumer fireworks are being prepared for firing, fired, and at all times after the display until all duds, misfires, and unused product have been properly disposed of and until the consumer operator has determined that fallout from the display does not pose a risk of fire.

c) Consumer operators shall only possess, use or explode approved consumer fireworks. Consumer fireworks must be stored in a ready box, made of wood or metal, at all times. The ready box must be covered at all times, including during the discharge of a firework at the discharge site to prevent the accidental discharge of stored fireworks from fallout.

d) The consumer operator must be in possession of and be able to produce his/her consumer fireworks display permit and certificate of training at all times he/she is present at the display site. If the consumer operator uses assistants, those assistants must be in possession of, and be able to produce, their certificates of training at all times they are present at the display site.

(Source: Amended at 34 Ill. Reg. 16562, effective October 6, 2010)

Section 235.110 Consumer Distributors and Retailers

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

a) Prior to distributing, selling, transferring or providing free of charge any consumer fireworks, consumer distributors and consumer retailers shall require an individual to provide proof that he/she has been issued a permit in accordance with Section 235.90, or that he/she has registered with OSFM~~the Office~~ as a consumer distributor or consumer retailer in accordance with this Section.

b) All consumer distributors and consumer retailers must register with OSFM~~the Office~~ before distributing, selling, offering for sale, exchanging for consideration, transferring or providing free of charge consumer fireworks in the State of Illinois and before advertising or using any title implying that the person is a consumer distributor or retailer. The applicant shall register on forms provided by OSFM~~the Office~~ that shall include:

1) The name and address of the business. The address shall be an actual street address and shall include the city, state and zip code. A post office box number is not acceptable as an address.

2) The names, telephone numbers, and personal addresses of all owners or officers of the registering business, including a copy of each person's driver's license or other governmental identification that includes the date of birth and photograph.

3) If the business operates under an assumed name, a copy of the assumed name certificate.

4) The address of each location from which consumer fireworks will be distributed or retailed.

5) The applicant's taxpayer identification number and proof of payment of taxes to the Illinois Department of Revenue (DOR). If the applicant does not pay taxes to DOR, the applicant shall submit a statement, sworn to under penalty of perjury, from the applicant or its tax preparer identifying why taxes are not paid.

6) The fee of $50 shall be payable by check to the Office of the State Fire Marshal for each location.

7) A copy of the letter or permit issued by the local governmental authority authorizing the applicant to distribute, sell, offer for sale, exchange for

consideration, transfer or provide free of charge consumer fireworks at the locations identified in subsection (b)(4).

c) OSFM~~The Office~~ shall issue a registration to transfer, provide, distribute and/or sell consumer fireworks or shall notify the applicant of the reason for the denial of registration.

d) Registration shall permit the consumer distributor or consumer retailer to transfer, provide, distribute and/or sell consumer fireworks in Illinois for the calendar year in which registered.

e) The consumer distributor or consumer retailer shall register each location from which it distributes or retails consumer fireworks separately.

f) The registrant shall notify OSFM~~the Office~~ in writing within 10 business days after the change in any of the information it provided to OSFM~~the Office~~ to obtain registration. Proof that a change in name or address has been done in accordance with the law shall be sent to OSFM~~the Office~~, including copies of new assumed name certificates. In the event a business has changed its officers, a sworn statement listing all of the current officers' names and personal addresses, including copies of each officer's driver's license, shall be sent to OSFM~~the Office~~.

g) *No person may sell to a single individual a quantity of consumer fireworks exceeding 499 pounds without prior approval by OSFM~~the Office~~.* [425 ILCS 35/2.3] Requests for such approval shall be submitted in writing to OSFM~~the Office~~.

h) OSFM will not accept any applications to register a consumer distributor or retailer or for a new location after June 15 for the current July 4th season.

(Source: Amended at 34 Ill. Reg. 16562, effective October 6, 2010)

Section 235.120 Forms

All applications, permits, and site inspection records shall be on forms approved by OSFM~~the Office~~.

(Source: Amended at 34 Ill. Reg. 16562, effective October 6, 2010)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

Section 235.130 List of Approved Consumer Fireworks

a) OSFM~~The Office~~ will maintain a list of approved consumer fireworks. The list will be updated annually or as new consumer fireworks items are submitted to OSFM~~the Office~~ for approval by consumer distributors.

b) The items placed on the list for distribution will be those that the Consumer Fireworks Review Committee has approved for consumer use.

c) The criteria for allowing any particular type of pyrotechnic device (not by name) to be included on the list is based upon the following:

1) The experience or data relating to non-professional use of the type of pyrotechnic in Illinois.

2) The experience or data relating to non-professional use of the type of pyrotechnic in other states.

d) Individuals wishing to request that a particular type of firework be included or excluded from the list may submit a written request to OSFM outlining the reasoning and/or experiences behind their request.

(Source: Amended at 34 Ill. Reg. 16562, effective October 6, 2010)

Section 235.140 Consumer Fireworks Review Committee

The State Fire Marshal shall appoint a review committee to review and approve the consumer fireworks that are permitted to be distributed and sold in the State.

a) The committee shall consist of the following 5 members:

1) The State Fire Marshal or his/her designee, as chair;

4) One representative from the Illinois Fire Chief's Association;

5) One representative from a fire department that has experience in pyrotechnic displays;

6) One representative from a company that distributes consumer fireworks in the State; and

7) One representative from a company that distributes display fireworks in the State.

b) Members shall serve without salary, but may receive reimbursement for reasonable expenses from OSFM~~the Office~~ from appropriations for such purposes, in accordance with 80 Ill. Adm. Code 2800.

c) All members shall have one vote and serve a term of 2 years.

d) The review committee shall approve or disapprove consumer fireworks based on a majority vote of the appointed members.

e) The time frame for review shall be dependent on the type of firework and the amount of information the committee needs to compile to order to generate a decision.

(Source: Amended at 34 Ill. Reg. 16562, effective October 6, 2010)

Section 235.160 Report of Fire, Injury, or Property Damage

a) Permit holders shall notify the local governmental authority issuing the permit within 24 hours after the following incident:

1) A fire;

2) An injury to any person resulting from the display; or

3) Damage to property in excess of $500, in the aggregate, resulting from the display.

b) The local governmental authority issuing the permit shall notify OSFM~~the Office~~ of any fire, injury to any person, or damage to property in excess of $500 that resulted from the pyrotechnic or consumer display. This notification shall be made by telephone to 217-785-0969 during normal working hours and at the Illinois Emergency Management Agency dispatch number, 800-782-7860, outside normal working hours, and~~or~~ in writing within 3 days after learning of the

incident. Written reports shall be mailed to the Office of the State Fire Marshal, Pyrotechnic Division, 1035 Stevenson Drive, Springfield IL 62703-4259.

c) While all pyrotechnic materials must be stored in accordance with regulations adopted by ATF and DNR, all equipment must remain in place and on site following personal injury, property damage in excess of $500 or a fire until an investigation has been completed by OSFM.

(Source: Amended at 34 Ill. Reg. 16562, effective October 6, 2010)

Section 235.170 Report of Theft or Loss of Fireworks

a) Licensed pyrotechnic distributors and licensed lead pyrotechnic operators shall report the theft or loss of fireworks to local law enforcement in accordance with 41 Ill. Adm. Code 230.190, DNR and ATF.

b) Consumer distributors and consumer retailers shall report the theft or loss of fireworks in excess of $150 to local law enforcement immediately. Immediately~~Within 24 hours~~ after discovery of the theft or loss, consumer distributors and consumer retailers shall provide OSFM~~the Office~~ with written notice that includes a complete description of the fireworks, including manufacturer, brand name, any manufacturer marking and quantity, and a description of the circumstances surrounding the theft or loss. The written notice shall also identify the local law enforcement agencies contacted and shall be executed under penalty of perjury.

c) Consumer operators shall immediately report the theft or loss of fireworks in excess of $150 to local law enforcement and to the local governmental authority that issued the operator a consumer display permit. Within three days after notification, the local governmental authority that issued the consumer display permit shall notify OSFM~~the Office~~ in writing of the theft or loss.

d) Written notice shall be mailed to the Office of the State Fire Marshal, Pyrotechnic Division, 1035 Stevenson Drive, Springfield IL 62703-4259.

(Source: Amended at 34 Ill. Reg. 16562, effective October 6, 2010)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

1) Heading of the Part: Fire Protection District Grant

2) Code Citation: 41 Ill. Adm. Code 295

3)

Section Numbers:	Adopted Action:
295.10	New Section
295.20	New Section
295.30	New Section

4) Statutory Authority: Implementing and authorized by Section 1.05 of the Fire Protection District Act [70 ILCS 705/1.05]

5) Effective Date of the Rulemaking: October 6, 2010

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, IL. 62703, and is available for public inspection.

9) Date Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 8868; July 9, 2010

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: None

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

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

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

15) Summary and Purpose of the Rulemaking: This rulemaking establishes the process for groups of registered voters to receive a grant of $500 to defray the expenses of organizing a new fire protection district.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

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

William Barnes
General Counsel
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

217/785-0969

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

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

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

PART 295
FIRE PROTECTION DISTRICT GRANT

Section
295.10 Purpose
295.20 Grant Application Procedure and Required Supporting Documentation
295.30 Terms and Conditions of Grant

AUTHORITY: Implementing and authorized by Section 1.05 of the Fire Protection District Act [70 ILCS 705/1.05].

SOURCE: Adopted at 34 Ill. Reg. 16583, effective October 6, 2010.

Section 295.10 Purpose

The Office of the State Fire Marshal (OSFM) shall administer a program to provide grant funds to groups of registered voters to defray the expenses of organizing a new fire protection district. The grant shall not exceed $500 and that group of registered voters shall not be eligible for another such grant for 2 years.

Section 295.20 Grant Application Procedure and Required Supporting Documentation

a) Application Procedure

1) The attorney or individual of record for the group of registered voters shall submit a letter to OSFM requesting the grant.

2) The letter shall be sent to: Office of the State Fire Marshal, Attention: Fire Protection District Grant, 1035 Stevenson Drive, Springfield, Illinois 62703-4259.

b) Content of Letter and Supporting Documentation
Each letter shall include the following information:

1) Information identifying the proposed fire protection district (e.g., legal description of the territory, any corporate documents, etc.).

2) Contact information of an individual representing the group of registered voters.

3) The grant sum requested, not to exceed $500.

4) Copies of invoices for services associated with the formation of the new fire protection district.

5) Party to whom the check should be addressed.

Section 295.30 Terms and Conditions of Grant

a) Grants under this program will be paid to recipients when the request is approved.

b) Grant proceeds shall be used exclusively for the expenses of organizing a new fire protection district.

c) In the event that the grant is not expended in the manner approved, the recipient, upon written notification from OSFM, shall refund the full amount of the grant award. Recovery of grant funds shall be accomplished in accordance with the Illinois Grant Funds Recovery Act [30 ILCS 705].

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment

2) Code Citation: 74 Ill. Adm. Code 900

3) Section Number: 900.120 — Emergency Action: Amendment

4) Statutory Authority: Authorized by the State Prompt Payment Act [30 ILCS 540]

5) Effective Date of Amendments: October 8, 2010

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment is not to expire prior to the end of the 150-day period.

7) Date filed with the Index Department: October 8, 2010

8) This emergency amendment and other Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment are on file and available in the Department of Central Management Services' Office of the General Counsel in Springfield.

9) Reasons for Emergency: Over the past several years, governments have encountered enormous fiscal challenges at the federal, state, and local levels. In Illinois at the end of June 2010, the backlog of unpaid bills and fund transfers with the Illinois Office of the Comptroller (IOC) stood at $4.712 billion, with an average delay in paying vouchers of 153 working days. As a result of the current cash flow deficit, the State of Illinois (the "State") has been forced to delay payment to the majority of its vendors. The State's delay in payments have caused and is continuing to cause vendors to suffer their own cash flow deficits and, in some cases, to implement layoffs. This is a threat to the vendors' and the public's interest and welfare.

In order to address the emergency cash flow deficits and layoffs being encountered by some State vendors and to preserve State jobs and businesses, the Governor's Office of Management and Budget and the Comptroller have developed a program whereby one or more lenders would purchase one or more of a vendor's State receivables at full value, with 90% to be paid within 10 days, in return for an assignment of the eventual payment of that receivable and the Prompt Payment Act interest by the Comptroller. In order to

proceed with this program and get immediate relief to these struggling vendors and their employees, the Prompt Payment rules must be amended to allow for the assignment or sale of receivables that can accrue prompt payment interest where such assignment or sale has been made pursuant to a vendor payment program approved by the Governor's Office of Management and Budget and the Comptroller. This will protect the vendors from assigning or selling their receivables and any accompanying prompt payment interest to factoring companies and predatory lenders, and will allow vendors to receive payment on their outstanding vouchers in a more timely fashion. Allowing vendors to participate in this program and to avoid further damaging cash flow deficits and layoffs is necessary to address the current and continuing threat to the vendors', their employees', and the public's interest and welfare.

10) A complete Description of the Subjects and Issues Involved: This Part is a joint rulemaking of the Comptroller and the Department of Central Management Services. The text of the Part appears at 74 Ill. Adm. Code 900. This emergency amendment revises Section 900.120(n) of the Prompt Payment rules. That Section currently disqualifies from prompt payment interest any underlying payment that has been assigned by a vendor to any third party. The amendment will allow for the payment of prompt payment interest for payments that have been assigned or sold to a third party if the assignment or sale is pursuant to a vendor payment program that is approved by the Governor's Office of Management and Budget and the Comptroller.

11) Are there any proposed amendments to this Part pending? No

12) Statement of Statewide Policy Objectives: To provide immediate relief to State vendors and their employees who are struggling due to the current backlog of unpaid State bills. Additionally, this amendment will protect these vendors from unscrupulous lenders who are currently demanding a percentage of the underlying principal payment due from the State. The amendment will allow vendors to receive the full amount of their underlying principal payment in return for an assignment of their prompt payment interest.

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

Lynn Carter
Deputy General Counsel
Illinois Department of Central Management Services
James R. Thompson Center, Suite 4-607
100 West Randolph Street
Chicago, Illinois 60601

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENT

312/814-1569
lynn.carter@illinois.gov

14) Does this amendment require the review of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25]? No

The full text of the Emergency Amendment begins on the next page: (This Part is a joint rule of the Comptroller and the Department of Central Management Services. The text of the Part appears at 74 Ill. Reg. 900)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 74: PUBLIC FINANCE
CHAPTER VIII: CENTRAL MANAGEMENT SERVICES

PART 900
JOINT RULES OF THE COMPTROLLER AND
THE DEPARTMENT OF CENTRAL MANAGEMENT SERVICES:
PROMPT PAYMENT

Section
900.10 Scope
900.20 Definitions
900.30 General Duties of State Agencies
900.35 Duties of State Agencies: Interest Payments
900.40 Statement Indicating That Interest Penalty May Be Available
900.50 Other Interest Provisions
900.60 When a Payment is Late
900.70 Approval by the State
900.80 Submission and Receipt of Bills
900.90 When and How Vendors Must Request Interest
900.100 Calculation of Interest
900.110 No Interest on Interest
900.120 Exclusions
EMERGENCY
900.130 Special Rules and Procedures Regarding the Application of the Act to the State Employee's Group Insurance Program
900.140 Resolution of Disputes

AUTHORITY: Implementing the State Prompt Payment Act [30 ILCS 540].

SOURCE: Emergency rule adopted at 17 Ill. Reg. 11168, effective July 1, 1993, for a maximum of 150 days; emergency expired November 28, 1993; adopted at 18 Ill. Reg. 11498, effective July 11, 1994; amended at 24 Ill. Reg. 19049, effective December 18, 2000; amended at 25 Ill. Reg. 11351, effective August 28, 2001; emergency amendment at 26 Ill. Reg. 10939, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 14666, effective September 19, 2002; amended at 31 Ill. Reg. 5751, effective March 29, 2007; emergency amendment at 34 Ill. Reg. 16587, effective October 8, 2010, for a maximum of 150 days.

Section 900.120 Exclusions
EMERGENCY

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENT

The following non-exhaustive list represents the types of payments that are excluded from the Act and consequently do not qualify for interest penalties:

a) Inter- and intra-agency payments. This includes transfers and payments to revolving funds, reimbursement of petty cash funds and imprest accounts, inter-fund transfers and inter-fund payments in which an agency or department serves as the Vendor of Goods or Services.

b) Payments to State employees for personal services (salary only and not including health insurance benefits).

c) Awards and grants, as defined by the Comptroller's Office in SAMS Manual Procedure 15, including pass-through grants and distributive payments and refunds.

d) Contract retainers associated with construction contracts.

e) State Board of Education categorical grants.

f) Community College Board grants.

g) Illinois Student Assistance Commission grants.

h) Payments to local government entities, including school districts.

i) Payments of interest penalties.

j) Payments made to contractual employees (these payments are generally made via a Contractual Services Payroll Voucher).

k) Deleted

l) Payments from accounts or funds not appropriated by the General Assembly.

m) Gratuitous payments made to induce a business to remain in or to locate in this State.

n) Any type of payment to a Vendor assigned or sold by that Vendor to a different

payee (including any assignments or sales made by the Vendors to the Department of Healthcare and Family Services), except for assignments or sales made pursuant to a vendor payment program approved by the Governor's Office of Management and Budget and the Comptroller~~, including any assignments made by the Vendors to the Department of Public Aid~~.

o) Barter transactions.

p) Payments made by a State agency comprised of federal funds only and no State or local funds.

q) Medical and claims payments under the Workers' Compensation and Workers' Occupational Diseases Acts.

r) Tax refunds.

s) State Employee's Group Insurance Program payments covered by late payment interest provisions in 5 ILCS 375/6.12.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 16587, effective October 8, 2010, for a maximum of 150 days)

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment

2) Code Citation: 74 Ill. Adm. Code 330

3) Section Number: 330.120 — Emergency Action: Amendment

4) Statutory Authority: Authorized by the State Prompt Payment Act [30 ILCS 540]

5) Effective Date of Amendments: October 8, 2010

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment is not to expire prior to the end of the 150-day period.

7) Date filed with the Index Department: October 8, 2010

8) This emergency amendment and other Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment are on file and available in the Comptroller's Office of the General Counsel in Springfield.

9) Reasons for Emergency: Over the past several years, governments have encountered enormous fiscal challenges at the federal, state, and local levels. In Illinois at the end of June 2010, the backlog of unpaid bills and fund transfers with the Illinois Office of the Comptroller (IOC) stood at $4.712 billion, with an average delay in paying vouchers of 153 working days. As a result of the current cash flow deficit, the State of Illinois (the "State") has been forced to delay payment to the majority of its vendors. The State's delay in payments have caused and is continuing to cause vendors to suffer their own cash flow deficits and, in some cases, to implement layoffs. This is a threat to the vendors' and the public's interest and welfare.

In order to address the emergency cash flow deficits and layoffs being encountered by some State vendors and to preserve State jobs and businesses, the Governor's Office of Management and Budget and the Comptroller have developed a program whereby one or more lenders would purchase one or more of a vendor's State receivables at full value, with 90% to be paid within 10 days, in return for an assignment of the eventual payment of that receivable and the Prompt Payment Act interest by the Comptroller. In order to proceed with this program and get immediate relief to these struggling vendors and their

employees, the Prompt Payment rules must be amended to allow for the assignment or sale of receivables that can accrue prompt payment interest where such assignment or sale has been made pursuant to a vendor payment program approved by the Governor's Office of Management and Budget and the Comptroller. This will protect the vendors from assigning or selling their receivables and any accompanying prompt payment interest to factoring companies and predatory lenders, and will allow vendors to receive payment on their outstanding vouchers in a more timely fashion. Allowing vendors to participate in this program and to avoid further damaging cash flow deficits and layoffs is necessary to address the current and continuing threat to the vendors', their employees', and the public's interest and welfare.

10) A complete Description of the Subjects and Issues Involved: This Part is a joint rulemaking of the Comptroller and the Department of Central Management Services. The text of the Part appears at 74 Ill. Adm. Code 900. This emergency amendment revises Section 900.120(n) of the Prompt Payment rules. That Section currently disqualifies from prompt payment interest any underlying payment that has been assigned by a vendor to any third party. The amendment will allow for the payment of prompt payment interest for payments that have been assigned or sold to a third party if the assignment or sale is pursuant to a vendor payment program that is approved by the Governor's Office of Management and Budget and the Comptroller.

11) Are there any proposed amendments to this Part pending? No

12) Statement of Statewide Policy Objectives: To provide immediate relief to State vendors and their employees who are struggling due to the current backlog of unpaid State bills. Additionally, this amendment will protect these vendors from unscrupulous lenders who are currently demanding a percentage of the underlying principal payment due from the State. The amendment will allow vendors to receive the full amount of their underlying principal payment in return for an assignment of their prompt payment interest.

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

Roma Larson
Senior Counsel
Office of the Comptroller
Room 201 Statehouse
Springfield, IL 62706

217/782-0905

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY AMENDMENT

LarsoRB@mail.ioc.state.il.us

14) Does this amendment require the review of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25]? No

The Part 330 Source Note of the Emergency Amendment begins on the next page and the full text of the Emergency Amendment is identical to the text of the Department of Central Management Services Emergency Amendment that appears in this issue of the Illinois Register on page 16587: (This Part is a joint rule of the Comptroller and the Department of Central Management Service. The text of the Part appears at 74 Ill. Reg. 900)

OFFICE OF THE COMPTROLLER

NOTICE OF EMERGENCY AMENDMENT

TITLE 74: PUBLIC FINANCE
CHAPTER II: COMPTROLLER

PART 330
JOINT RULES OF THE COMPTROLLER AND
THE DEPARTMENT OF CENTRAL MANAGEMENT SERVICES:
PROMPT PAYMENT

SOURCE: Emergency rule adopted at 17 Ill. Reg. 11170, effective July 1, 1993, for a maximum of 150 days; emergency expired November 28, 1993; adopted at 18 Ill. Reg. 11521, effective July 11, 1994; amended at 24 Ill. Reg. 19123, effective December 18, 2000; amended at 25 Ill. Reg. 11358, effective August 28, 2001; emergency amendment at 26 Ill. Reg. 10981, effective July 1, 2002; amended at 26 Ill. Reg. 14678, effective September 19, 2002; amended at 31 Ill. Reg. 5836, effective March 29, 2007; emergency amendment at 34 Ill. Reg. 16593, effective October 8, 2010, for a maximum of 150 days.

(Editor's Note: This Part is a joint rule of the Comptroller and the Department of Central Management Services. The text of the Part appears at 74 Ill. Adm. Code 900.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2010 THIRD QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

1. Statute requiring agency to publish information concerning Private Letter Rulings and General Information Letters in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act
Citation: 20 ILCS 2515/1

2. Summary of information:

Index of Department of Revenue Sales and Miscellaneous Tax Private Letter Rulings and General Information Letters issued for the Third Quarter of 2010. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Computer Software
Construction Contractors
Drugs
Exempt Organizations
Farm Machinery & Equipment
Food
Gross Receipts
Hotel Operators' Tax
Leasing
Local Taxes
Medical Appliances
Miscellaneous
Nexus
Occasional Sale
Returns
Sale at Retail

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2010 THIRD QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

Sale for Resale	Trade-Ins
Service Occupation Tax	Use Tax
Telecommunications Excise Tax	

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of $1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov/.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for $3.00.

3. Name and address of person to contact concerning this information:

Marie Keeney
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794

Telephone: 217/782-2844

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2010 THIRD QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

COMPUTER SOFTWARE

ST 10-0067-GIL 08/10/2010 If transactions for the licensing of computer software meet all of the criteria provided in subsection (a)(1) of Section 130.1935, neither the transfer of the software nor the subsequent software updates will be subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.1935.

ST 10-0077-GIL 08/23/2010 This letter concerns the taxation of computer software transactions. See 86 Ill. Adm. Code 130.1935.

CONSTRUCTION CONTRACTORS

ST 10-0066-GIL 08/10/2010 When a construction contractor permanently affixes tangible personal property to real property, the contractor is deemed the end user of that tangible personal property. As the end user, the contractor incurs Use Tax on the cost price of that tangible personal property. See 86 Ill. Adm. Code 130.1940 and 86 Ill. Adm. Code 130.2075.

DRUGS

ST 10-0086-GIL 09/30/2010 A medicine or drug is “any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities.” See 86 Ill. Adm. Code 130.310.

EXEMPT ORGANIZATIONS

ST 10-0063-GIL 08/05/2010 Governmental units incur Retailers Occupation Tax liability when selling tangible personal property to the public for use or consumption. The only exception is the sale of an item by a governmental unit in the performance of its governmental function. See 86 Ill. Adm. Code 130.2055.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2010 THIRD QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

ST 10-0070-GIL 08/10/2010 Exclusively religious, educational, or charitable organizations that have been given E numbers by the Department are allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2005.

FARM MACHINERY & EQUIPMENT

ST 10-0058-GIL 07/30/2010 The sale of certain types of tangible personal property used in production agriculture is not subject to Illinois Retailers' Occupation Tax and Use Tax. See 35 ILCS 120/2-5(2).

ST 10-0084-GIL 09/30/2010 Even though sales may be at retail, the Illinois Retailers' Occupation Tax does not apply to farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily in production agriculture or State or federal agricultural programs. See 86 Ill. Adm. Code 130.305.

FOOD

ST 10-0078-GIL 08/27/2010 This letter provides a brief summary of when the high rate of tax for food and the low rate of tax for food apply. See 86 Ill. Adm. Code 130.310.

ST 10-0079-GIL 08/30/2010 This letter discusses the State tax rates applicable to sales of food. See 86 Ill. Adm. Code 130.310.

GROSS RECEIPTS

ST 10-0073-GIL 08/11/2010 The standard method of reporting receipts from sales is to report on a gross receipts basis, that is to report when payments are actually received. See 86 Ill. Adm. Code 130.401(a).

ST 10-0076-GIL 08/16/2010 If a seller receives a reimbursement or rebate for a discount, the amount of that reimbursement or rebate is considered part of the gross

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2010 THIRD QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

receipts received by the seller and is subject to Retailers' Occupation Tax. If a seller provides a discount to a purchaser and does not receive a reimbursement or rebate for that discount, only the (discounted) amount received by the seller is taxable. See 86 Ill. Adm. Code 130.2125.

HOTEL OPERATORS' TAX

ST 10-0081-GIL 09/08/2010 Gross receipts from the rentals of rooms to "permanent residents" are not subject to Hotel Operators' Occupation Tax liability. A "permanent resident" is any person who has occupied or has the right to occupy any room or rooms in a hotel for at least 30 consecutive days. See 86 Ill. Adm. Code 480.101.

LEASING

ST 10-0082-GIL ST 10-0082-GIL 09/08/2010 Information regarding sales tax liabilities in lease situations may be found at 86 Ill. Adm. Code 130.220 and 86 Ill. Adm. Code 130.2010.

LOCAL TAXES

ST 10-0057-GIL 07/29/2010 An item that is exempt from the State Retailers' Occupation Tax or Service Occupation Tax as a sale for resale, is also exempt from the tax imposed under the County School Facility Occupation Tax Law as a sale for resale. See 86 Ill. Adm. Code 130.210(c).

ST 10-0080-GIL 09/02/2010 If a sale is made in a jurisdiction that imposes a local tax, that tax will be incurred. In situations in which both the sale and the location of the property being sold at the time of the sale are outside of the State of Illinois, such sales would only be subject to the Illinois Use Tax at the rate of 6.25%. See 86 Ill. Adm. Code 270.115.

MEDICAL APPLIANCES

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2010 THIRD QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

ST 10-0054-GIL 06/11/2010 Medicines and medical appliances are not taxed at the general State rate of 6.25%. These items are taxed at a lower State rate of 1%. See 86 Ill. Adm. Code 130.310.

MISCELLANEOUS

ST 10-0055-GIL 07/27/2010 This letter rescinds the General Information Letter issued May 5, 2010 (ST 10-0039-GIL) effective July 27, 2010.

ST 10-0062-GIL 08/04/2010 This letter responds to an annual survey. See 86 Ill. Adm. Code, Parts 130, 140, 150 and 160.

ST 10-0071-GIL 08/11/2010 This letter references an earlier letter (ST 10-0017-GIL) regarding the Use Tax. 86 Ill. Adm. Code 150.305(c).

NEXUS

ST 10-0048-GIL 06/02/2010 This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992).

ST 10-0050-GIL 06/03/2010 This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992).

ST 10-0052-GIL 06/04/2010 This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992).

ST 10-0068-GIL 08/10/2010 This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992).

ST 10-0088-GIL 09/30/2010 This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992).

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2010 THIRD QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

OCCASIONAL SALE

ST 10-0049-GIL 06/03/2010 A person does not incur Retailers' Occupation Tax liability on the gross receipts from an isolated or occasional sale. See 86 Ill. Adm. Code 130.110.

RETURNS

ST 10-0051-GIL 06/04/2010 Illinois retailers are required to file returns by specific statutory deadlines. 35 ILCS 120/3. 86 Ill. Adm. Code 130.501.

SALE AT RETAIL

ST 10-0065-GIL 08/05/2010 The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101.

SALE FOR RESALE

ST 10-0004-PLR 07/16/2010 This letter concerns sales for resale. See 86 Ill. Adm. Code 130.1401, et seq. and *Dearborn Wholesale Grocers, Inc. v. Whitler*, 82 Ill.2d 471 (1980).

ST 10-0006-PLR 09/30/2010 This letter addresses a sale for resale situation. See 86 Ill. Adm. Code 130.1405.

ST 10-0064-GIL 08/05/2010 This letter addresses sales for resale. See 86 Ill. Adm. Code 130.1405.

SERVICE OCCUPATION TAX

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2010 THIRD QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

ST 10-0056-GIL 07/29/2010 Sellers of special order machines are considered to be engaged primarily in a service occupation, rather than being engaged in the business of selling tangible personal property, if the test set out in 86 Ill. Adm. Code 130.2115(b) is met. See 86 Ill. Adm. Code 130.2115.

ST 10-0061-GIL 08/03/2010 The Service Occupation Tax is a tax imposed upon servicemen engaged in the business of making sales of service in this State, based on the tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140.

ST 10-0069-GIL 08/10/2010 If no tangible personal property is transferred to the customer, then no Illinois Retailers' Occupation Tax or Service Occupation Tax would apply. See 86 Ill. Adm. Code Parts 130 and 140.

ST 10-0087-GIL 09/30/2010 The Service Occupation Tax is a tax imposed upon servicemen engaged in the business of making sales of service in this State, based on the tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140.

TELECOMMUNICATIONS EXCISE TAX

ST 10-0005-PLR 08/09/2010 This letter concerns the taxation of air-to-ground telecommunications. See 35 ILCS 630/1 et seq.

ST 10-0053-GIL 06/07/2010 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 35 ILCS 630/1 *et seq.*

ST 10-0059-GIL 08/03/2010 Persons who provide satellite television services, including basic network channels, premium channels, pay per view movies, sporting events, etc., are generally not subject to the Telecommunications Excise Tax liability. See 35 ILCS 630/1 et. seq.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2010 THIRD QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

ST 10-0074-GIL 08/13/2010 Section 4 of the Telecommunications Excise Tax provides that the tax is not imposed "on the act or privilege [of originating or receiving telecommunications] to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the State." To the extent to which consular officials enjoy tax exemption pursuant to the Vienna Convention on Diplomatic and Consular Relations, the Illinois Telecommunications Excise Tax should not be imposed by carriers who are otherwise required to collect the tax.

ST 10-0083-GIL 09/08/2010 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495.

TRADE-INS

ST 10-0072-GIL 08/11/2010 In order to properly take a trade-in deduction, the item being traded-in must be of like kind and character as that which is being sold. See 86 Ill. Adm. Code 130.425.

ST 10-0085-GIL 09/30/2010 Sections 130.425 and 130.455 of the Department's Administrative Rules governing the Retailers' Occupation Tax Act contain no requirement that the traded-in tangible personal property had to be originally purchased in this State or that the original purchase was subject to Retailers' Occupation Tax or Use Tax liability. See 86 Ill. Adm. Code 130.425 and 130.455.

USE TAX

ST 10-0060-GIL 08/03/2010 This letter discusses the Interstate Commerce exemption. See 86 Ill. Adm. Code 130.605.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2010 THIRD QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

ST 10-0075-GIL 08/16/2010 Auto repairmen and body shops incur Illinois Use Tax liability when purchasing consumable supplies such as sand paper and masking tape. See 86 Ill. Adm. Code 150.101.

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 October 4, 2010 through October 11, 2010 and have been scheduled for review by the Committee at its November 16, 2010 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.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
11/17/10	Department of Healthcare and Family Services, Medical Payment (89 Ill. Adm. Code 140)	7/30/10 34 Ill. Reg. 10643	11/16/10
11/18/10	Department of State Police, Sexual Assault Evidence Submission Act (20 Ill. Adm. Code 1255)	8/20/10 34 Ill. Reg. 12130	11/16/10
11/18/10	Department of Public Health, Hospital Capital Investments (77 Ill. Adm. Code 976)	7/16/10 34 Ill. Reg. 9716	11/16/10
11/18/10	Department of Pubilc Health, Loan Repayment Assistance for Dentists (77 Ill. Adm. Code 580)	7/23/10 34 Ill. Reg. 10488	11/16/10
11/18/10	Secretary of State, Issuance of Licenses (92 Ill. Adm. Code 1030)	8/20/10 34 Ill. Reg. 12094	11/16/10
11/18/10	Secretary of State, School Bus Driver Permit (92 Ill. Adm. Code 1035)	8/20/10 34 Ill. Reg. 12105	11/16/10
11/19/10	Department of Corrections, Correctional Industries (20 Ill. Adm. Code 117)	7/9/10 34 Ill. Reg. 8808	11/16/10

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

11/19/10	Department of Corrections, Closed Maximum Security Facility (20 Ill. Adm. Code 505)	5/28/10 34 Ill. Reg. 7386	11/16/10
11/20/10	Secretary of State, Illinois State Library, Acquisitions Division, Illinois Documents Section (23 Ill. Adm. Code 3020)	8/20/10 34 Ill. Reg. 12122	11/16/10
11/20/10	Illinois Law Enforcement Training and Standards Board, Court Security Basic Training (20 Ill. Adm. Code 1780)	6/4/10 34 Ill. Reg. 7581	11/16/10
11/20/10	Illinois Law Enforcement Training and Standards Board, Surcharge Fund Financial Assistance (20 Ill. Adm. Code 1700)	6/25/10 34 Ill. Reg. 8136	11/16/10
11/21/10	Pollution Control Board, Permits and General Provisions (35 Ill. Adm. Code 201)	7/2/10 34 Ill. Reg. 8508	11/16/10

EXECUTIVE ORDER

2010-13
EXECUTIVE ORDER CREATING
THE ELGIN-OHARE WEST BYPASS ADVISORY COUNCIL

WHEREAS, An efficient transportation system is critical for the effective movement of people, goods, and services; and

WHEREAS, The Elgin-O'Hare West Bypass (EOWB) was initially conceived in the 1970's and is a project of national, statewide and regional significance; and

WHEREAS, The EOWB will foster continued global economic competitiveness, promote business retention and attraction, and create new jobs in Illinois; and

WHEREAS, The EOWB and future western terminal are key components to create access that is compatible with a world class airport; and

WHEREAS, A financially viable, multi-modal transportation network can serve as an instrument to enhance livability and expand green collar jobs in Illinois; and

WHEREAS, A public transportation system that is compatible with the proposed roadway improvements is vital to ensure a sustainable transportation system that supports air, rail and roadway freight, commuters and international visitors; and

WHEREAS, This confluence of forces offers an opportunity to analyze and assess various creative methods to support such a system;

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, pursuant to the supreme executive authority of the Governor as set forth in Article V of the Illinois Constitution, do hereby order as follows:

I. CREATION

There is hereby established the Elgin-O'Hare West Bypass Advisory Council (hereinafter "Council"), to be appointed by the Governor, having the duties and powers set forth herein, with respect to the Office of the Governor and agencies under the jurisdiction of the Office of the Governor.

II. PURPOSE

The Council shall advise the Governor and make recommendations in the development of an implementation, financing, and operating structure for the infrastructure improvements

surrounding, and supporting, O'Hare International Airport; including the extension of Elgin-O'Hare, a Western Bypass, and a complimentary transit network.

III. DUTIES

The Council's duties include, but are not limited to, the following:

a. Monitoring the overall progress of the Illinois Department of Transportation's (IDOT) EOWB Tier Two Process through monthly status reports; and
b. Reviewing and evaluating the Financial and Construction Sequencing analysis prepared by IDOT for the project; and
c. Analyzing the regional economic impact of the project and providing input on how to maximize economic growth, job creation, and new opportunities for industry development; and
d. Assessing the incorporation of green practices and planning into the project, involving, but not limited to, transit design and integration, construction materials, and other sustainable best practices; and
e. Developing a strategy to ensure the project supports a diverse workforce and opportunities for small and medium-sized businesses and underrepresented groups; and
f. Facilitating a regional consensus position for financing and implementing the project; and
g. Providing a report to the Governor with recommendations for a financial and implementation strategy.

IV. MEMBERSHIP AND ADMINISTRATIVE SUPPORT

The Council shall include representation from both public and private organizations. Members of the Council will serve without compensation.

The Governor shall appoint all members of the Council who shall serve at his pleasure. Members of the Council may include:

a. Representatives from the following state and local government agencies: Illinois Department of Transportation, Illinois State Toll Highway Authority, Illinois Finance Authority, City of Chicago Department of Aviation, Regional Transportation Authority.
b. Representatives from the following organizations: DuPage County Board of Commissioners, DuPage Mayors and Managers Conference, West Central Municipal Conference, Northwest Municipal Conference.

c. Individuals who represent the following areas: Planning, Labor, Business, Public Finance.

The representative of the Illinois Department of Transportation and the representative of the Illinois State Toll Highway Authority shall each serve as a co-chairman of the Council. IDOT shall provide administrative and technical support and staffing for the Council, including providing a staff member to serve as the Council's ethics officer.

V. REPORT

Based upon the findings of the EOWB Tier Two financial analysis, and considerations of this Council, the Council shall prepare a preliminary report with recommendations provided to the Governor by February 28, 2011; and a final report provided to the Governor April 29, 2011. The Council and the terms of its members shall expire upon delivery of the final report.

VI. TRANSPARENCY

In addition to whatever policies or procedures it may adopt, all operations of the Council will be subject to the provisions of the Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*) and the Illinois Open Meetings Act (5 ILCS 120/1 *et seq.*). This section shall not be construed so as to preclude other statutes from applying to the Council and its activities.

VII. SEVERABILITY

If any provision of this Executive Order is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

VIII. EFFECTIVE DATE

This Executive Order shall be effective upon filing with the Secretary of State.

Issued by the Governor: October 5, 2010
Filed with the Secretary of State: October 5, 2010

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 34, Issue 43 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

50 - 8100 15926
68 - 1420 15939
68 - 1450 15949
68 - 1450 16062
35 - 840 16188
23 - 25 16224
92 - 446 16301
92 - 454 16315

ADOPTED RULES

2 - 5051 10/8/2010 16329
2 - 5051 10/8/2010 16331
2 - 1700 10/15/2010 16359
14 - 523 10/5/2010 16364
56 - 5300 10/5/2010 16373
2 - 926 10/8/2010 16393
17 - 530 10/8/2010 16429
17 - 590 10/8/2010 16457
17 - 680 10/8/2010 16518
41 - 230 10/6/2010 16524
41 - 235 10/6/2010 16562
41 - 295 10/6/2010 16583

EMERGENCY RULES

74 - 900 10/8/2010 16587
74 - 330 10/8/2010 16593

EXECUTIVE ORDERS AND PROCLAMATIONS

10 - 13 10/5/2010 16609

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