2014

ILLINOIS

REGISTER

Rules of
Governmental Agencies

Volume 38, Issue 28

July 11, 2014

Pages 14,071-14,640

Index Department
Administrative Code Division
111 E. Monroe St.
Springfield, IL 62756
217-782-7017

Printed by authority of the State of Illinois. July — 90

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2014

Issue#	Rules Due Date	Date of Issue
1	December 23, 2013	January 3, 2014
2	December 30, 2013	January 10, 2013
3	January 6, 2014	January 17, 2014
4	January 13, 2014	January 24, 2014
5	January 21, 2014	January 31, 2014
6	January 27, 2014	February 7, 2014
7	February 3, 2014	February 14, 2014
8	February 10, 2014	February 21, 2014
9	February 18, 2014	February 28, 2014
10	February 24, 2014	March 7, 2014
11	March 3, 2014	March 14, 2014
12	March 10, 2014	March 21, 2014
13	March 17, 2014	March 28, 2014
14	March 24, 2014	April 4, 2014
15	March 31, 2014	April 11, 2014
16	April 7, 2014	April 18, 2014
17	April 14, 2014	April 25, 2014
18	April 21, 2014	May 2, 2014

19	April 28, 2014	May 9, 2014
20	May 5, 2014	May 16, 2014
21	May 12, 2014	May 23, 2014
22	May 19, 2014	May 30, 2014
23	May 27, 2014	June 6, 2014
24	June 2, 2014	June 13, 2014
25	June 9, 2014	June 20, 2014
26	June 16, 2014	June 27, 2014
27	June 23, 2014	July 7, 2014
28	June 30, 2014	July 11, 2014
29	July 7, 2014	July 18, 2014
30	July 14, 2014	July 25, 2014
31	July 21, 2014	August 1, 2014
32	July 28, 2014	August 8, 2014
33	August 4, 2014	August 15, 2014
34	August 11, 2014	August 22, 2014
35	August 18, 2014	August 29, 2014
36	August 25, 2014	September 5, 2014
37	September 2, 2014	September 12, 2014
38	September 8, 2014	September 19, 2014
39	September 15, 2014	September 26, 2014
40	September 22, 2014	October 3, 2014
41	September 29, 2014	October 10, 2014
42	October 6, 2014	October 17, 2014
43	October 14, 2014	October 24, 2014
44	October 20, 2014	October 31, 2014
45	October 27, 2014	November 7, 2014
46	November 3, 2014	November 14, 2014
47	November 10, 2014	November 21, 2014
48	November 17, 2014	December 1, 2014
49	November 24, 2014	December 5, 2014
50	December 1, 2014	December 12, 2014
51	December 8, 2014	December 19, 2014
52	December 15, 2014	December 26, 2014

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: State Administration of the Federal Community Development Block Grant Program for Small Cities

2) Code Citation: 47 Ill. Adm. Code 110

3) Section Number: 110.360 — Proposed Action: Amendment

4) Statutory Authority: Implementing Sections 605-945, and authorized by Section 605-95, of the Civil Administrative Code of Illinois [20 ILCS 605/605-940, 605-945 and 605-95]. Authorized by Title I of the Housing and Community Development Act of 1974, as amended 942 USC 5301 et seq.)

5) A Complete Description of the Subjects and Issues Involved: The U. S. Department of Housing and Urban Development is requiring the State of Illinois to amend the administrative rule found at 47 Ill. Adm. Code 110.360, entitled "Program Income Subject to the Act." The amendment is required in order make the rule consistent with the statutory changes made in 1992 to the HCDA. Under the proposed rule, program income shall always be subject to the requirements of Subpart I of 24 CFR 570, both before and after close out of the grant that generated the program income.

6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None

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

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

9) Does tthis rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: The rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandate Act (30 ILCS 805).

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a

period of 45 days following publication of this notice in the *Illinois Register*. Comments should be submitted to:

Jolene Clarke
Rules Administrator
Department of Commerce and Economic Opportunity
500 E. Monroe
Springfield, IL 62701

217/557-1820
fax: 217/524-3701
jolene.clarke@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses and small municipalities affected: This amendment updates and clarifies the federal statutory requirements for the administration of revolving loan fund programs by units of general local government (grantees) who have received Community Development Block Grant funds.

B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping, financial management, program administration and reporting regarding approved revolving loans.

C) Types of professional skills necessary for compliance: Grantees would already possess the skills necessary for compliance.

14) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the two most recent agendas because the Department did not anticipate the changes.

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENT

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 110
STATE ADMINISTRATION OF THE FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR SMALL CITIES

SUBPART A: COMMUNITY DEVELOPMENT ASSISTANCE PROGRAM

Section
110.10 Legislative Base
110.20 Purpose and Scope
110.30 Definitions
110.35 Incorporation by Reference
110.40 Federal/State Program Objectives
110.50 Eligible Applicants
110.60 Eligible/Ineligible Projects and Activities for CDAP Components
110.70 Grant Application Process
110.80 Funding
110.90 Emergency Set-Aside for Public Facilities Component
110.91 General Economic Development Component
110.92 Competitive Public Facilities Construction and Design Engineering Component
110.93 Competitive Housing Rehabilitation Component
110.94 Competitive Planning Assistance Component
110.95 Non-Competitive Mobility and Accessibility Rehabilitation Services Component
110.100 Application Evaluation for Competitive Public Facilities and Competitive Housing Rehabilitation Components (Repealed)
110.101 Application Evaluation for Competitive Planning Assistance Component
110.102 Pre-Application Determination and Application Evaluation for Non-Competitive Mobility and Accessibility Rehabilitation Services
110.103 Application Evaluation for Competitive Public Facilities Construction and Design Engineering Component
110.104 Application Evaluation for Competitive Housing Rehabilitation Component
110.105 Small Business Financing Component (Repealed)
110.106 Demonstration Program: Set-Aside for Emergency Lead-Based Paint Abatement
110.110 Administrative Requirements
110.120 Nondiscrimination
110.130 Complaint Process

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENT

SUBPART B: REVOLVING FUNDS

Section
110.210 Purpose
110.220 Definitions
110.230 Recapture Strategy Requirements
110.240 Revolving Fund Administration
110.250 Use of Revolving Funds
110.260 Requirements for Revolving Fund Projects
110.270 Administrative Costs
110.280 Revolving Fund Fundability Analysis
110.290 Revolving Fund Financial Assistance Closings
110.300 Security
110.310 Disbursement of Revolving Funds
110.320 Revolving Fund Monitoring
110.330 Recordkeeping and Reporting
110.340 Department Monitoring
110.350 Evaluation of Performance
110.360 Program Income Subject to the Act

AUTHORITY: Implementing Sections 605-940 and 605-945, and authorized by Section 605-95, of the Civil Administrative Code of Illinois [20 ILCS 605/605-940, 605-945 and 605-95]. Authorized by Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5301 et seq.).

SOURCE: Adopted and codified at 7 Ill. Reg. 2972, effective March 9, 1983; amended at 7 Ill. Reg. 7898, effective June 21, 1983; amended at 8 Ill. Reg. 16250, effective August 29, 1984; amended at 9 Ill. Reg. 7117, effective May 9, 1985; amended at 9 Ill. Reg. 10702, effective June 28, 1985; amended at 10 Ill. Reg. 10093, effective May 28, 1986; amended at 12 Ill. Reg. 2254, effective January 19, 1988; amended at 15 Ill. Reg. 4410, effective March 11, 1991; amended at 16 Ill. Reg. 20106, effective December 14, 1992; amended at 20 Ill. Reg. 7799, effective May 29, 1996; amended at 22 Ill. Reg. 1910, effective January 1, 1998; amended at 23 Ill. Reg. 8362, effective July 12, 1999; amended at 26 Ill. Reg. 11805, effective July 18, 2002; amended at 28 Ill. Reg. 13468, effective September 23, 2004; emergency amendment at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10017, effective June 28, 2005; amended at 38 Ill. Reg. _____, effective _____.

SUBPART B: REVOLVING FUNDS

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENT

Section 110.360 Program Income Subject to the Act

a) Any program income (as defined in Section 110.220 of this Subpart) that the Department has permitted a grantee to retain and that is realized while the grantee has an open CDAP grant is subject to the requirements of the Act and 24 CFR 570.

b) Program income retained by the grantee generated from a CDAP grant award shall always be~~prior to October 28, 1992 is not~~ subject to the requirements of the Act and 24 CFR 570 regardless of whether~~under~~ the ~~following conditions: 1) The~~ CDAP grant that~~which~~ generated the income is closed. For purposes of this Subpart, a closed project is defined in Section 110.220. ~~of this Subpart; and~~

~~2) All concurrent CDAP grants are closed.~~

~~c) Program income retained by the grantee generated from a grant awarded after October 28, 1992 is subject to the Act and 24 CFR 570.~~

~~d) If the grantee's CDAP grant records are insufficient to determine when program income was earned in relation to close-out of the grantee's CDAP projects, those RF shall be considered subject to the Act.~~

c~~e~~) Regardless of when the program income is earned, the RF shall always be subject to the requirements of the approved recapture strategy and each beneficiary of funds through the RF shall benefit at least 51% low and moderate-income persons.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Mental Health Services In Nursing Facilities

2) Code Citation: 89 Ill. Adm. Code 145

3) Section Number: 145.30 — Proposed Action: Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: This proposed amendment references the implementation of ICD-10 coding.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rule 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 does not affect units of local government.

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

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue E., 3rd Floor
Springfield IL 62763-0002

217/782-1233
HFS.Rules@illinois.gov.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

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: This rulemaking was not anticipated by the Department when the most recent regulatory agendas were published.

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 145
MENTAL HEALTH SERVICES IN NURSING FACILITIES

SUBPART A: DEMONSTRATION PROJECT FOR
MENTAL HEALTH SERVICES IN NURSING FACILITIES

Section
145.10 General Provisions

SUBPART B: INSTITUTION FOR MENTAL DISEASES PROVISIONS
FOR NURSING FACILITIES

Section
145.20 General Provisions
145.30 Definitions
145.40 Initial IMD Review, Determination and Classification of Facilities
145.50 Subsequent IMD Reviews, Determinations and Classifications
145.60 Effect of Becoming a Class II IMD and Redetermination Reviews
145.70 Watch List of Nursing Facilities at Risk of Becoming IMDs
145.80 Reimbursement Rate for IMD Nursing Facility Classifications
145.90 Reviews

AUTHORITY: Sections 5-5.5 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/5-5.5 and 12-13]

SOURCE: Adopted at 26 Ill. Reg. 3081, effective February 15, 2002; emergency amendment at 29 Ill. Reg. 10259, effective July 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 18906, effective November 4, 2005; amended at 38 Ill. Reg. _____, effective _____.

SUBPART B: INSTITUTION FOR MENTAL DISEASES PROVISIONS
FOR NURSING FACILITIES

Section 145.30 Definitions

For purposes of this Part, the following terms shall be defined as follows:

"IMD" means a nursing facility that is considered to be an Institution for Mental Diseases (IMD) under section~~Section~~ 1905(i) of the Social Security Act (42 USC 1396d(i)). Federal regulations provide that: An IMD is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services. An IMD has an overall character of a facility established and maintained primarily for the care and treatment of individuals with mental diseases. An institution for the mentally retarded (ICF/MR) is not an IMD (see 42 CFR 435.1009).

"Class I IMD" means a nursing facility determined to be an IMD during the initial review conducted pursuant to Section 145.40.

"Class II IMD" means a nursing facility determined to be an IMD in a subsequent review conducted pursuant to Section 145.50.

"IMD Guidelines" means the Guidelines in Section 4390 of the CMMS~~Health Care Financing Administration~~ State Medicaid Manual relating to Institutions for Mental Diseases (Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore MD 21244-1850 (1994, no later amendments or editions included)). Criteria used in determining whether the overall character of a facility is that of an IMD include whether the current need for institutionalization for more than 50 percent of all the patients in the facility results from mental diseases and whether the facility specializes in providing psychiatric/psychological care and treatment.

"Mental Disease" means mental disease or mental illness as defined in the IMD Guidelines. Mental disease includes those diseases listed as mental disorders in the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) until implementation on October 1, 2014 or later, at which time the mental disorders shall be listed in International Classification of Diseases, 10th Revision, Clinical Modification (ICD-10-CM), ~~(Centers for Disease Control and Prevention, National Center for Health Statistics, 6525 Belcrest Rd., Hyattsville MD 20782-2003 (2000, no later amendments or editions included)),~~ with the exception of mental retardation, senility and organic brain syndrome.

"Current need for nursing facility care results from mental disease" means that a review of the resident's diagnoses, the character and nature of his or her problems, functional status, and his or her care needs indicates that the resident's need for

nursing facility care results from his or her mental disease and not a physical or medical reason.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Educator Licensure

2) Code Citation: 23 Ill. Adm. Code 25

3)

Section Numbers:	Proposed Action:
25.25	Amendment
25.70	Amendment
25.275	Repeal
25.315	Repeal
25.345	Amendment
25.400	Amendment
25.450	Amendment
25.475	Repeal
25.497	Amendment
25.550	Amendment
25.800	Amendment
25.805	Amendment
25.807	Repeal
25.810	Repeal
25.820	Repeal
25.825	Repeal
25.830	Amendment
25.832	Amendment
25.835	Amendment
25.840	Amendment
25.845	Repeal
25.848	Repeal
25.850	Repeal
25.855	Amendment
25.860	Amendment
25.865	Amendment
25.872	Repeal
25.875	Amendment
25.880	Amendment
25.Appendix E	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.6

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

5) A Complete Description of the Subjects and Issues Involved: The proposed rules would implement several policy decisions about how the new license renewal system will be implemented. Each of these areas is described separately below.

Credit for Previous Renewal Activities. Section 25.800 addresses general requirements that apply to renewal under the new law and preserves the credit that a licensee may have accumulated under the certificate renewal system as that individual makes the transition to the new license renewal system. Staff are proposing that continuing professional development units, or CPDUs, earned on or before June 30, 2014, be converted to clock hours on a one-to-one basis. Credit for certain activities articulated in now-repealed Section 21-2 of the School Code [105 ILCS 5/21-2] are addressed in 25.800(d) and (e), providing a deadline of August 31, 2014 to complete the applicable activity (to allow for the conclusion of summer school) and, in situations where a degree or endorsement must be earned, has the degree conferred or endorsement issued no later than December 31, 2014.

Verification. Proposed Section 25.830(a) of the rules references the requirement of Section 21B-45(e) of the School Code that licensees enter certain information about a professional development activity into ELIS within 60 days of completing the activity. After outside consultation, agency staff delayed until July 1, 2015, a penalty for failure to enter the coursework, as required, in an effort to give time for licensees to become acquainted with the new provision. The rule at Section 25.830(c), regarding the penalty for failing to complete an Administrators' Academy course each fiscal year, is not new but is being moved from Section 25.313, which is being repealed.

Request for Extension. Section 25.835 responds to Section 21B-45(e)(9) of the School Code. This provision allows licensees to request an extension from the State Educator Preparation and Licensure Board (SEPLB) in order to complete their required professional development beyond September 1 of the year in which the license expires. The law states that a request for an extension may be made "due to professional development activities being unavailable". The proposed rule sets forth the information that a licensee must include in his or her request and the criteria upon which the SEPLB will base its decision.

Approval of Providers. Section 21B-45(g) of the School Code authorizes Illinois professional associations that represent certain categories of educators to seek approval through the State Board of Education to offer professional development under the license renewal system. Section 25.855 sets forth the process for that approval and allows providers approved under the current certificate renewal process to continue to offer

credit for professional development activities through December 31, 2014, provided the activities meet the requirements of Section 21B-45(g) of the School Code. Currently approved providers will be encouraged to submit an application for approval under the new license renewal system as soon as possible. Those meeting the requirements will receive provisional approval, and, once the administrative rules are filed and in effect sometime in the fall, final approval will be issued by the agency. Additionally, Section 25.860 lists the reporting and auditing requirements of Sections 21B-45(j) of the School Code for both statutorily approved providers and those receiving approval from the State Board of Education.

Exemptions. Under Section 21B-45 of the School Code, certain categories of educators who hold a PEL are not required to complete professional development. As proposed, the rules also exempt any individual who holds a valid and active PEL and who is working solely in a substitute teaching position. Professional development is not required to renew the substitute teaching license, so staff believe it is fair that substitute teachers who are working on a PEL also be exempted from professional development requirements.

Other changes being proposed in Part 25 include:

- Making clear in the introduction to Section 25.25 that applicants for a license, endorsement or approval must receive at least a "C" (or its equivalent) on any coursework required for receipt of the license, endorsement or approval;
- Clarifying in new Sections 25.25(c) and (d) that definitions of "valid certificate or license" and "teaching experience" apply to the use of either of these terms throughout the rulemaking (current language limits their applicability to student teaching);
- Acknowledging in new Section 25.25(a)(3) the provision of P.A. 98-581, effective August 27, 2013, for out-of-state applicants for the PEL endorsed in school support personnel to complete coursework addressing the areas of special education, reading and English language learning in the same way as applicants who completed Illinois preparation programs do;
- Aligning renewal requirements in Section 25.70 for the educator license with stipulations endorsed for career and technical educator with requirements under the new license renewal system for individuals holding a PEL; and
- Implementing changes in Sections 25.400 and 25.450 necessitated by P.A. 98-610 to note the differences between a license's lapsing on September 1 due to failure to complete renewal requirements and a license's lapsing six months after the date of expiration due to failure to register the license.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rule 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? Yes

Section Numbers:	Proposed Action:	Illinois Register Citation:
25.355	New Section	38 Ill. Reg. 7096; March 28, 2014
25.360	Amendment	38 Ill. Reg. 7096; March 28, 2014

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 of 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
rules@isbe.net

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

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SUBTITLE A: EDUCATION
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AUTHORITY: Implementing Articles 21 and 21B and Section 14C-8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21, Art. 21B, 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. 4315, effective February 23, 2011; peremptory amendment at

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35 Ill. Reg. 14663, effective August 22, 2011; amended at 35 Ill. Reg. 16755, effective September 29, 2011; amended at 36 Ill. Reg. 2191, effective January 24, 2012; amended at 36 Ill. Reg. 12455, effective July 23, 2012; emergency amendment at 36 Ill. Reg. 12903, effective July 24, 2012, for a maximum of 150 days; amended at 37 Ill. Reg. 199, effective December 19, 2012; amended at 37 Ill. Reg. 8379, effective June 12, 2013; amended at 37 Ill. Reg. 16729, effective October 2, 2013; amended at 38 Ill. Reg. 11261, effective May 6, 2014; amended at 38 Ill. Reg. _____, effective _____.

SUBPART B: LICENSES

Section 25.25 Requirements for the Professional Educator License

Beginning July 1, 2013, the requirements of this Section shall apply to the issuance of professional educator licenses~~, except that the requirements of this Section shall not apply to an individual who completes an educator preparation program by June 30, 2013, is issued an entitlement for licensure, and receives the professional educator license by July 31, 2013~~. All professional education and content-area coursework that forms part of an application for licensure, endorsement or approval submitted under this Part that is received on or after February 1, 2012 must have been passed with a grade no lower than "C" or equivalent in order to be counted towards fulfillment of the applicable requirements.

a) Each applicant shall:

1) have completed an approved Illinois educator preparation program for the type of endorsement (i.e., teaching, administrative or school support personnel) sought on the professional educator license (see Subpart C of this Part), including coursework addressing:

A) *the psychology of, the identification of, and the methods of instruction for the exceptional child, including without limitation the learning disabled* [105 ILCS 5/21B-20(1)], which shall focus on the characteristics and methods of instruction for cross-categorical special education students so that all teachers:

i) understand the impact that disabilities have on the cognitive, physical, emotional, social and communication development of an individual and provide opportunities that support the intellectual, social and personal development of all students;

ii) understand how students differ in their approaches to learning and create instructional opportunities that are adapted to diverse learners; and

iii) understand instructional planning and design instruction based on knowledge of the discipline, students, community and curriculum goal;

B) *methods of reading and reading in the content area* [105 ILCS 5/21B-20(1)], which for teachers and administrators shall address each of the following standards:

i) varied instructional approaches used before, during, and after reading, including those that develop word knowledge, vocabulary, comprehension, fluency, and strategy used in the content areas;

ii) the construction of meaning through the interactions of the reader's background knowledge and experiences, the information in the text, and the purpose of the reading situation;

iii) communication theory, language development, and the role of language in learning;

iv) the relationships among reading, writing and oral communication and understanding how to integrate these components to increase content learning;

v) the design, selection, modification and evaluation of a wide range of materials for the content areas and the reading needs of the student;

vi) variety of formal and informal assessments to recognize and address the reading, writing, and oral communication needs of each student; and

vii) varied instructional approaches that develop word knowledge, vocabulary, comprehension, fluency, and strategy use in the content areas; and

C) *methods of reading and reading in the content area* [105 ILCS 5/21B-20(1)], which for school support personnel shall address each of the following standards:

i) understands how students acquire reading competency;

ii) understands reading deficits and reading levels, and how they contribute to a student's ability to succeed in kindergarten through grade 12;

iii) understands the correlation of behavior and classroom culture (discipline, management, control, influence on engagement) on reading development and reading acquisition; and

iv) uses the skills and strategies specific to their school support personnel specialty to support or enhance reading skill development, as applicable.

2) pursuant to Section ~~105 ILCS 5/~~21B-35 of the School Code, have completed a comparable teaching or administrative preparation program in another state or country (see Section 25.425 of this Part), including:

A) *a minimum of one course* that is equivalent to at least three semester hours *in the methods of instruction of the exceptional child* in cross-categorical special education that meets the requirements of subsection (a)(1)(A);

B) *a minimum of six semester hours of coursework in methods of reading and reading in the content area* that meets the requirements of subsection (a)(1)(B) or (C), as applicable; and

C) *a minimum of one course* that is equivalent to at least three semester hours *in instructional strategies for English language*

learners, which shall address bilingual education, English as a Second Language or English as a New Language methods.

3) pursuant to Section 21B-35 of the School Code, have completed a comparable school support personnel preparation program in another state or country (see Section 25.425), including college coursework in:

A) *the methods of instruction of the exceptional child* (Section 21B-35(a)(3) of the School Code) in cross-categorical special education, which shall meet the requirements outlined in Section 25.25(a)(1)(A);

B) *the methods of reading and reading in the content area* (Section 21B-35(a)(4) of the School Code), which shall meet the requirements outlined in Section 25.25(a)(1)(C); and

C) *instructional strategies for English language learners* (Section 21B-35(a)(5) of the School Code), which shall align to standards for addressing second language acquisition and the diverse learner set forth in the Standards for the Speech-Language Pathologist (23 Ill. Adm. Code 28.230) or, for other school support personnel, the applicable standards in 23 Ill. Adm. Code 23 (Standards for School Support Personnel Endorsements).

b) Each applicant for a professional educator license endorsed in a teaching field shall have completed:

1) 32 semester hours, or a major as identified by the accredited institution on the individual's official transcript, in early childhood education, elementary education, or a field of specialization, as applicable to the type of endorsement sought on the professional educator license; and

2) student teaching in conformance with the requirements of Section 25.620 ~~of this Part~~, except in the following circumstances:

A) Applicants awarded credit in student teaching on a transcript issued by a regionally accredited institution of higher education and presenting evidence of teaching experience, as verified by the

employer, need not complete another student teaching experience, except as may be required under Section 25.37~~ of this Part~~.

B) One full year's teaching experience on a valid certificate or license in the public schools shall be accepted in lieu of student teaching.

c) For the purposes of this Part~~subsection (b)(2)~~:

1~~i~~) a "valid certificate or license" means a certificate or license endorsed in the specific teaching field and grade levels for which Illinois licensure is sought that is equivalent to an educator license with stipulations endorsed for provisional educator or an Illinois professional educator license ~~endorsed in the specific teaching field for which Illinois licensure is sought~~; and

2~~ii~~) "one full year's teaching experience" means the equivalent of two semesters of scheduled full-time teaching, which may, however, be accumulated in any combination of increments. That is, it need not be accumulated through full-time teaching.

d~~C~~) Evidence of teaching experience, as may be required under this Part~~subsection (b)(2)~~, may be satisfied in one of the following ways:~~.~~

1~~i~~) For teachers employed in Illinois public schools, verification of the teacher's experience obtained from the State Board of Education's ELIS may be used.

2~~ii~~) The chief administrator or other designated official of the employing school district or nonpublic school (or other employing entity, if applicable to the holder of a professional educator license endorsed for early childhood; also see subsection (d)(4)~~(b)(2)(C)(iv) of this Section~~) may submit a letter documenting the nature and duration of the applicant's teaching.

3~~iii~~) A letter signed by an official of the state education agency in another state may be substituted for an employer's letter when the latter cannot be secured.

4~~iv~~) Early childhood teaching experience shall be understood as contributing to the fulfillment of this requirement if gained in a position for which a professional educator license endorsed for early childhood was required pursuant to the rules of the State Board of Education at 23 Ill. Adm. Code 235 (Early Childhood Block Grant).

5~~v~~) Experience gained while teaching in a home school shall not be applicable to the fulfillment of this requirement.

e~~c~~) Each applicant for a professional educator license endorsed in an administrative or school support personnel field shall meet the applicable requirements of Subpart D or E of this Part, respectively.

f~~d~~) The professional educator license shall be endorsed in accordance with this Part.

g~~e~~) Each applicant shall be required to pass the tests required for the professional educator license as specified in Section 21B-30 of the School Code [105 ILCS 5/21B-30] and Section 25.720 of this Part.

h~~f~~) Nothing in this Section is intended to preclude an applicant from seeking the issuance of an educator license with stipulations endorsed for provisional educator in specific fields (i.e., teaching, administrative or school support personnel) and, as applicable, content areas and grade levels under Section 21B-20 of the School Code in the event that the individual has failed to meet one or more of the requirements for a professional educator license in his or her area of endorsement.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 25.70 Endorsement for Career and Technical Educator

The requirements of this Section apply to individuals seeking an educator license with stipulations endorsed for career and technical educator pursuant to Section 21B-20(2)(E) of the School Code [105 ILCS 5/21B-20(2)(E)]. The requirements of this Section (except for those specific to license renewal) do not apply to provisional vocational certificates exchanged for an educator license with stipulations endorsed for career and technical educator under Section 25.15 ~~of this Part~~.

a) Each applicant for an educator license with stipulations endorsed for career and technical educator shall present evidence of having completed 60 semester hours

of college coursework from a regionally accredited institution, as well as evidence of having completed 2,000 hours of work experience outside the field of education in each area to be taught in the last 10 years immediately preceding application. The required evidence of this work experience shall be written statements from former supervisors who can be reached for verification or, in cases in which supervisors are no longer available to verify the individual's employment, affidavits by the applicant describing the work experience.

b) Each applicant also shall have passed the test of basic skills required under Section 21B-30 of the School Code [105 ILCS 5/21B-30] and Section 25.720 of this Part.

c) Each educator license with stipulations endorsed for career and technical educator issued on or after July 1, 2013 shall be valid until June 30 immediately following five years after the license is issued (see Section 21B-20(2)(E) of the School Code). Renewal of the license after that five-year period shall be contingent upon the licensee's fulfillment of the applicable requirements of this Section.

d) For purposes of this subsection (d), coursework completed for license renewal purposes shall be considered "related to education" if it leads to a professional educator license or, for individuals holding a professional educator license, an endorsement on that license for the skill area of instruction, or if it relates to the field of an individual's current teaching assignment or any other field of teaching assignment. Beginning July 1, 2014, each~~Each~~ affected licensee shall complete:

~~1) eight semester hours of undergraduate or graduate-level coursework related to education, of which no fewer than two semester hours must address advancing the licensee's knowledge and skills as a teacher in relation to the Illinois Professional Teaching Standards (see 23 Ill. Adm. Code 24.100) and the content-area standards in his or her area of licensure, endorsement, or assignment; or~~

1~~2~~) 120 hours of~~continuing~~ professional development activities~~units (CPDUs)~~ in each 5-year renewal cycle that align to the criteria set forth in Section 25.805(a)~~accordance with Section 25.875 of this Part~~; or

~~3) any combination of the types of activities described in subsections (a)(1) and (2) of this Section, provided that the total effort represents the~~

~~equivalent of 120 CPDUs, and provided that one semester hour of college credit shall be considered the equivalent of 15 CPDUs; or~~

~~4)~~ ~~an advanced degree from a regionally accredited institution in an education-related field; or~~

2~~5~~) 60 hours of professional development activities in each 5-year renewal cycle that align to the criteria set forth in Section 25.805 for any licensee holding a current~~all required activities in pursuit of certification or recertification by the~~ National Board for Professional Teaching Standards (NBPTS) master teacher designation.~~; or~~

~~6)~~ ~~four semester hours of graduate-level coursework on the assessment of one's own performance in relation to the Illinois Professional Teaching Standards; or~~

~~7)~~ ~~four semester hours of graduate-level coursework in preparation for meeting the requirements for certification by the National Board for Professional Teaching Standards.~~

~~e)~~ ~~Each professional development activity used to fulfill the requirements of this Section, other than those identified in subsections (d)(4) through (7) of this Section, shall be required to address one or more of the purposes identified for the renewal of professional educator licenses in Section 21-14(e)(2) of the School Code [105 ILCS 5/21-14(e)(2)]. At least 20 percent of the units required must address the purpose identified in Section 21-14(e)(2)(E) of the School Code.~~

e~~f~~) Credit for CPDUs ~~shall be~~ generated for completion of activities before June 30, 2014 shall be calculated on the basis of this subsection (e). The licensee shall enter the completed activities electronically into ELIS no later than December 31, 2014. Licensees shall be responsible for completing any additional professional development activities as may be needed to reach a total of 120 clock hours before the end of their 5-year renewal cycle, as applicable. (See Section 25.800(d) and (e).)

1) One CPDU shall be equivalent to 1 clock hour of credit under the system to be implemented July 1, 2014.

2) One semester hour of college coursework from a regionally accredited institution of higher education shall be equivalent to 15 clock hours under the system to be implemented July 1, 2014.

3) Completion of any of the activities listed in Section 25.800(e) shall fulfill all or a portion of the professional development required.~~in accordance with provisions of Section 25.875 of this Part, provided that the activity described in subsection (h) of that Section shall not be used to generate CPDUs for holders of the educator license with stipulations endorsed for career and technical educator and references to Section 21-14 of the School Code [105 ILCS 5/21-14] are not applicable in the case of the educator license with stipulations endorsed for career and technical educator.~~

f~~g~~) The provisions of Sections 25.855 and~~, 25.860,~~ 25.865~~, and 25.872 of this Part~~ shall apply to the awarding of credit~~CPDUs~~ for activities offered by approved providers, provided that:

1) the references to Section 21B-45~~21-14~~ of the School Code are not applicable to the educator license with stipulations endorsed for career and technical educator; and

2) references to Subpart J of this Part shall be understood as referring to this Section where necessary to the context.

g~~h~~) Each educator license with stipulations endorsed for career and technical educator shall be maintained as "valid and active" or "valid and exempt" for each school year~~semester~~ of its validity. Periods of exemption ~~and proportionate reductions in the requirements for continuing professional development~~ shall be determined as discussed in Section 25.800~~25.880(a) of this Part~~. In addition, individuals holding~~the number of continuing professional development units needed to renew~~ the educator license with stipulations endorsed for career and technical educator who are working in a position for less than~~shall be reduced by~~ 50 percent of full-time equivalency in any particular school year *shall be considered to be exempt and shall be required to pay only the registration fee in order to renew and maintain the validity of the license* (Section 21B-45(e)(5) of the School Code)~~for any amount of time during which the licensee has been employed and performing services on a part-time basis, i.e., for less than 50 percent of the school day or school term~~.

~~i)~~ ~~Credit earned for any activity that is completed (or for which the licensee receives evidence of completion) on or after April 1 of the final year of validity of an educator license with stipulations endorsed for career and technical educator, if not claimed with respect to that period of validity, may be carried over and claimed in the subsequent period of validity, provided that the activity in question is relevant to the requirements that apply to that period.~~

h~~j~~) Each licensee shall:

1) enter into ELIS the name of the activity completed, the date on which it occurred, the number of professional development hours received and the name of the provider not later than 60 days after the activity is completed~~maintain the required form of evidence of completion for each activity throughout the period of validity that follows the renewal of the educator license with stipulations endorsed for career and technical educator based on completion of the activities documented~~; and

2) at the time of license renewal, electronically sign a statement in ELIS, assuring that he or she has completed the professional development required to renew the license~~present the evidence of completion upon request by the regional superintendent or a representative of the State Board of Education~~ or if required as part of an appeal under Section 25.840 of this Part.

i) Beginning July 1, 2015, a licensee who fails to enter into ELIS his or her completed professional development within the timeline set forth in subsection (h) shall be unable to include credit for those activities among the clock hours needed to satisfy renewal requirements.

~~k)~~ ~~Each holder of an educator license with stipulations endorsed for career and technical educator shall apply for renewal of that license as set forth with respect to professional educator licenses in Section 25.830 of this Part, including the submission of a statement of assurance that conforms to the requirements of subsection (b) of that Section, except that:~~

~~1)~~ ~~each statement of assurance for license renewal shall be submitted to the regional superintendent of schools, regardless of whether a local~~

~~professional development committee is in operation in the employing district; and~~

~~2)~~ ~~references to professional educator licenses in that Section shall be understood to apply to an educator license with stipulations endorsed for career and technical educator as necessary to the context.~~

~~l)~~ ~~Within 14 days after receiving a statement of assurance for the renewal of an educator license with stipulations endorsed for career and technical educator, the regional superintendent shall forward to the State Educator Preparation and Licensure Board a recommendation for renewal or nonrenewal in a format prescribed by the State Superintendent of Education.~~

~~1)~~ ~~The regional superintendent shall transmit a list identifying all the licensees with respect to whom the regional superintendent is recommending renewal of an educator license with stipulations endorsed for career and technical educator, along with verification that:~~

~~A)~~ ~~each licensee has completed professional development or otherwise qualifies for renewal of the educator license with stipulations endorsed for career and technical educator in accordance with this Section; and~~

~~B)~~ ~~each licensee has submitted the statement of assurance required in accordance with subsection (k) of this Section.~~

~~2)~~ ~~If the recommendation is not to renew the educator license with stipulations endorsed for career and technical educator, or if information provided on the statement of assurance makes the individual subject to the requirements of any of Sections 25.485 through 25.491 of this Part, the licensee's copy shall be sent concurrently by certified mail, return receipt requested. Each recommendation for nonrenewal shall include the regional superintendent's rationale.~~

j~~m~~) A licensee with respect to whom the State Superintendent of Education~~a regional superintendent~~ has recommended nonrenewal of the educator license with stipulations endorsed for career and technical educator due to failure to complete the professional development requirements set forth in this Section may appeal to the State Educator Preparation and Licensure Board (SEPLB) within 30 days after

receipt of the notice of nonrenewal in accordance with the provisions of Section 25.840~~25.835(h) of this Part~~, except that references to the requirements of Section 21B-45(m)~~21-14~~ of the School Code shall not apply in the case of the educator license with stipulations endorsed for career and technical educator.

k~~n~~) Within 90 days after receiving the appeal, the SEPLB~~The State Educator Preparation and Licensure Board~~ shall review the State Superintendent's recommendation~~regional superintendents' recommendations~~ regarding the renewal of the educator license~~licenses~~ with stipulations endorsed for career and technical educator and notify the affected licensee~~licensees~~ in writing as to whether his or her license has~~their licenses have~~ been renewed or not renewed. This notification shall be by certified mail, return receipt requested, and shall occur~~take place~~ within 30~~90~~ days after the SEPLB makes its determination~~State Educator Preparation and Licensure Board receives regional superintendents' recommendations~~, subject to the right of appeal set forth in this subsection (k~~n~~).

1) Within 60 days after receipt of an appeal filed by a licensee challenging the State Superintendent's~~a regional superintendent's~~ recommendation for nonrenewal, the SEPLB~~State Educator Preparation and Licensure Board~~ shall determine whether it will hold an appeal hearing or make a determination based on the information outlined in Section 21B-45(m)(2) of the School Code. If a hearing will be held, the~~The~~ Board shall notify the licensee of the date, time~~,~~ and place of the hearing.

2) The licensee shall submit to the SEPLB~~State Educator Preparation and Licensure Board~~ any additional information ~~as~~ the Board determines is necessary to decide the appeal.

3) The SEPLB~~State Educator Preparation and Licensure Board~~ may request that the licensee appear before it. The licensee shall be given at least 10 days' notice of the date, time~~,~~ and place of the hearing.

4) In verifying whether the licensee has met the renewal criteria set forth in this Section, the SEPLB~~State Educator Preparation and Licensure Board~~ shall review the recommendation of the State Superintendent~~regional superintendent of schools~~ and all relevant documentation.

l~~o~~) The SEPLB~~State Educator Preparation and Licensure Board~~ shall notify the licensee in writing, within 30~~seven~~ days after reaching a decision~~completing its~~

~~review~~, as to whether the educator license with stipulations endorsed for career and technical educator has been renewed. Upon receipt of notification of renewal, the licensee shall pay the applicable registration fee for the next 5-year renewal cycle using ELIS~~to the regional superintendent~~. If the decision is not to renew the license, the notice to the licensee shall be transmitted by certified mail, return receipt requested, and shall state the reason for the decision. The decision of the SEPLB~~State Educator Preparation and Licensure Board~~ is final and subject to administrative review as set forth in Section 21B-70 of the School Code [105 ILCS 5/21B-70].

m~~p~~) An individual whose educator license with stipulations endorsed for career and technical educator is not renewed because of his or her failure to meet the requirements of this Section may renew the license once it has lapsed (i.e., on September 1 of the calendar year in which the license expired~~has been expired for six months or more~~) if he or she has paid all back fees, including registration fees, owed and:

1) either paid the penalty or completed the coursework required under Section 21B-45~~21-14~~ of the School Code, the latter of which shall not be counted as both satisfying the penalty and meeting the professional development owed; ~~[105 ILCS 5/21-14]. Until that time, the individual shall receive a renewable educator license with stipulations endorsed for career and technical educator only if he or she pays any back fees owed~~ and

2) presented~~presents~~ evidence of having completed the balance of the professional development activities that were required for renewal of the license previously held.

n~~q~~) The provisions of Section 25.840(e)~~25.840(d) of this Part~~ shall apply to the renewal of the educator license with stipulations endorsed for career and technical educator.

o~~r~~) An individual who performs services on an educator license with stipulations endorsed for career and technical educator and concurrently also on a professional educator license that is subject to renewal requirements shall be subject to the provisions of Subpart J~~Section 25.475 of this Part~~.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART D: SCHOOL SUPPORT PERSONNEL

Section 25.275 Renewal of the Professional Educator License Endorsed for School Support Personnel (Repealed)

~~The requirements set forth in this Section apply to renewal of professional educator licenses endorsed for school support personnel (SSP) in accordance with Section 21-25 of the School Code [105 ILCS 5/21-25].~~

~~a) Pursuant to Section 21-25 of the School Code, the renewal of professional educator licenses endorsed for school support personnel held by individuals employed and performing services in certain types of public schools is contingent upon licensees' presentation of evidence of continuing professional development. Renewal of any affected professional educator licenses endorsed for SSP whose period of validity begins on or after July 1, 2008 shall require the licensee's:~~

~~1) possession of one of the State professional licenses identified in Section 21-25(e) of the School Code, that is:~~

~~A) current licensure as either a clinical professional counselor or a professional counselor under the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act [225 ILCS 107];~~

~~B) current licensure as either a clinical social worker or a social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20]; or~~

~~C) current licensure as a speech-language pathologist under the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]; or~~

~~2) possession of one of the national certifications identified in Section 21-25(e) of the School Code; or~~

~~3) completion of sufficient professional development activities to satisfy the requirements of Section 21-25 of the School Code.~~

~~b) An individual who wishes to qualify for license renewal based on professional licensure or national certification as permitted by Section 21-25 of the School Code shall maintain documentation related to the relevant license or certificate, including its date of issue, period of validity, and issuing body. This information shall be included in the individual's application for license renewal in place of the statement of assurance called for in subsection (k) of this Section.~~

~~c) Completion of the certification process conducted by the National Board for Professional Teaching Standards (NBPTS) may be used to fulfill the entire requirement for professional development under subsection (a)(2) of this Section for the renewal cycle during which completion occurs. Evidence of completion of this process shall be the inclusion of the licensee's name on NBPTS' composite list of those who have completed the certification process (as distinct from having received certification).~~

~~d) Except as provided in subsections (b) and (c) of this Section, *each professional development activity used to fulfill the requirements of this Section shall be required to address one or more of the purposes* set forth in Section 21-25(e) of the School Code, and *four of the five purposes must be addressed*. No later than 60 days after the State Board of Education votes to establish or change the list of *areas determined by the Board to be critical for all school* support *personnel* (Section 21-25 of the School Code), the State Superintendent of Education shall notify each school district superintendent, each regional superintendent of schools, and any organization that requests this notification. The notice shall include a list of the areas and state the date upon which the list takes effect.~~

~~e) CPDUs shall be generated for completion of activities in accordance with the provisions of Section 25.875 of this Part, provided that, as necessary to the context:~~

~~1) references to Section 21-14 of the School Code shall be understood to mean the comparable provisions of Section 21-25 of the School Code;~~

~~2) references to teachers, teaching, and instruction shall be understood to mean holders of a professional educator license endorsed for school support personnel and their performance of services;~~

~~3) references to the classroom shall be understood to mean the setting where services are provided;~~

~~4) references to classes directly taught by the licensee (Section 25.875(e) and (n) of this Part) shall be understood to mean students directly served by the licensee;~~

~~5) references specific to the supervision or preparation of candidates for professional educator licenses endorsed for teaching (Section 25.875(h) and (m) of this Part) shall be understood to mean the supervision or preparation of candidates for the school support personnel endorsement;~~

~~6) references to content-area standards (Section 25.875(i) of this Part) shall be understood to mean the relevant standards set forth at 23 Ill. Adm. Code 23 (Standards for the School Service Personnel Certificate); and~~

~~7) the reference to State priorities (Section 25.875(k) of this Part) shall be understood to mean the critical areas identified by the State Board of Education pursuant to Section 21-25(e)(2) of the School Code.~~

~~f) The provisions of Sections 25.855, 25.860, 25.865, and 25.872 of this Part shall apply to the awarding of CPDUs for activities offered by providers, provided that, as necessary to the context:~~

~~1) references to Section 21-14 of the School Code shall be understood to mean the comparable provisions of Section 21-25 of the School Code;~~

~~2) references to Subpart J of this Part shall be understood as referring to this Section; and~~

~~3) references to teachers shall be understood to include holders of the professional educator license endorsed for school support personnel.~~

~~g) Each school support personnel endorsement on a professional educator license shall be maintained as "valid and active" or "valid and exempt" for each semester of its validity. Periods of exemption and proportionate reductions in the requirements for continuing professional development shall be determined as discussed in Section 25.880(a) of this Part. In addition:~~

~~1) *the number of continuing professional development units needed to renew the* license *shall be reduced by 50 percent for any amount of time during*~~

~~*which the* licensee *has been employed and performing services on a part-time basis, i.e., for less than 50 percent of the school day or school term*; and~~

~~2) *a* licensee *who is employed as a substitute on a part-time basis or a day-to-day basis shall only be required to pay the registration fee in order to renew his or her* license (Section 21-25(e) of the School Code).~~

~~h) Credit earned for any activity that is completed (or for which the licensee receives evidence of completion) on or after April 1 of the final year of a license's validity, if not claimed with respect to that period of validity, may be carried over and claimed in the subsequent period of validity, provided that the activity in question is relevant to the requirements that apply to that period.~~

~~i) Each licensee shall:~~

~~1) maintain the required form of evidence of completion for each activity throughout the period of validity that follows the renewal of the license based on completion of the activities documented; and~~

~~2) present the evidence of completion upon request by the regional superintendent or a representative of the State Board of Education or if required as part of an appeal under this Section.~~

~~j) Each holder of a professional educator license endorsed for SSP shall seek renewal of that license as set forth with respect to teaching licenses in Section 25.830 of this Part, including the submission of a statement of assurance that conforms to the requirements of subsection (b) of that Section, except that each statement of assurance for license renewal shall be submitted to the regional superintendent of schools, regardless of whether a local professional development committee is in operation in the employing district.~~

~~k) Within 14 days after receiving a statement of assurance for the renewal of a professional educator license endorsed for school support personnel, the regional superintendent shall forward to the SEPLB a recommendation for renewal or nonrenewal in a format prescribed by the State Superintendent of Education.~~

~~1) The regional superintendent shall transmit a list identifying all the licensees with respect to whom the regional superintendent is~~

~~recommending renewal of the professional educator license endorsed for SSP, along with verification that:~~

~~A)~~ ~~each licensee has completed professional development or otherwise qualifies for license renewal in accordance with the requirements of Section 21-25 of the School Code and this Section; and~~

~~B)~~ ~~each licensee has submitted the statement of assurance required in accordance with subsection (j) of this Section.~~

~~2)~~ ~~If the recommendation is not to renew the license held, or if information provided on the application makes the individual subject to the requirements of any of Sections 25.485 through 25.491 of this Part, the licensee's copy shall be sent concurrently by certified mail, return receipt requested. Each recommendation for nonrenewal shall include the regional superintendent's rationale.~~

~~l)~~ ~~A licensee with respect to whom a regional superintendent has recommended nonrenewal of the professional educator license endorsed for SSP may appeal to the SEPLB in accordance with the provisions of Section 25.835(h) of this Part, except that the requirements of Section 21-25 of the School Code shall be understood to apply rather than those established by Section 21-14 of the School Code.~~

~~m)~~ ~~The SEPLB shall review regional superintendents' recommendations regarding the renewal of the professional educator licenses endorsed for SSP and notify the affected licensees in writing as to whether their licenses have been renewed or not renewed. This notification shall take place within 90 days after the SEPLB receives regional superintendents' recommendations, subject to the right of appeal set forth in this subsection (m).~~

~~1)~~ ~~Within 60 days after receipt of an appeal filed by a licensee challenging a regional superintendent's recommendation for nonrenewal, the SEPLB shall hold an appeal hearing. The Board shall notify the licensee of the date, time, and place of the hearing.~~

~~2)~~ ~~The licensee shall submit to the SEPLB any additional information as the SEPLB determines is necessary to decide the appeal.~~

~~3) The SEPLB may request that the licensee appear before it. The licensee shall be given at least 10 days' notice of the date, time, and place of the hearing.~~

~~4) In verifying whether the licensee has met the renewal criteria set forth in Section 21-25 of the School Code, the SEPLB shall review the recommendation of the regional superintendent of schools and all relevant documentation.~~

~~n) The SEPLB shall notify the licensee in writing, within seven days after completing its review, as to whether the professional educator license endorsed for SSP has been renewed. Upon receipt of notification of renewal, the licensee shall pay the applicable registration fee to the regional superintendent. If the decision is not to renew the license, the notice to the licensee shall be transmitted by certified mail, return receipt requested, and shall state the reason for the decision. The decision of the SEPLB is final and subject to administrative review as set forth in Section 21-24 of the School Code [105 ILCS 5/21-24].~~

~~o) An individual whose license is not renewed because of his or her failure to meet the requirements of Section 21-25 of the School Code and this Section may renew the license once it has lapsed (i.e., been expired for six months or more) if he or she has paid all back fees, including registration fees, owed and either paid the penalty or completed the coursework required under Section 21-14(a) of the School Code [105 ILCS 5/21-14(a)]. Until that time, the professional educator license endorsed for SSP shall be renewed only if the individual pays any back fees owed and presents evidence of having completed the balance of the professional development activities that were required for renewal of the license previously held.~~

~~p) The provisions of Section 25.840(d) of this Part shall apply to the renewal of the professional educator license endorsed for school support personnel.~~

~~q) An individual who performs services both on a professional educator license endorsed for SSP and concurrently on some other type of license or other endorsement on the professional educator license to which renewal requirements apply shall be subject to the provisions of Section 25.475 of this Part.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART E: REQUIREMENTS FOR THE LICENSURE OF ADMINISTRATIVE AND SUPERVISORY STAFF

Section 25.315 Renewal of Administrative Endorsement (Repealed)

~~The requirements set forth in this Section apply to renewal of professional educator licenses endorsed for administrative positions (i.e., general administrative, principal, chief school business official, general supervisory or superintendent) in accordance with Section 21-7.1 of the School Code [105 ILCS 5/21-7.1].~~

~~a) Professional Development Required~~
~~Pursuant to Section 21-7.1 of the School Code, renewal of professional educator licenses endorsed for administrative positions held by public school administrators who are serving in positions requiring administrative endorsements is contingent upon the licensees' presentation of evidence of continuing professional education. For the purposes of this Section, the terms "continuing professional education" and "continuing professional development" shall be considered synonymous. Renewal of a professional educator license endorsed for any affected administrative positions shall require the licensee's completion of professional development activities sufficient to satisfy the requirements of Section 21-7.1 of the School Code and presentation, upon request by the regional superintendent or a representative of the State Board of Education or if required as part of an appeal under this Section, of evidence of completion of the activities.~~

~~b) Each activity shall be required to address one or more of the following purposes:~~

~~1) *improving the administrator's knowledge of instructional practices and administrative procedures*;~~

~~2) *maintaining the basic level of competence required for* licensure*; and*~~

~~3) *improving skills and knowledge regarding the improvement of teaching performance in clinical settings and assessment of levels of student performance.* (Section 21-7.1 of the School Code)~~

~~c) Activities selected to fulfill the requirement for 100 hours of professional development (see Section 21-7.1(c-10) of the School Code) shall be subject to the provisions of this subsection (c).~~

~~1) Activities chosen for this purpose may include but need not be limited to:~~

~~A) Completion of college/university courses;~~

~~B) Participation in state and national conferences of professional organizations or in workshops, seminars, symposia, or other, similar training events;~~

~~C) Teaching college/university courses or making presentations at conferences, workshops, seminars, symposia, or other, similar training events;~~

~~D) Providing formal mentoring to one or more other administrators;~~

~~E) Independent study; and~~

~~F) Other activities related to the Illinois School Leader Standards and other applicable standards (see 23 Ill. Adm. Code 29) such as developing or revising school programs, participating in Administrators' Academy courses, research, and other, similar projects.~~

~~2) Continuing professional development hours for the activities chosen pursuant to this subsection (c) shall be credited as follows.~~

~~A) Fifteen hours shall be credited for each semester hour of college credit earned.~~

~~B) One hour shall be credited for each hour of the administrator's direct participation in a relevant activity other than college coursework, as verified by a log the administrator shall maintain and present upon request by the regional superintendent or a representative of the State Board of Education, or if required as part of an appeal under this Section, describing what was done with respect to each activity, with dates and amounts of time spent in each case.~~

~~d) Required Administrators' Academy Courses~~

~~1) An individual who fails to complete an Administrators' Academy course in a given year as required by Section 21-7.1(c-10)(B) of the School Code shall be required to complete two courses for each one missed. He or she may make these up at any time during the remainder of the license's validity or prior to the reinstatement of a certificate that has lapsed pursuant to Section 25.450 of this Part.~~

~~2) Each administrator who completes an Administrators' Academy course shall receive written, dated verification that indicates the title of the course and the number of hours to be credited toward the applicable requirement.~~

~~e) Renewal of License~~

~~1) Each statement of assurance for renewal of a professional educator license endorsed for an administrative position, other than a statement of assurance of a regional superintendent of schools, shall be submitted to the regional superintendent and shall be accompanied by *a verification format developed by the State Board of Education certifying that* the required number of hours of professional development activities and the required number of Administrators' Academy courses have been completed. (Section 21-7.1(c-10) of the School Code) A licensee who fails to submit this material so as to ensure its receipt by the regional superintendent no later than April 30 may not be able to preserve his or her right of appeal under subsection (f) of this Section.~~

~~2) Based on the available information regarding the individual's compliance with the requirements for license renewal set forth in this Section, the regional superintendent shall, within 30 days after receipt of an individual's statement of assurance, forward a recommendation for renewal or non-renewal of the license to the State Superintendent of Education and notify the licensee in writing of that recommendation.~~

~~3) A licensee who is a regional superintendent of schools shall submit the verification format referred to in subsection (e)(1) of this Section to the State Superintendent of Education along with his or her application for license renewal.~~

~~4)~~ ~~Within 30 days after receiving a statement of assurance, the State Superintendent of Education shall notify the affected licensee as to whether the license has been renewed or not renewed, including the rationale for nonrenewal. Upon receipt of notification of renewal, the licensee shall pay the applicable registration fee to the regional superintendent, except that a regional superintendent shall deposit his or her own fee in the region's institute fund.~~

~~5)~~ ~~An individual whose license is not renewed because of his or her failure to complete professional development in accordance with this Section may renew the license once it has lapsed (i.e., been expired for six months) if he or she has paid all back fees, including registration fees, owed and either paid the penalty or completed the coursework required under Section 21-14 of the School Code [105 ILCS 5/21-14]. Until that time, the professional educator license endorsed for an administrative position may be renewed only if the individual pays any back fees owed and presents evidence of having made up activities missed during the preceding renewal cycle by completing the requirements of subsection (e)(5)(A) of this Section, subsection (e)(5)(B) of this Section, or both, as applicable.~~

~~A)~~ ~~The licensee shall complete two Administrators' Academy courses for each year during which he or she failed to complete one, if not already made up as discussed in subsection (d)(1) of this Section.~~

~~B)~~ ~~If the licensee fails to complete the applicable number of professional development activities or hours, he or she shall complete the balance of that requirement and ten additional hours of professional development meeting the requirements of subsections (b) and (c) of this Section.~~

~~f)~~ ~~Appeal to SEPLB~~

~~Within 14 days after receipt of notice from the State Superintendent that his or her license will not be renewed based upon failure to complete the requirements of this Section, a licensee may appeal that decision to the SEPLB by submitting a letter requesting a hearing to the State Board of Education.~~

STATE BOARD OF EDUCATION

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~~1) Each appeal shall state the reasons why the State Superintendent's decision should be reversed and shall be sent by certified mail, return receipt requested.~~

~~A) Appeals shall be addressed to:~~

~~State Educator Preparation and Licensure Board Secretary~~
~~100 North First Street~~
~~Springfield, Illinois 62777~~

~~B) No electronic or facsimile transmissions will be accepted.~~

~~C) Appeals postmarked later than 14 calendar days after receipt of the non-renewal notice will not be processed.~~

~~2) In addition to the appeal letter, the licensee shall submit the following material when the appeal is filed:~~

~~A) evidence that he or she has satisfactorily completed the required types and quantity of activities; and~~

~~B) any other relevant documents.~~

~~3) The SEPLB shall review each appeal regarding renewal of a license in order to determine whether the licensee has met the requirements of this Section. The SEPLB may hold an appeal hearing or may make its determination based upon the record of review, which shall consist of:~~

~~A) the regional superintendent's rationale for recommending nonrenewal of the license, if applicable;~~

~~B) any evidence submitted to the State Superintendent along with the individual's statement of assurance for renewal; and~~

~~C) the State Superintendent's rationale for non-renewal of the license.~~

~~4) If the SEPLB holds an appeal hearing, it may request the licensee to appear before it, in which case no less than ten days' notice of the date, time, and place of the hearing shall be given to the affected individual.~~

~~5)~~ ~~The licensee shall submit to the SEPLB such additional information as the SEPLB determines is necessary to decide the appeal.~~

~~6~~) ~~The SEPLB shall notify the licensee of its decision regarding license renewal by certified mail, return receipt requested, no later than 30 days after reaching a decision. Upon receipt of notification of renewal, the licensee shall pay the applicable registration fee to the regional superintendent, except that a regional superintendent shall deposit his or her own fee in the region's institute fund.~~

~~7)~~ ~~The SEPLB shall not renew any license if information provided on the statement of assurance makes the holder subject to the requirements of any of Sections 25.485 through 25.491 of this Part. The decision of the SEPLB is a final administrative decision and shall be subject to administrative review as set forth in Section 21B-90 of the School Code [105 ILCS 5/21B-90].~~

~~g)~~ ~~Proportionate Reduction; Part-Time Service~~
~~The requirements of this Section regarding continuing professional development are subject to reduction in accordance with Section 21-7.1(c-15) of the School Code.~~

~~1)~~ ~~The requirements of this Section shall be subject to reduction on the same annual basis as provided in Section 21-7.1(c-15) of the School Code in relation to years when a licensee is not employed in a position requiring administrative endorsement.~~

~~2)~~ ~~The number of hours required under subsection (c) of this Section shall also be reduced by 50 percent with respect to periods of time when a licensee is serving on an administrative endorsement only and performing services for less than 50 percent of the school day or school term, unless the individual is one whose continued retirement status is subject to the limitations of Section 16-118 of the Illinois Pension Code [40 ILCS 5/16-118]. Each of these individuals shall be subject only to the requirement for completion of one Administrators' Academy course for each year during which he or she is employed on the administrative endorsement, provided that his or her employment does not exceed the limitations of Section 16-118.~~

~~h) An individual who performs services on an administrative endorsement and concurrently also on some other type of endorsement affixed to the professional educator license to which renewal requirements apply shall be subject to the provisions of Section 25.475 of this Part.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 25.345 Endorsement for Chief School Business Official

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 21B-25(2)(c)~~21-7.1(e)(3)~~ of the School Code [105 ILCS 5/21B-25(2)(c)~~21-7.1(e)(3)~~]), shall have completed 24 semester hours of graduate coursework in 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 or license issued by another state or country (see Section 25.425 of this Part) and either have:

1) *two years' full-time administrative experience in school business management* (Section 21B-25(2)(c)~~21-7.1(e)(3)~~ of the School Code); or

2) *two years of university-approved practical experience*.

c) Each candidate whose master's degree was earned in *business administration, finance, or accounting* shall complete *an additional six semester hours of internship in school business management from a regionally accredited institution of higher education* (Section 21B-25(2)(c)~~21-7.1(e)(3)~~ of the School Code) that is conducted under the supervision of an individual who holds a current Illinois endorsement for chief school business official or who serves as the school

district's chief financial officer. Institutions may consider a candidate's work experience in a school business office that is comparable to the responsibilities of a chief school business official as meeting a portion or all of the six-semester-hour internship requirement. For purposes of this subsection (c), one semester hour shall be equivalent to a minimum of 15-clock hours of experience that a candidate documents as completing.

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 pursuant to Section 25.720~~ of this Part~~.

e) Nothing in this Section is intended to preclude the candidate from seeking the issuance of an educator license with stipulations endorsed for provisional educator under Section 21B-20 of the School Code in the event that he or she has failed to meet one or more of the requirements for a professional educator license endorsed for chief school business official.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

SUBPART F: GENERAL PROVISIONS

Section 25.400 Registration of Licenses; Fees

Section 21B-40 of the School Code [105 ILCS 5/21B-40] requires the registration of an individual's educator license (i.e., professional educator license, educator license with stipulations or substitute teaching license) and establishes the amount of the registration fee to be paid for each full or partial year in the license's validity period. An individual shall register the license immediately (i.e., no later than six months) after the date on which the license initially was issued and between April 1 and June 30 in the last year~~at the beginning~~ of each 5-year renewal cycle~~ (i.e., July 1)~~. (See Sections 21B-40(a)(4) and 21B-45(k) of the School Code.) Registration fees and requirements applicable in specified situations shall be as set forth in this Section.

a) An individual shall pay a separate fee to register each license held (i.e., professional educator license, educator license with stipulations or substitute teaching license) for the license's period of validity (i.e., the time period during which the license is valid). An individual who does not hold an educator license but who has an approval issued pursuant to this Part is not subject to the requirements of this Section.

b) An individual is required to register his or her license in each region where he or she teaches or in any county of the State, if the individual is not yet employed, but is required to pay a registration fee in only one region. Therefore, an individual who moves from one region to another after paying a registration fee for a particular period of time:

1) shall be required to register his or her license in the new region; but

2) shall not be required to pay any additional registration fee.

c) When a registration fee is paid, the amount due shall be the amount required to register the license for its entire period of validity.

d) Pursuant to Section 25.450 of this Part, a licensee may immediately reinstate~~renew~~ the license if it has lapsed (i.e., been expired for a period of six months or more due to failure to register the license) by payment of all accumulated registration fees and either payment of the penalty or completion of the coursework required under Section 21B-45~~21-14(a)~~ of the School Code. The amount due for each year in the renewal cycle shall be the fee that was in effect at that time, rather than the annual amount applicable at the time when the fees are paid.

e) The provisions of subsection (d) do not apply to individuals who are ineligible to register their licenses due to the renewal requirements set forth in Section 21B-45 of the School Code and Subpart J not being met by September 1 of the year in which the license expired. A license subject to this subsection (e) shall be immediately (i.e., within six months) reinstated:

1) upon payment of all accumulated registration fees;

2) either payment of the penalty or completion of the coursework required under Section 21B-45, the latter of which shall not be counted as both satisfying the penalty and meeting the professional development owed; and

3) completion of any outstanding professional development activities required for renewal.

f~~e~~) The amount of the fee that was in effect for any given year shall remain in effect for that year, regardless of when the fee is paid.

g) In accordance with Section 21B-45(e)(5), *a licensee working in a position that does not require* a professional teaching license or an educator license with stipulations *or working in a position for less than 50* percent of full-time equivalency *for any particular* school *year is considered to be exempt and shall be required to pay only the registration fee in order to renew and maintain the validity of the license.*

h) In accordance with Section 21B-45(e)(6), a licensee with a license in retired status *shall not be required to pay registration fees until returning to a position that requires educator licensure, at which time the licensee shall immediately pay a registration fee and complete renewal requirements for that year*. (See Subpart J regarding renewal requirements.)

i) *An unregistered license is invalid after September 1 for employment and performance of services in an Illinois public or State-operated school or cooperative and a charter school*. (Section 21B-45(a) of the School Code)

j~~f~~) The other provisions of this Section notwithstanding, no fee paid in connection with the registration of one or more licenses shall have the effect of extending the period of validity of any other license that is subject to additional renewal requirements that have not been met.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 25.450 Lapsed Licenses

a) A lapsed license is a professional educator license or an educator license with stipulations endorsed for career and technical educator for which renewal requirements have not been completed~~one that has not been registered or renewed~~ by September 1 of the year in which it expired, or a professional educator license or an educator license with stipulations endorsed for paraprofessional educator that has not been registered for a period of six or more months since the expiration of its last registration. For purposes of this Section, the licenses listed in subsections (a)(1) through (3) do not lapse.

1) A professional educator license exchanged for a certificate that was issued between July 1, 1929 and July 1, 1951.

2) A substitute teaching license issued under Section 21B-20(3) of the School Code.

3) An educator license with stipulations issued under Section 21B-20(2) of the School Code endorsed in an area other than career and technical educator or paraprofessional educator.

b) In accordance with Section 21B-45(a)~~21-14(a)~~ of the School Code, a lapsed license shall be immediately (i.e., within six months) reinstated~~renewed~~ if the individual pays any back fees, including all registration fees, that he or she owes and either:

1) pays a $500 penalty or, if the individual holds only an educator license with stipulations endorsed for paraprofessional educator, a $150 penalty; or

2) provides evidence of *completing nine semester hours of coursework from a regionally accredited institution of higher education in the content area that most aligns with one or more of the educator's endorsement ~~area or~~ areas* [105 ILCS 5/21B-45(b)~~21-14(a)~~], which shall not be counted as both satisfying the penalty and meeting any professional development owed under subsection (b)(3) of this Section. For the purposes of this subsection (a)(2), coursework may include content or methods classes for cross-categorical special education, reading, English language learners (i.e., bilingual education, English as a Second Language or English as a New Language); and

3) for those licensees whose licenses lapsed on September 1 due to failure to complete renewal requirements, completes all outstanding professional development activities required for renewal.

c~~b~~) The penalty referenced in subsection (b)(1)~~(a)(1)~~ of this Section cannot be paid in advance of the individual's license lapsing. In other words, once the license expires due to failure to pay registration fees or complete license renewal requirements, the individual has the option of:

1) if the license expired due to failure to pay registration fees and the license has not yet lapsed, waiting six months before paying the penalty or presenting evidence of completing the coursework required under subsection (b)(2)~~(a) of this Section~~ and/or paying all registration fees owed; or

2) if the ~~expired~~ license expired due to failure to complete renewal requirements and the license has not yet lapsed, completing the applicable renewal requirements and/or paying all registration~~back~~ fees owed.

d~~c~~) Any coursework completed within five years prior to~~of~~ the date in which an applicant submits a renewal request may be counted toward meeting the requirements of subsection (b)(2)~~(a)(2) of this Section~~.

~~d) An individual whose license has lapsed due to failure to complete any renewal requirements set forth in Section 21-14, 21-7.1 or 21-25 of the School Code and this Part is not required to complete those requirements in order to reinstate his or her license, provided that he or she completes one of the options set forth in subsection (a) of this Section.~~

~~e) Certificates issued between July 1, 1929 and July 1, 1951 and exchanged for a professional educator license do not lapse.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 25.475 Renewal Requirements for Holders of Multiple Types of Endorsements on a Professional Educator License (Repealed)

~~Special provisions shall apply when an individual is performing services on multiple endorsements on a professional educator license of different types that are subject to renewal requirements, i.e., teaching, school support personnel and administrative. The provisions of this Section also apply to individuals who hold an educator license with stipulations endorsed for career and technical educator. Completion of one set of requirements shall suffice for renewal of all the affected endorsements types on the professional educator license.~~

~~a) When two types of endorsements or licenses are being used at the same time, the endorsement type used by the individual for 50 percent or more of the school day or school term shall govern the continuing professional development required of the individual with respect to that period of time.~~

~~1)~~ ~~Example: An individual who performs duties on the administrative endorsement on professional educator license for 60 percent of the time and teaches for 40 percent of the time on an endorsement for a teaching field or educator license with stipulations endorsed for career and technical educator shall be subject only to the requirements of Section 25.315 of this Part with regard to continuing professional development.~~

~~2)~~ ~~Example: An individual who serves on a school support personnel endorsement for 60 percent of the time and performs duties on the administrative endorsement for 40 percent of the time shall be subject only to the requirements of Section 25.275 of this Part with regard to continuing professional development.~~

~~3)~~ ~~Example: An individual who performs services for 50 percent of the time on an educator license with stipulations endorsed for career and technical educator and 50 percent of the time on a school support personnel endorsement on a professional educator license shall choose either the requirements of Section 25.70 or those of Section 25.275 of this Part to fulfill.~~

~~b)~~ ~~If an individual is serving on more than two types of endorsements or licenses at the same time, he or she shall be subject to the requirements that apply to the endorsement or license type used for the greatest share of the time. If multiple endorsement or license types are used for equivalent shares of an individual's time, the individual shall choose one set of requirements to fulfill.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 25.497 Supervisory Endorsements

A professional educator license endorsed for any of the areas listed in Section 25.43(a)~~ of this Part~~ or school support personnel may be endorsed for supervision~~ in accordance with the provisions of Section 21-4 or 21-25 of the School Code, as applicable~~, provided that the licensee completes eight semester hours of graduate professional education, which~~ required by the relevant Section~~ shall include at least one course that relates primarily and explicitly to the supervision of personnel and one course that relates primarily and explicitly to the administration and organization of schools. A supervisory endorsement affixed to a professional educator license shall be identified by subject area, to reflect the individual's major area of specialization.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 38 Ill. Reg. _____, effective _____)

SUBPART G: PARAPROFESSIONALS;
OTHER PERSONNEL

Section 25.550 Approval of Educational Interpreters

Each educational interpreter who serves students with hearing loss in the public schools shall be of good character, as defined in Section 21B-15 of the School Code. Each educational interpreter shall be subject to that portion of Section 24-5 of the School Code that requires physical fitness and freedom from tuberculosis. Each educational interpreter shall hold ~~a high school diploma or its recognized equivalent and~~ a statement of approval from the State Superintendent of Education, which shall be identified as valid either for sign language interpreting or for cued speech interpreting. Each individual who is required to hold a statement of approval shall submit an application to the State Superintendent, along with~~accompanied by~~ the fee required under Section 21B-40 of the School Code for those applicants who hold a professional educator license and evidence that he or she meets the requirements applicable to the type of approval sought.

a) Approval Criteria

1) Each applicant for approval as an educational interpreter either for sign language interpreter or cued speech interpreter shall:

A) have completed 60 semester hours of college credit from one or more regionally accredited institutions of higher education; or

B) hold an associate's degree issued by a regionally accredited institution of higher education; or

C) hold a high school diploma and have achieved the score identified as passing by the Illinois State Board of Education on one of the examinations for paraprofessionals discussed in Section 25.510(b) ~~of this Part~~; or

D) hold a high school diploma and have passed the written examination administered by the Registry of Interpreters for the Deaf (RID).

2) Each applicant for approval as a sign language interpreter also shall have:

A) attained a rating of Level 3.5 or above on the Educational Interpreter Performance Assessment (EIPA); or

B) maintained a valid certification from the RID; or

C) maintained a valid Illinois Board for Evaluation of Interpreters (IL BEI) Basic Certification or higher issued by the Illinois Deaf and Hard of Hearing Commission.

3) Each applicant for approval as a cued speech interpreter also shall have attained Transliteration Skills Certification at Level 3 or above.

4) If the applicant is unable to provide evidence of meeting one of the criteria set forth in subsection (a)(2)~~ of this Section~~, a one-time, interim approval shall be granted if each of the following conditions are met. The interim approval is valid until June 30 following two years of the approval being issued. The provisions of this subsection (a)(4) shall not apply to individuals who held initial approval issued prior to June 30, 2013.

A) The applicant shall provide evidence of meeting one of the criteria listed in subsection (a)(1)~~ of this Section~~.

B) The applicant shall have attained a rating of at least Level 3.0 on the EIPA.

b) Validity; Renewal
Approval shall be valid for five years, subject to the provisions of Section 21B-20 of the School Code, and shall be renewable upon presentation of evidence that, during the five-year period of the approval's validity, the individual has: completed 50 clock hours of~~continuing~~ professional development activities~~units (CPDUs). The number of CPDUs to be awarded for completion of specific activities shall be as set forth in Section 25.875 of this Part, as applicable~~.

c) Continuing Professional Development

1) An individual may accrue clock hours~~units~~ of ~~continuing~~ professional development ~~in accordance with the provisions of Section 25.875(k)~~ by participating in conferences, workshops, institutes, seminars, symposia, or other, similar training events that:

A) are designed to improve the skills and knowledge of interpreters for the deaf; or

B) are organized by an entity that is approved pursuant to Section 25.855~~ or 25.860 of this Part~~ and address educational concerns.

2) An individual may accrue the required clock hours~~credit~~ for continuing professional development ~~in accordance with the provisions of Section 25.875(i)~~ by completing college coursework that is part of an interpreter training program offered by a regionally accredited institution of higher education or an Illinois community college. Clock hours will be credited based on 1 semester hour of college coursework being equivalent to 15 clock hours of professional development activities.

3) Evidence of Completion

A) Each~~Along with his or her statement of approval, each~~ individual who will be required to complete professional development~~continuing education~~ as a condition of renewal shall electronically sign a statement of assurance in ELIS attesting to completion of the required~~be furnished with a log format enabling him or her to record the~~ activities~~ completed~~. For any activity completed under subsection (c)(1)~~ of this Section~~, the individual shall retain~~present~~ the evidence of completion~~attendance~~ form provided by the entity organizing the event~~, except that the organizer's signature on the log form shall suffice in cases where participants receive no other written verification of their attendance~~.

B) As evidence of completion of~~for~~ college coursework, the individual shall retain~~present~~ a grade report or official transcript issued by the institution indicating that he or she has passed the course or courses.

C) An educational interpreter who earned continued professional development units (CPDUs) on or before June 30, 2014 shall have those CPDUs converted to clock hours in accordance with Section 25.800(d).

d) Revocation or Suspension of Approval or other Permissible Sanction
The provisions of Section 25.510(e)~~ of this Part~~ shall apply to the revocation or suspension of approval or other permissible sanction for educational interpreters.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

SUBPART J: RENEWAL OF PROFESSIONAL EDUCATOR LICENSES ~~ENDORSED IN A TEACHING FIELD~~

Section 25.800 Professional Development Required (Beginning July 1, 2014)

a) Pursuant to Section~~Sections 21-14 and~~ 21B-45 of the School Code [105 ILCS 5/~~21-14 and~~ 21B-45], renewal of professional educator licenses endorsed in a teaching, administrative or school support personnel field is contingent upon licensees' presentation of proof of ~~continuing education or~~ professional development activities. For the purposes of this Subpart J, "5-year renewal cycle" for any license shall include the time from the date the license was initially issued to June 30 following five years of the license being issued and every five years thereafter, regardless of whether the total validity period exceeds five years~~the terms "continuing education" and "professional development" shall be considered synonymous~~. Any portion of an additional year beyond five years that is included in the 5-year renewal cycle shall not increase the amount of professional development that a licensee is required to complete.

b) Except as provided in Section 25.880~~ of this Part~~ and in subsection (c)~~(d)~~ of this Section, renewal of an individual's professional educator license ~~endorsed in a teaching field~~ shall require the licensee's completion of professional development activities sufficient to satisfy the requirements of Section 21B-45~~21-14~~ of the School Code~~ [105 ILCS 5/21-14], as modified by Section 21-2(c)(8) of the School Code [105 ILCS 5/21-2(c)(8)] if applicable~~. Each licensee shall:

1) enter the information required by Section 21B-45(e) of the School Code into ELIS within the timelines specified~~maintain the required form of evidence of completion~~ for each activity completed~~, as specified in~~

~~Sections 25.805, 25.865, and 25.875 of this Part, throughout the period of validity that follows the renewal of the license based on completion of the activities documented~~; and

2) present the evidence of completion upon request by the regional superintendent or a representative of the State Board of Education or if required as part of an appeal under this Subpart J.

~~c)~~ ~~*A* licensee *with multiple* endorsements *shall complete professional development activities that address the* endorsement *or* endorsements *that are required for his or her* licensed *teaching position, if the* licensee *is employed and performing services in an Illinois public or State-operated elementary school, secondary school, or cooperative or joint agreement with a governing body or board of control, or that* endorsement *or those* endorsements *most closely related to his or her teaching position, if the* licensee *is employed in a charter school* [105 ILCS 5/21-14(e)(2)]. An individual who performs services on a professional educator license endorsed for a teaching field and concurrently also on some other type of license or endorsement on the professional educator license to which renewal requirements apply shall be subject to the provisions of Section 25.475 of this Part.~~

c~~d~~) Professional Educator License Endorsed for School Support Personnel

1) Any licensee who holds a professional educator license endorsed for school support personnel *who is employed and performing services in Illinois public schools and who holds an active and current professional license issued by the Department of Financial and Professional Regulation related to* his or her school support personnel endorsement area may renew his or her professional educator license by paying only the registration fees required under Section 21B-40 of the School Code. (See Section 21B-45(l) of the School Code.) For purposes of this subsection (c), "related to" a school support personnel area shall be:

A) for a school counselor, a license issued under the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act [225 ILCS 107];

B) for a marriage and family therapist, a license issued under the Marriage and Family Therapist Licensing Act [225 ILCS 55];

C) for a school psychologist, a license issued under the Clinical Psychologist Licensing Act [225 ILCS 15];

D) for a school speech and language pathologist (school support personnel endorsement only (i.e., nonteaching)), a license issued under the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110];

E) for a school nurse, a license issued under the Nurse Practice Act [225 ILCS 65]; and

F) for a school social worker, a license issued under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

2) ~~*A speech-language pathologist or audiologist who is licensed under the Illinois Speech-Language Pathology and Audiology Practice Act* [225 ILCS 110] and has met *the continuing professional development requirements of that Act and the rules of the Illinois Department of Professional Regulation* at 68 Ill. Adm. Code 1465 *shall be deemed to have satisfied the requirements of this Subpart J.* (Section 21-14(e)(2) of the School Code)~~ Upon application for renewal of a professional educator license endorsed in school support personnel, the licensee~~a speech-language pathologist licensed as provided in this subsection (d)~~ shall indicate in ELIS whether he or she holds a current and active professional ~~provide to the regional superintendent of schools a copy of his or her currently valid speech-language pathologist~~ license listed in subsection (c)(1) and electronically sign an~~a written~~ assurance that the professional development requirements for that license were met.

3) Any licensee who holds the professional educator license endorsed for school support personnel and does not hold one of the other professional licenses listed in subsection (c)(1) shall complete 120 hours of professional development activities and meet all other requirements for educator licensure renewal set forth in this Subpart J.

4) Any licensee who holds a professional educator license endorsed in a teaching field and speech-language pathologist but does not hold a school support personnel endorsement shall complete 120 hours of professional

development activities and meet all other requirements for educator licensure renewal set forth in this Subpart J regardless of whether he or she also holds a current and active professional license identified in subsection (c)(1)(D).

d) Credit for CPDUs Earned Prior to July 1, 2014
Any licensee who earned continuing professional development units (CPDUs) by completing any of the activities listed in Section 25.875 prior to July 1, 2014 shall have those CPDUs converted to clock hours as set forth in this subsection (d) and have those CPDUs credited to the 5-year renewal cycle during which the CPDUs were completed. For each subsequent 5-year renewal cycle, the licensee shall meet the applicable requirements of Section 25.805. Any licensee who earned CPDUs prior to July 1, 2014 and has not entered those into ELIS shall do so by December 31, 2014 using the conversion set forth in this subsection (d).

1) One CPDU earned shall equal one clock hour of professional development activities.

2) One semester hour of college coursework related to education from a regionally accredited institution (i.e., completion of an advanced degree, receipt of a subsequent endorsement, completion of coursework in an undergraduate or graduate program) shall equal 15 clock hours of professional development activities.

3) Except as provided in subsection (e)(7) or (e)(8), if the total credit received in the conversion from CPDUs to clock hours is fewer than 120 clock hours, the licensee shall complete a sufficient number of professional development activities, as required under Section 21B-45 of the School Code and this Subpart J, as may be necessary to reach 120 clock hours before the end of his or her 5-year renewal cycle.

e) Credit for Certain Activities Completed Prior to September 1, 2014
Certain activities completed before August 31, 2014 shall qualify a licensee as meeting all or a portion of the 120 clock hours of professional development required and shall be attributed to the 5-year renewal cycle in which the activity was completed. For each subsequent 5-year renewal cycle, the licensee shall meet the applicable requirements of Section 25.805. Any licensee who earned credit for activities completed prior to September 1, 2014 shall enter his or her

completed credit into ELIS by December 31, 2014, noting the activity completed and the credit earned, as set forth in this subsection (e).

1) Completion of all requirements for an advanced degree from a regionally accredited institution in an education-related field may be used to fulfill 120 clock hours of professional development. The degree must be conferred no later than December 31, 2014 in order to qualify under this subsection (e)(1).

2) Completion of all required activities in pursuit of certification or recertification by the National Board for Professional Teaching Standards (NBPTS) may be used to fulfill 120 clock hours of professional development.

3) Receipt of a subsequent Illinois endorsement on a professional educator license may be used to fulfill 120 clock hours of professional development. The endorsement must be issued no later than December 31, 2014 to qualify under this subsection (e)(3).

4) Becoming "highly qualified" in an additional teaching area may be used to fulfill 120 clock hours of professional development. The criteria applicable to Illinois teachers and the required evidence of completion shall be as set forth in Appendix D. Each individual using this option shall have completed at least some portion of the requirements in the additional field during the 5-year renewal cycle to which the professional development credit is attributed.

5) Successful completion of four semester hours of graduate-level coursework on the assessment of one's own performance in relation to the Illinois Professional Teaching Standards may be used to fulfill 120 hours of professional development, provided that the coursework was approved by the State Superintendent of Education; offered by a regionally accredited institution of higher education, either in partnership with a teachers' association or union or with a regional office of education, or by another entity authorized to issue college credit; and included demonstration of performance through the activities listed in this subsection (e)(5) for each of the Illinois Professional Teaching Standards set forth in 23 Ill. Adm. Code 24 (Standards for Illinois Teachers).

A) Observation, by the course instructor or another experienced teacher, of the teacher's classroom practice for the purpose of identifying and describing how the teacher:

i) made content meaningful for students;

ii) motivated individuals and the group and created an environment conducive to positive social interactions, active learning and motivation;

iii) used instructional strategies to encourage students' development of critical thinking, problem-solving and performance;

iv) communicated using written, verbal, nonverbal and visual communication techniques; and

v) maintained standards of professional conduct and provided leadership to improve students' learning.

B) Review and analysis by the course instructor or another experienced teacher of written documentation prepared by the teacher for at least two lessons that provides evidence of classroom performance related to the Illinois Professional Teaching Standards, with an emphasis on how the teacher:

i) used his or her understanding of students, assessment data and subject matter to determine learning goals;

ii) designed or selected activities and instructional materials and aligned instruction to the relevant Illinois Learning Standards set forth in 23 Ill. Adm. Code 1.Appendix D;

iii) adapted or modified curriculum to meet individual students' needs; and

iv) sequenced instruction and designed or selected student assessment strategies.

C) Demonstration of professional expertise on the part of the teacher in reflecting on his or her practice in terms of teaching strengths, weaknesses and implications for improvement according to the Illinois Professional Teaching Standards.

6) Successful completion of four semester hours of graduate-level coursework in preparation for meeting the requirements for certification by the National Board for Professional Teaching Standards (NBPTS) may be used to fulfill 120 clock hours of professional development, provided that the coursework was approved by the State Superintendent of Education; offered by a regionally accredited institution of higher education, either in partnership with a teachers' association or union or with a regional office of education, or by another entity authorized to issue college credit; and addressed the five core propositions of NBPTS and relevant standards through the activities described in subsection (e)(5), except that references to the Illinois Professional Teaching Standards shall be understood to mean NBPTS.

7) A licensee who holds a master's degree in an education-related field reduces the 120 clock hours of professional development required by 40 clock hours.

8) A licensee who holds a second master's degree, an education specialist or a doctorate in an education-related field or who has attained NBPTS master teacher designation reduces the 120 clock hours of professional development required by 80 clock hours.

f) Holders of a professional educator license who are working solely in a substitute teaching capacity are not subject to the requirements of Section 21B-45 of the School Code or this Subpart J.

g) The ending date of the licensee's 5-year renewal cycle in effect on July 1, 2014 is not changed by the provisions of this Subpart J.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 25.805 Continuing Professional Development Options

a) Professional~~Except as provided in subsections (b) through (h) of this Section, professional~~ development activities shall generate credit for purposes of renewal of a professional educator license endorsed in a teaching, administrative or school support personnel field only if they address one or more of the criteria~~purposes~~ identified in Section 21B-45(d)~~21-14(e)(2)~~ of the School Code. For the purposes of this Subpart J:~~The following proportions apply to the distribution of professional development activities devoted to *the needs of serving students with disabilities, including adapting and modifying the curriculum related to the Illinois Learning Standards* (23 Ill. Adm. Code 1.Appendix D) *to meet the needs of students with disabilities and serving such students in the least restrictive environment* (Section 21-14(e)(2)(E) of the School Code).~~

1) "Sustained period of time" shall mean professional development that includes structured opportunities for educators to apply what they have learned in real-life situations and/or professional development offered over a course of two or more sessions~~For special education teachers, as defined in Section 25.807(a) of this Part, 50 percent of the activities must be devoted to these purposes~~.

2) "Licensee's performance" shall mean professional development identified by the licensee, school or district that is designed to improve the licensee's knowledge and skills relative to district or school performance and/or student achievement~~For teachers holding a professional educator license endorsed for a teaching field other than those for special education, 20 percent of these activities must be devoted to these purpose~~s.

3) "State-approved standards" shall mean the standards applicable to the licensee's credential, as set forth in Section 25.115(e).

4) "Related to student growth or district improvement" shall mean professional development identified by the teacher, school or district that would contribute to improvements in academic achievement of students in the licensee's classroom or for the school and district as a whole, as may be identified in the school or district improvement plan.

5) "Higher education coursework" shall mean coursework completed at a postsecondary institution.

~~A) Topics to be addressed shall include multi-modality instruction, applied techniques for teaching academic content, making adaptations and modifications to the curriculum, managing student behavior, and team teaching.~~

~~B) An identified portion of at least one activity shall address adapting and modifying curriculum related to the Illinois Learning Standards to meet the needs of students with disabilities.~~

b) Endorsements in a Teaching Field or for School Support Personnel
Any *licensee shall complete 120* clock *hours of professional development* activities during each *5-year renewal cycle*, unless otherwise specified in this Subpart J. (Section 21B-45(e)(1) of the School Code)~~*Completion of an advanced degree from a regionally accredited institution in an education-related field may be used to fulfill 100% of the requirement for continuing professional development.* (Section 21-14(e)(3)(A) of the School Code [105 ILCS 5/21-14(e)(3)(A)])~~

c) Administrative Endorsements

1) Any licensee holding a professional educator license endorsed in an administrative field *who is working in a position that requires* this credential *shall complete one Illinois Administrators' Academy course each fiscal year, in addition to 100* clock *hours of professional development activities* during each *5-year renewal cycle*. (Section 21B-45(e)(3) of the School Code)~~*Eight semester hours of college coursework in an undergraduate or graduate-level program related to education may be used to fulfill 100% of the requirement for continuing professional development, provided that at least 2 semester hours are chosen to address the purpose described in Section 21-14(e)(2)(A) of the School Code.* (Section 21-14(e)(3)(B) of the School Code [105 ILCS 5/21-14(e)(3)(B)])~~

2) *Beginning in his or her first full 5-year renewal cycle*, any licensee holding a professional educator license endorsed in an administrative field *who* is employed in an Illinois public or State-operated school or cooperative or charter school and *is not working in a position requiring* the administrative credential is subject to the requirement of subsection (b)

and *shall complete one Illinois Administrators' Academy course* during each 5-year renewal cycle.

A) The licensee is subject to this subsection (c) in *each 5-year renewal cycle in which* he or she has held *the administrative endorsement for at least one year* and was employed on a full-time basis in each year of the 5-year renewal cycle.

B) *The Illinois Administrators' Academy course may count toward the 120 hours* of professional development required in each 5-year renewal cycle on a clock-hour basis. (Section 21B-45(e)(2) of the School Code)

d) Master Teacher Designation
Any licensee holding a~~*Completion of all required activities in pursuit of certification or recertification by the*~~ *National Board for Professional Teaching Standards (NBPTS) master teacher designation shall complete a total of 60 clock hours of professional development per 5-year renewal cycle.* (Section 21B-45(e)(4) of the School Code) (Also see Section 25.832.)~~*may be used to fulfill 100% of the requirement for continuing professional development* (Section 21-14(e)(3)(D) of the School Code [105 ILCS 5/21-14(e)(3)(D)]). The presence of an individual's name on NBPTS' composite list of those who have completed the certification process (as distinct from having received certification) shall be considered evidence of completion~~.

1) If the master teacher designation is removed during a 5-year renewal cycle, the licensee shall complete at least 20 percent of the professional development required in this Section for each year in which the master teacher designation was not held. (Also see Section 25.832.)

2) Any licensee whose master teacher designation is removed shall be subject to the full renewal requirements that would apply to his or her endorsement area for the 5-year renewal cycle subsequent to the cycle in which the designation was removed.

e) Teacher Leader Endorsements
Any licensee holding a professional educator license endorsed for Teacher Leader issued pursuant to Section 21B-25(2)(E) of the School Code and Section 25.32 of this Part *who is working in an administrative capacity at least 50* percent *of the*

school *day shall complete one Illinois Administrators' Academy course each fiscal year, in addition to 100 hours of professional development activities* during each 5-year renewal cycle. (Section 21B-45(e)(3) of the School Code) Licensees not working in administrative positions or those holding Teacher Leader endorsements received on or before December 31, 2012 are subject to the requirements of subsection (b) rather than this subsection (e).~~*Receipt of a subsequent Illinois* endorsement on a professional educator license *may be used to fulfill 100% of the requirement for continuing professional development.* (Section 21-14(e)(3)(K) of the School Code [105 ILCS 5/21-14(e)(3)(K)])~~

f) Retired Status
Any licensee whose license is in retired status, as defined in Section 21B-45(e)(6) of the School Code, and who returns to a position for which educator licensure is required, shall complete at least 20 percent of the professional development required for his or her endorsement area as provided under subsections (b) though (e) for each year in which he or she is employed for 50 percent or more of full-time equivalency and any Administrators' Academy courses as may be required. (Also see Section 25.880(h).)~~*Becoming "highly qualified" in an additional teaching area may be used to fulfill 100% of the requirement for continuing professional development.* (Section 21-14(e)(3)(L) of the School Code [105 ILCS 5/21-14(e)(3)(L)]) The criteria applicable to Illinois teachers and the required evidence of completion shall be as set forth in Appendix D to this Part. Each individual using this option shall have completed at least some portion of the requirements in the additional field during the period of validity to which the professional development credit is attributed.~~

~~g) *Successful completion of four semester hours of graduate-level coursework on the assessment of one's own performance in relation to the Illinois Professional Teaching Standards may be used to fulfill 100% of the requirement for continuing professional development, provided that the coursework meets the requirements of Section* 21-2(c)(2)(B) of the School Code [105 ILCS 5/21-2(c)(2)(B)] and Section 25.820 of this Part. (Section 21-14(e)(3)(M) of the School Code [105 ILCS 5/21-14(e)(3)(M)])~~

~~h) *Successful completion of four semester hours of graduate-level coursework in preparation for meeting the requirements for certification by the National Board for Professional Teaching Standards may be used to fulfill 100% of the requirement for continuing professional development, provided that the coursework meets the requirements of Section* 21-2(c)(2)(C) of the School Code~~

~~[105 ILCS 5/21-2(c)(2)(C)] and Section 25.825 of this Part. (Section 21-14(e)(3)(N) of the School Code [105 ILCS 5/21-14(e)(3)(N)])~~

~~i) Except as specified in Section 25.807 of this Part, completion of 120 continuing professional development units ("CPDUs"; see Section 25.875 of this Part) may be used to fulfill 100% of the requirement, subject to the provisions of subsection (a) of this Section.~~

~~j) A licensee may choose any combination of the types of activities described in subsections (b) and (h) of this Section, provided that the total effort represents the equivalent of 120 CPDUs. For purposes of calculating combinations from different categories, one semester hour of college credit shall be considered the equivalent of 15 CPDUs.~~

~~k) The provisions of subsections (c), (i), and (j) of this Section shall be subject to the proportionate reductions specified in Section 21-14 of the School Code with respect to part-time teaching and periods when the professional educator license has been maintained valid and exempt and shall also be subject to any applicable reductions provided in Section 21-2(c)(8) of the School Code for any individual whose statement of assurance for license renewal is received or processed on or after July 1, 2004. (See Section 25.880 of this Part.)~~

~~l) A given professional development activity may be attributed to all of the purposes to which it relates. However, the units of credit awarded for a particular activity may be counted only once in calculating the total earned.~~

~~m) Credit earned for any activity that is completed (or for which the licensee receives evidence of completion) on or after April 1 of the final year of a license's validity, if not claimed with respect to that period of validity, may be carried over and claimed in the subsequent period of validity, provided that the activity in question is relevant to the requirements that apply to that period.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 25.807 Additional Specifications Related to Professional Development Activities of Special Education Teachers (Repealed)

~~a) For purposes of this Subpart J, a "special education teacher" is any teacher who holds an Illinois professional educator license endorsed in accordance with~~

~~Section 21B-25(F) of the School Code [105 ILCS 5/21B-25(F)] and provides services using that license to special education students pursuant to the rules of the State Board of Education at 23 Ill. Adm. Code 226 (Special Education), including those serving pursuant to 23 Ill. Adm. Code 226.810 and 226.820; those serving pursuant to Section 25.48 of this Part when applicable; and those substitute teaching in special education programs for more than 90 paid school days or 450 paid school hours in any one district in any one school term.~~

~~b)~~ ~~Special provisions apply to special education teachers' compliance with the required distribution of credits stated in Section 25.805(i) of this Part. That is, not only must at least half the number of credits needed by each special education teacher be earned with respect to activities that address the purposes described in Section 25.805(a) of this Part, but also:~~

~~1)~~ ~~if a teacher's activities are based upon an assignment for which the LBS I endorsement or approval is required, and if the individual holds a limited credential, the activities used to address Section 21-14(e)(2)(A) of the School Code (areas of licensure) [105 ILCS 5/21-14(e)(2)(A)] shall either:~~

~~A)~~ ~~relate to the needs of students with disabling conditions other than the conditions reflected by the individual's pre-existing endorsements or approvals; or~~

~~B)~~ ~~be designed to broaden the teacher's preparation to serve students with all the disabilities encompassed by the LBS I credential, with reference to specific standards among those set forth in 23 Ill. Adm. Code 28.200; and~~

~~2)~~ ~~except as provided in subsection (d) of this Section, at least the amount of credit each special education teacher needs to devote to Purpose B (the State priorities) in order to reach the 50 percent threshold in combination with the credits attributed to Purpose A shall be devoted to the State priority of special education; and~~

~~3)~~ ~~some portion of the activities used by each special education teacher to fulfill Purpose A or B shall address adapting and modifying curriculum related to the Illinois Learning Standards (see Public Schools Evaluation, Recognition and Supervision, 23 Ill. Adm. Code 1, Appendix D) to meet the needs of students receiving special education; and~~

~~4) a special education teacher whose activities provide exclusively for semester hours of college credit shall devote the portion that is required to address the purpose set forth in Section 21-14(e)(2)(A) to the study of content area standards in special education, i.e., any of the standards set forth in 23 Ill. Adm. Code 28.200 through 28.370.~~

~~c) A teacher who becomes a special education teacher for one or more semesters during his or her license's period of validity shall be subject to the requirements of this Section in proportion to that period of time.~~

~~1) An individual shall be considered a special education teacher for any semester during which he or she meets the definition set forth in subsection (a) of this Section for at least 45 school days.~~

~~2) In compliance with Section 21-14(e)(4) of the School Code [105 ILCS 5/21-14(e)(4)] and Section 25.830 of this Part, the individual shall submit his or her statement of assurance attesting to the completion of the professional development activities required under this Subpart J to the regional office of education or the local professional development committee (LPDC), as applicable.~~

~~3) The regional office of education or LPDC, as applicable, shall maintain a record of the semesters during which any licensee for whom it is responsible is a special education teacher.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 25.810 State Priorities (Repealed)

~~The "State priorities" referred to in Section 21-14(e)(2)(B) of the School Code shall periodically be identified by the State Board of Education.~~

~~a) No later than 60 days after the State Board votes to establish or change the list of these priorities, the agency shall so notify each school district superintendent, each regional superintendent of schools, and any organization that requests notification. This notice shall include a list of the priorities and state the date upon which the list takes effect.~~

~~b)~~ ~~A licensee who has completed activities that address one or more of the State priorities shall be allowed to count their completion toward fulfilling the requirements of this Subpart J, even if changes are made to the list of priorities during his or her license's period of validity.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 25.820 Requirements for Coursework on the Assessment of One's Own Performance (Repealed)

~~Completion of at least four semester hours of graduate-level coursework on the assessment of one's own performance as a means of receiving credit for the continuing professional development shall be subject to the requirements of this Section.~~

~~a)~~ ~~Only coursework offered by *an accredited institution of higher education, by such an institution in partnership with a teachers' association or union or with a regional office of education, or by another entity authorized to issue college credit* shall qualify for this purpose. (Section 21-2(c)(2)(B) of the School Code)~~

~~b)~~ ~~An eligible entity that offers or plans to offer coursework that will result in candidates' receiving credit for continuing professional development shall submit to the State Superintendent of Education a syllabus, course description, or other material demonstrating that the coursework includes the activities required by Section 21-2(c)(2)(B) of the School Code.~~

~~c)~~ ~~The State Board of Education, in consultation with the SEPLB, shall approve coursework for this purpose if the syllabus demonstrates that its successful completion will involve observation, review, and analysis of each participant's teaching practice, as well as demonstration of professional expertise on the part of each participant in reflecting on his or her own practice, in accordance with the requirements of this subsection (c).~~

~~1)~~ ~~Each participant's teaching practice shall be observed on at least one occasion, either in person or through videoconferencing or videotapes, either by the course instructor or by a designee identified by the instructor who:~~

~~A) holds, or at the time of his or her retirement held, a professional educator license endorsed in a teaching field or its predecessor standard or master teaching certificate; or~~

~~B) has completed training covering the following:~~

~~i) Content Knowledge and Pedagogy;~~

~~ii) Adult Learning Theory;~~

~~iii) Verbal and Non-Verbal Communication Skills;~~

~~iv) Attributes and Styles of Positive Critiques;~~

~~v) Classroom Observation Skills Related to Assessment of Performance;~~

~~vi) Strategies for Providing Constructive Feedback and Social Support;~~

~~vii) Problem-Solving Skills; and~~

~~viii) Formative Assessment and Self-Assessment; or~~

~~C) in the judgment of the course instructor, has the knowledge and skills required in order to provide appropriate feedback to new teachers regarding their teaching practice.~~

~~2) Each participant shall assemble sufficient written lesson plans, assignments to students, samples of students' work responding to the assignments, and assessment instruments used with respect to the assignments to provide evidence of his or her performance with respect to all the standards set forth in 23 Ill. Adm. Code 24.100(a) through (i) (Illinois Professional Teaching Standards), provided that the material required by this subsection (c)(2) shall be presented for no fewer than two separate lessons, at least one of which is the subject of an observation conducted pursuant to subsection (c)(1) of this Section. The participant shall also provide a written discussion of how the material assembled relates to each of the Illinois Professional Teaching Standards referred to~~

~~in this subsection (c)(2), with emphasis on the aspects listed in Section 21-2(c)(2)(B)(ii) of the School Code [105 ILCS 5/21-2(c)(2)(B)(ii)]. In using students' work for this purpose, participants shall ensure that students are not identifiable or shall obtain consent for the release of the students' work in keeping with the requirements of the Illinois School Student Records Act [105 ILCS 10] and the rules for Student Records (23 Ill. Adm. Code 375).~~

~~3)~~ ~~The course instructor or a designee who meets the requirements of subsection (c)(1) of this Section shall review the documentation submitted by the participant and provide written feedback regarding the new teacher's strengths and weaknesses, factors to consider, and techniques with potential for improving the new teacher's practice.~~

~~4)~~ ~~For each of the two lessons documented under subsection (c)(2) of this Section, each participant shall prepare his or her own written analysis of the strengths and weaknesses revealed by the applicable documentation and the implications of that analysis for improving his or her teaching in relation to the Illinois Professional Teaching Standards.~~

~~5)~~ ~~The grades issued to participants in the coursework shall reflect the instructor's assessment of the participants' performance in reviewing, analyzing, and reflecting on their own practice, rather than the instructor's assessment of the participants' performance as teachers.~~

~~d)~~ ~~As evidence of completion, the individual shall maintain a grade report or official transcript issued by the institution or other entity offering the coursework, indicating that the individual passed the course or courses.~~

~~e)~~ ~~An individual who wishes to use coursework completed in another state to fulfill the requirements of this Section shall submit to the State Superintendent of Education a course description or syllabus. Based upon a comparison of the course's content with the requirements of this Section and Section 21-2(c)(2)(B) of the School Code, the State Superintendent shall determine whether the out-of-state course is equivalent and notify the candidate as to whether the course will be accepted.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Section 25.825 Requirements for Coursework Related to the National Board for Professional Teaching Standards (NBPTS) (Repealed)

~~Completion of at least four semester hours of graduate-level coursework related to the requirements for certification by the NBPTS as a means of receiving credit for continuing professional development shall be subject to the requirements of this Section.~~

~~a) Only coursework offered by *an accredited institution of higher education, by such an institution in partnership with a teachers' association or union or with a regional office of education, or by another entity authorized to issue college credit* shall qualify for this purpose. (Section 21-2(c)(2)(C) of the School Code [105 ILCS 5/21-2(c)(2)(C)])~~

~~b) An eligible entity that offers or plans to offer coursework that will result in candidates' eligibility for continuing professional development credit shall submit to the State Superintendent of Education a syllabus, course description, or other material demonstrating that the coursework addresses the five "core propositions" that guide the National Board's certification initiatives.~~

~~1) Teachers are committed to students and their learning.~~

~~2) Teachers know the subjects they teach and how to teach those subjects to students.~~

~~3) Teachers are responsible for managing and monitoring students' learning.~~

~~4) Teachers think systematically about their practice and learn from experience.~~

~~5) Teachers are members of learning communities.~~

~~c) The State Board of Education, in consultation with the SEPLB, shall approve coursework for this purpose if the syllabus demonstrates that its successful completion will involve observation, review, and analysis of each participant's teaching practice in light of applicable standards, as well as demonstration of professional expertise on the part of each participant in reflecting on his or her own practice.~~

~~1) These required elements may be provided either by means of the activities described in Section 25.820(c)(1) through (c)(4) of this Part or by using another sequence of activities that is designed to provide beginning teachers with direct feedback from experienced teachers and a structure for reviewing their own teaching in light of this feedback and in light of their students' performance.~~

~~2) The grades issued to participants in the coursework shall reflect the instructor's assessment of the participants' performance in reviewing, analyzing, and reflecting on their own practice, rather than the instructor's assessment of the participants' performance as teachers.~~

~~d) As evidence of completion, the individual shall maintain a grade report or official transcript issued by the institution or other entity offering the coursework, indicating that the individual passed the course or courses.~~

~~e) No course that has not been approved pursuant to subsections (b) and (c) of this Section shall be advertised as leading to eligibility for continuing professional development credit under this Section.~~

~~f) An individual who wishes to use coursework completed in another state to fulfill the requirements of this Section shall submit to the State Superintendent of Education a course description or syllabus. Based upon a comparison of the course's content with the requirements of this Section and Section 21-2(c)(2)(C) of the School Code, the State Superintendent shall determine whether the out-of-state course is equivalent and notify the candidate as to whether the course will be accepted.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 25.830 Verification of Completed Activities;~~Statement of Assurance for~~ Renewal Process~~of Licenses~~

~~No sooner than September 1 and no later than April 1 of the final year of his or her license's period of validity and using a format supplied by the State Board of Education, each licensee shall submit to the responsible LPDC, if any, a statement of assurance required for the renewal of his or her professional educator license endorsed in a teaching field. Any individual for whom no responsible LPDC is in operation, including any individual who is not employed in the public schools at the time the statement of assurance is submitted, shall submit the required materials to~~

~~the regional superintendent of schools. Access to these documents shall be limited to the licensee and to those members of local and regional committees and other individuals who are responsible for reviewing them pursuant to this Subpart J. Each individual who has access to these documents and the information contained in them shall maintain the confidentiality of the documents and information at all times.~~

a) *Within 60 days after completing a professional development activity, the licensee shall enter electronically into ELIS the name, date, and location of the activity, the number of professional development hours* earned, *and the provider's name* ~~The licensee shall provide a *statement of assurance* regarding the professional development activities completed, *including a list of the activities, the provider offering each, the number of credits earned for each, and the purpose or purposes to which each activity is attributed.*~~ (Section 21B-45(e)~~21-14(e)(4)~~ of the School Code ~~[105 ILCS 5/21-14(e)(4)]~~), except that:

1) any Illinois Administrators' Academy course completed shall be entered by the provider rather than the licensee; and

2) a licensee who holds both a professional educator license endorsed in school support personnel and one of the professional licenses listed under Section 25.800(c) shall indicate in ELIS if his or her professional license is active and current.

b) Beginning July 1, 2015, a licensee who fails to enter into ELIS his or her completed professional development within the timeline set forth in subsection (a) shall be unable to include credit for those activities among the clock hours needed to satisfy renewal requirements.~~A licensee who wishes to receive evidence of an LPDC's receipt of his or her statement of assurance shall include a receipt for the LPDC's use.~~

c) A licensee who fails to complete an Administrators' Academy course in a given fiscal year as required by Section 21B-45(e)(2) or (3) of the School Code shall be required to complete two courses for each one missed. He or she may complete these courses at any time during the remainder of the 5-year renewal cycle or prior to the reinstatement of a license that has lapsed pursuant to Section 25.450 of this Part.

d)~~e)~~ Accumulation of the number of hours of professional development activities required under Section 21B-45(e) of the School Code and entering them into

ELIS ~~Submission of this statement of assurance~~ shall not entitle the licensee to renewal of the license. Renewal of the licensee's license shall be determined by the State Superintendent of Education~~SEPLB~~.

e) In accordance with Section 21B-45(e)(5), licensees who are working in positions that do not require a professional educator license and those who are working in positions that require a professional educator license for less than 50 percent of full-time equivalency in a school year are "exempt" and do not have to complete professional development activities; however, prior to renewing the license, the licensee shall record that status in ELIS indicating the starting and ending date of the exemption and the reason the exemption was requested. (See Section 25.880.)

f) A licensee whose professional educator license is in "retired status", as defined in Section 21B-45(e)(6) of the School Code, is not subject to renewal requirements; however, prior to renewing the license, the licensee shall record that status in ELIS. The licensee's "retired" status shall take effect in the next full 5-year renewal cycle following the cycle in which the licensee retired. The licensee shall complete and record in ELIS the professional development required to be completed in the 5-year renewal cycle during which the licensee retired (i.e., at least 20 percent of the total required for each year in which the license was valid and active).

g)~~d)~~ A licensee who does not enter all of his or her professional development activities prior to September~~submit the statement of assurance by April~~ 1 of the year in which the 5-year renewal cycle ends may not be able to preserve his or her right of appeal regarding a recommendation for nonrenewal of his or her license.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 25.832 Validity and Renewal of NBPTS Master Teacher Designation

a) When an Illinois licensee successfully renews his or her National Board certification, he or she shall be entitled to renew his or her Illinois master teacher designation. ~~However, a holder of a master teacher designation may also use completion of the NBPTS' process for renewal of certification (as distinct from renewal of NBPTS certification) to fulfill 100% of the requirement for continuing professional development.~~

b) The holder of an NBPTS master teacher designation whose certification through

the NBPTS is not renewed shall have the designation removed from his or her professional educator license.

c) Since NBPTS certification is valid for 10 years, any master teacher designation on a professional educator license shall be renewed automatically on that license once the individual has held the designation for five years and has met the requirements to renew the professional educator license set forth in Section 25.805(d). An individual shall meet the requirements of subsection (a) of this Section in order to renew the designation after holding the designation for 10 years.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 25.835 Request for Extension~~Review of and Recommendation Regarding Statement of Assurance for Renewal~~

Section 21B-45(e)(9) of the School Code allows a licensee who is unable to complete the required professional development by September 1 of the year in which the license has expired, *due to professional development opportunities being unavailable*, to request that the SEPLB extend the deadline for completing the outstanding professional development beyond August 31 of that year.

a) A written request for an extension shall be submitted to the State Superintendent of Education no sooner than April 1 nor later than June 30 of the last year in the 5-year cycle. (See Section 21B-45(e)(9) of the School Code.) The request shall indicate the:

1) licensee's name, type of license held (including license number) and endorsements placed on the license;

2) number of clock hours of professional development or Administrators' Academy courses, as applicable, needed to fulfill the requirements;

3) reason the licensee is requesting the extension, to include the efforts he or she has made to complete the required professional development before September 1 of the year in which the license would expire; and

4) licensee's plan for completing the outstanding professional development, to include a description of the professional development in which the licensee will participate and the timeline for its completion.

b) The request shall be presented to the SEPLB at its next regularly scheduled meeting following receipt of the request. The SEPLB shall approve a request when:

1) the preponderance of evidence indicates that failure to complete the professional development was beyond the control of the licensee;

2) the outstanding professional development does not exceed at least 20 percent of the total required for the 5-year renewal cycle and/or one Administrators' Academy course; and

3) the plan for completing the outstanding professional development will result in the completion of the activities by no later than June 30 of the year immediately subsequent to the year in which the license expired.

c) The licensee shall be notified whether the extension has been granted within 30 days after the SEPLB's action, but in no case later than August 31 of the year in which the license will expire.

1) The license of a licensee for which an extension is approved *shall remain valid during the extension period*. (Section 21B-45(e)(9) of the School Code) Failure of the licensee to complete the outstanding professional development within the timeline indicated in the approved extension request will result in his or her license lapsing and the inability of the licensee to register the license.

2) The license of a licensee for which an extension is not granted shall lapse September 1 of the year in which the license expired and cannot be registered. (See Section 25.400(e).)

3) Any professional development completed during the extension period shall first be applied to the previous 5-year renewal cycle and may be credited to the subsequent 5-year renewal cycle only if it exceeds the amount of the outstanding professional development owed.

4) *An unregistered license is invalid after September 1 for employment and performance of services in an Illinois public or State-operated school or cooperative and a charter school*. (Section 21B-45(a) of the School Code)

~~a) An LPDC shall review each statement of assurance it receives that conforms with the requirements of Section 25.830 of this Part and, within 30 days after receiving it, shall forward the statement of assurance to the regional superintendent of schools accompanied by the LPDC's recommendation regarding license renewal, provided on a form supplied by the State Board of Education.~~

~~b) If the recommendation is for nonrenewal of the affected license, notification to this effect shall be provided concurrently to the licensee, including a return receipt and an explanation of the LPDC's rationale for recommending nonrenewal.~~

~~c) The licensee may appeal to the responsible RPDRC for consideration of his or her statement of assurance for renewal if the LPDC does not respond within the time allowed under subsection (a) of this Section.~~

~~d) Within 14 days after receiving notice that a recommendation for nonrenewal has been forwarded by an LPDC, the licensee may appeal the recommendation to the RPDRC. The appeal shall be transmitted on a form supplied by the State Board of Education, shall include a return receipt, and shall include:~~

~~1) the required evidence of completion for the activities upon which the appeal is based; and~~

~~2) any other relevant documents.~~

~~e) Within 45 days after receiving the appeal, the RPDRC shall make a recommendation to the regional superintendent in keeping with the requirements of Section 21-14(g)(2) of the School Code [105 ILCS 5/21-14(g)(2)]. The RPDRC shall use a form provided by the State Board of Education for this purpose and shall include the rationale for its recommendation. To assist it in arriving at its recommendation, the RPDRC may require the submission of additional information or may request that the licensee appear before it. The RPDRC shall also forward to the regional superintendent the material received from the licensee under subsection (d) of this Section.~~

~~f) Within 14 days after receiving the last recommendation required under~~

~~subsections (a) through (e) of this Section, the regional superintendent shall forward his or her recommendation to the SEPLB along with the information required pursuant to Section 21-14(g)(1) of the School Code [105 ILCS 5/21-14(g)(1)]. Forms supplied by the State Board of Education shall be used for this purpose. A copy of any recommendation for nonrenewal shall be sent to the licensee concurrently. If the recommendation is not to renew the license held, or if information provided on the statement of assurance makes the individual subject to the requirements of any of Sections 25.485 through 25.491 of this Part, the licensee's copy shall be sent by certified mail, return receipt requested.~~

~~1) The regional superintendent shall forward to the Secretary of the SEPLB a list that identifies each licensee with respect to whom the regional superintendent is concurring with an LPDC's recommendation for license renewal or is recommending renewal without the involvement of any LPDC. This list shall be prepared on a form supplied by the State Board of Education.~~

~~2) If the regional superintendent is recommending license renewal despite a local or regional committee's recommendation for nonrenewal, the regional superintendent shall forward to the Secretary of the SEPLB:~~

~~A) the material received from the licensee under subsection (e) of this Section;~~

~~B) the RPDRC's recommendation and any additional material received by the RPDRC pursuant to subsection (e) of this Section; and~~

~~C) the regional superintendent's rationale for recommending renewal.~~

~~3) If the regional superintendent is recommending nonrenewal (regardless of local and/or regional recommendations), the regional superintendent shall forward to the Secretary of the SEPLB:~~

~~A) the LPDC's recommendation, if any;~~

~~B) the RPDRC's recommendation, the material called for in subsection (d) of this Section, and the material received pursuant to subsection (e) of this Section, if any; and~~

~~C) the regional superintendent's rationale for recommending nonrenewal.~~

~~g) Within 14 days after receipt of notice that the regional superintendent has recommended nonrenewal of his or her license, the licensee may appeal that recommendation to the SEPLB, using a form provided by the State Board of Education.~~

~~1) The appeal must state the reasons why the recommendation of the regional superintendent should be reversed and must be sent by certified mail, return receipt requested.~~

~~A) Appeals shall be addressed to:~~

~~State Educator Preparation and Licensure Board Secretary~~
~~100 North First Street~~
~~Springfield, Illinois 62777~~

~~B) No electronic or facsimile transmissions will be accepted.~~

~~C) Appeals postmarked later than 14 calendar days following receipt of the nonrenewal notice will not be processed.~~

~~2) In addition to the appeal form, the licensee may submit the following material when the appeal is filed:~~

~~A) evidence that he or she has satisfactorily completed activities sufficient to meet the requirements of Section 21-14 of the School Code, as modified by Section 21-2(c)(8) of the School Code if applicable;~~

~~B) any other relevant documents.~~

~~h) Grounds for a recommendation that a license not be renewed shall be limited to the licensee's failure to satisfactorily complete activities sufficient to meet the requirements of Section 21-14 of the School Code, as modified by Section 21-2(c)(8) of the School Code if applicable.~~

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 25.840 Appeals to the~~Action by~~ State Educator Preparation and Licensure Board~~; Appeals~~

a) The State Superintendent's decision to not renew a license due to the licensee's failure to complete renewal requirements may be appealed to the~~. The~~ SEPLB.

1) The notice of nonrenewal shall be sent to the licensee by certified mail, return receipt requested.

2) The licensee shall submit his or her request for an appeal by certified mail, return receipt requested, no later than 30 days after the date of receipt of the notice of nonrenewal. The appeal request shall be sent to the State Educator Preparation and Licensure Board, 100 North First Street, Springfield, Illinois 62777-0001.~~shall review each recommendation regarding the renewal of a license within the time allotted by Section 21-14(h) of the School Code [105 ILCS 5/21-14(h)] and verify that the licensee has met the renewal criteria set forth in Section 21-14(g)(1) of the School Code [105 ILCS 5/21-14(g)(1)], subject to the licensee's right of appeal as specified in that Section.~~

b) Within 90~~60~~ days after receipt of an appeal submitted pursuant to subsection (a)~~filed by a licensee challenging a regional superintendent's recommendation for nonrenewal~~, the SEPLB may~~shall~~ hold an appeal hearing or make a recommendation based on a review of the record, as enumerated in Section 21B-45(m) of the School Code. If a hearing is to be held, the~~The~~ Board shall notify the licensee of the date, time~~,~~ and place of the hearing.

1) The licensee shall submit to the SEPLB any additional information as the SEPLB determines is necessary to decide the appeal.

2) If a hearing is held, the~~*The*~~ SEPLB may request that the~~*may request that the*~~ licensee appear before it~~*appear before it*~~. ~~(Section 21-14(h)(2) of the School Code [105 ILCS 5/21-14(h)(2)])~~ The licensee shall be given at least ten days' notice of the date, time~~,~~ and place of the hearing.

3) In verifying whether the licensee has met the renewal criteria set forth in Section 21B-45~~21-14(g)(1)~~ of the School Code and this Subpart J, the~~*the*~~

SEPLB shall consider~~*shall review*~~:

A) *the regional superintendent of education's rationale for recommending nonrenewal of the license, if applicable*~~*the recommendation of the regional superintendent of schools*~~*;*

B) *any evidence submitted to the State Superintendent along with the individual's electronic statement of assurance for renewal provided in ELIS*~~*the Regional Professional Development Review Committee's recommendation, if any*~~*;* and

C) *the State Superintendent's rationale for nonrenewal of the license.* (See Section 21B-45(m)(2) of the School Code.)~~*the Local Professional Development Committee's recommendation, if any; and*~~

~~D)~~ ~~*all relevant documentation*~~.

c) The SEPLB shall notify the licensee of its decision regarding license renewal no later than 30 days after reaching a decision as set forth in Section 21B-45(m)~~21-14(h)(2)~~ of the School Code~~ [105 ILCS 5/21-14(h)(2)]~~. Upon receipt of notification of renewal, the licensee, using ELIS, shall pay the applicable registration fee~~ to the regional superintendent~~. If the decision is not to renew the individual's license, the notification shall state the reasons for that decision.

d) An individual whose license is not renewed because of his or her failure to complete professional development in accordance with this Subpart J may reinstate~~renew~~ the license once that license has lapsed (i.e., September 1 of the year in which the license~~been~~ expired~~ for six months or more~~) if he or she has;

1) paid any accumulated registration fees, including registration fees owed;~~, and~~

2) either paid the penalty or completed the coursework required under Section 21B-45~~21-14~~ of the School Code, the latter of which shall not be counted as both satisfying the penalty and meeting the professional development owed; and

3) presented~~. Until that time, the individual may renew the professional~~

~~educator license if he or she pays any back fees owed and presents~~ evidence of completing the balance of the professional development activities that were required for renewal of the license previously held.

e) The SEPLB shall not renew any license if information provided on the application makes the holder subject to the requirements of any of Sections 25.485 through 25.491 of this Part. Any disciplinary action taken against a licensee under any of those Sections shall be in accordance with the rules of the State Board of Education for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475). The decision of the State Board of Education is a final administrative decision and shall be subject to administrative review as set forth in Section 21B-90 of the School Code [105 ILCS 5/21B-90].

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 25.845 Responsibilities of School Districts (Repealed)

~~As used in this Section, the term "school district" shall be understood to include charter schools, cooperatives, and joint agreements.~~

~~a) Each school district shall designate an employee who will have the responsibility for making all forms required pursuant to this Subpart J available to licensees, members of local professional development committees, and others who need to use them.~~

~~b) Each school district, in conjunction with its exclusive representative, if any, shall determine the number and types of any LPDCs that will be established at the local level.~~

~~c) Each school district shall publicize to licensees:~~

~~1) the number and respective areas of responsibility of the district's LPDCs, if any;~~

~~2) the name of each committee's chairperson; and~~

~~3) the method by which individuals may contact the LPDCs and the address to which materials shall be submitted.~~

~~d) Each school district shall file with the regional superintendent, on a form supplied by the State Board of Education, a list of its LPDCs, indicating for each LPDC the areas of responsibility, the chairperson's name, and the other members' names. Revisions to these lists shall be submitted as changes occur. Each district shall notify the regional superintendent whenever there is a change in this information.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 25.848 General Responsibilities of LPDCs (Repealed)

~~a) Each LPDC shall post the schedule of its meetings.~~

~~b) Each LPDC shall comply with the applicable timelines set forth in this Subpart J and shall maintain records demonstrating compliance.~~

~~c) Each LPDC shall acknowledge in writing its receipt of a statement of assurance for renewal of an individual's license if an acknowledgment is requested by the licensee pursuant to Section 25.830(c) of this Part.~~

~~d) Each LPDC shall request from the exclusive representative the appointment of any alternates for its teacher members as may be necessary to ensure that no licensee participates in recommending renewal or nonrenewal of his or her own license or that of another individual who supervises or evaluates, or is supervised or evaluated by, him or her. If another LPDC is operating within the same school district, alternates to be used in these situations shall be chosen from among the teacher members of that LPDC.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 25.850 General Responsibilities of Regional Superintendents (Repealed)

~~a) Each regional superintendent of schools shall designate an employee who will be responsible for making all forms required pursuant to this Subpart J available to licensees, members of local and regional professional development committees, and others who need to use them. Each regional superintendent of schools shall also designate an employee who will be responsible for tracking the receipt and distribution of the written materials called for in this Subpart J that are submitted to or through the regional office. Nothing shall preclude the same individual from fulfilling both the functions specified in this subsection (a).~~

~~b) Each regional superintendent shall determine the number of regional professional development review committees needed in the region.~~

~~1) The number of committees that will operate in a region shall be at the regional superintendent's discretion, so long as the committees established are able to accomplish the functions assigned to them in accordance with the timelines set forth in this Subpart J.~~

~~2) Each regional superintendent may distribute responsibility among RPDRCs according to district, building, grade level, type of license, subject matter area, or any other factor the regional superintendent deems appropriate.~~

~~3) Each regional superintendent shall ensure that sufficient alternate members are available to the region's RPDRC or RPDRCs to ensure that no member reviews any matter raised by an individual for whom he or she is either a supervisor or a subordinate and to avoid other potential conflicts of interest.~~

~~c) Each regional superintendent shall publicize the way in which licensees can contact the RPDRCs. In each case, the address of the regional superintendent's office shall be identified as the address of the RPDRC. If a schedule for RPDRC meetings is set, the regional superintendent shall publicize that schedule.~~

~~d) Each regional superintendent shall provide written information to members of the RPDRCs concerning the method for reimbursement of their expenses, identification of reimbursable items, and rates of reimbursement.~~

~~e) Each regional superintendent shall review all recommendations for license renewal or nonrenewal in light of the assurances and other information presented and, using a form supplied by the State Board of Education, shall forward those recommendations to the SEPLB along with an indication of his or her concurrence or non-concurrence. The regional superintendent shall forward the documentation specified in Section 25.835(g) of this Part as applicable in each case.~~

~~f) If any individual's statement of assurance indicates that he or she may be or is out of compliance with Section 10-65 of the Illinois Administrative Procedure Act~~

~~with regard to child support payments, the regional superintendent shall separate any statement of assurance of this type from those pertaining to licenses that are recommended for renewal and shall forward them to the Secretary of the SEPLB whenever he or she forwards the remainder of the materials called for in subsection (e) of this Section, calling the Secretary's attention to the potential noncompliance.~~

~~g)~~ ~~Each regional superintendent shall notify all LPDCs and RPDRCs in his or her region of the State priorities referred to in Section 25.810 of this Part.~~

~~h)~~ ~~Based upon information provided by the licensees in his or her region, each regional superintendent shall enter data into the centralized registry indicating the valid and active or valid and exempt status of each license for each semester of its validity.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 25.855 Approval of Professional Development~~Illinois~~ Providers

~~Illinois-based entities that offer professional development activities, such as training organizations, institutions, school districts, regional offices of education, firms, teacher unions and professional associations, and universities and colleges, may apply to the State Board of Education and the SEPLB for approval to issue CPDUs for conferences, workshops, institutes, seminars, symposia, or other similar training events whose goal is the improvement of teaching skills and knowledge.~~ A licensee may not receive credit for professional development activities completed for the purpose of renewing the professional educator license~~CPDUs~~ with respect to activities offered by ~~Illinois-based~~ entities that are not ~~so~~ approved under Section 21B-45(g) of the School Code or this Subpart J~~, unless the activity is offered under the auspices of the State Board of Education or Section 25.872 of this Part applies~~. The State Superintendent of Education shall post by July 1 of each year a list of the entities approved for this purpose.

a) Any provider, other than those listed in subsection (b), that received approval to offer educator preparation programs prior to July 1, 2014 may continue to offer professional development activities until December 31, 2014, provided those activities conform to the requirements of Section 21B-45 of the School Code and this Subpart J. Starting January 1, 2015, a provider meeting the requirements of subsection (c) must be granted approval under this Section in order to continue to serve as an approved provider for license renewal purposes.

b) In accordance with Section 21B-45(g), the entities listed in this subsection (b) are deemed approved to provide professional development activities for the renewal of the professional educator license beginning July 1, 2014. No further approval is necessary.

1) The State Board of Education;

2) Regional offices of education and intermediate service centers;

3) Regionally accredited institutions of higher education that have been approved under Subpart C to offer educator preparation programs;

4) Illinois public school districts;

5) Charter schools authorized under Article 27A of the School Code [105 ILCS 5/Art. 27A]; and

6) Joint education programs established under Article 10 of the School Code [105 ILCS 5/Art. 10] for the purposes of providing special education services or career and technical education.

c) An Illinois professional association that represents one of the groups of educators listed in this subsection (c) may be approved as a provider under this Section. (See Section 21B-45(g)(3) of the School Code.) For purposes of this subsection (c), "represents" means advocating for a group or advocating for or representing a group's interests in local, State or federal legislative processes; acting for, in place of, or on behalf of a group; and/or serving as a spokesman, proxy or attorney for a group. "Represent" shall not refer to organizations whose primary purpose is to provide support to or promote the goals of a group or conduct research about issues of interest to the group. An eligible Illinois professional association shall represent one or more of the following:

1) School administrators holding Illinois educator licensure;

2) Principals holding Illinois educator licensure;

3) School business officials serving in Illinois public schools;

4) Teachers holding Illinois educator licensure;

5) Boards of education established under Article 10 or Article 34 of the School Code;

6) Illinois public school districts;

7) Parents of students enrolled in Illinois public schools; or

8) School support personnel holding Illinois educator licensure.

d)~~a)~~ Each association eligible under~~Except as provided in~~ subsection (c)~~(b) of this Section, each provider~~ wishing to receive approval shall submit an application in a format specified~~on a form supplied~~ by the State Board of Education that~~. For each area of professional knowledge or skill in which the provider wishes to secure approval, the application~~ shall include:

1) evidence that the professional development activities to be provided will align to the Standards for Professional Learning (2011) promulgated by Learning Forward, 504 South Locust Street, Oxford OH 45056 and posted at www.learningforward.org/standards/index.cfm;

2) a description of the intended offerings in terms of relevant State learning standards to be addressed, including identification of the process the association will use to determine the expected effect on student achievement or school improvement that will result from the skills and knowledge the licensee is expected to acquire from the activity;

3) a description linking the professional development activities to one or more of the purposes listed in Section 21B-45(h) of the School Code, which are to:

A) *increase the knowledge and skills of school and district leaders who guide continuous professional development*;

B) *improve the learning of students*;

C) *organize adults into learning communities*, the goals of which *are aligned to those of the school and district*;

D) *deepen educator's content knowledge*;

E) *provide educators with research-based instructional strategies to assist students in meeting rigorous academic standards*;

F) *prepare educators to appropriately use various types of classroom assessments*;

G) *use learning strategies appropriate to the intended goals*;

H) *provide educators with the knowledge and skills to collaborate*; and

I) *prepare educators to apply research to decision-making*;

4)~~2)~~ the qualifications and experience the provider will require of presenters to be assigned in each area;

5) the mode of delivery of the professional development; and

6)~~3)~~ assurances that the requirements of subsection (e)~~(c) of this Section and the requirements of Section 25.870 of this Part~~ will be met.

~~b) An organization that has affiliates based in Illinois may apply for approval on their behalf.~~

~~1) The applicant organization shall provide a list of its affiliates for which approval is sought and supply the information required pursuant to subsection (a) of this Section with respect to each one.~~

~~2) The applicant organization's provision of the assurances required pursuant to subsection (a)(4) of this Section shall be understood to apply to each affiliate for which approval is sought.~~

~~3) The applicant organization shall notify the State Board of Education any time it determines that one or more affiliates should be added to or removed from the list of approved providers or that the areas of training should be changed for one or more of the affiliates. For affiliates to be added, the applicant organization shall supply the information required~~

~~pursuant to subsection (a) of this Section.~~

~~4)~~ ~~The approval status of the applicant organization shall be contingent upon its affiliates' compliance with the applicable requirements of this Subpart J.~~

e)~~c)~~ Each provider approved to issue credit for professional development activities under Section 21B-45 of the School Code and this Section~~CPDUs~~ shall:

1) verify attendance at its professional development~~training~~ activities, provide to participants the standard forms referred to in Section 25.865~~ of this Part~~, and require completion of the evaluation form~~portion of these forms~~;

2) maintain participants' evaluation forms for a period of not less than three years and make them available for review upon request by staff of the State Board of Education; and

3) maintain attendance records for each event or activity it conducts ~~or sponsors~~ for a period of not less than six~~five~~ years.

f)~~d)~~ Applicants may be asked to clarify particular aspects of their materials.

g)~~e)~~ The State Superintendent of Education~~, on behalf of the State Board of Education and the SEPLB,~~ shall respond to each application for approval no later than 45~~30~~ days after receiving it.

h)~~f)~~ A provider shall be approved to issue credit for clock hours completed in increments of at least one-half hour~~CPDUs~~ for a given type of activity only if the provider's application provides evidence that:

1) the activities ~~and events~~ it sponsors or conducts will be developed and presented by persons with education and experience in the applicable content~~subject matter~~ areas; and

2) there is an apparent correlation between the proposed content of the professional development~~training~~ activities, the relevant standards set forth in Section 25.115(e)~~Subpart B of this Part~~, and one or more of the criteria set forth in~~purposes the recipients are required to address in their~~

~~continuing professional development plans pursuant to~~ Section 21B-45(d)~~21-14(e)(2)~~ of the School Code and Section 25.805(a) of this Part.

i) A provider not approved under this Section may work with any provider listed under subsection (b) to offer professional development activities.

~~g) The State Board of Education will maintain and publicize the list of all approved providers. The list shall indicate any limitations on the types of activities for which an entity has received approval.~~

j)~~h)~~ Approval of a provider shall be valid until June 30 following the approval's being in effect for two~~three~~ years. Continuation of that approval in year 2 shall be contingent upon the State Superintendent receiving~~To request renewal of approval, a provider shall, no later than March 1 of the year of expiration, submit an application on a form supplied by the State Board of Education and containing:1) a description of any significant changes in the material submitted as part of its approved application; or 2) a certification that no significant changes have occurred. i) A provider's approval shall be renewed if the application conforms to the requirements of subsection (h) of this Section, provided that the Boards have received~~ no evidence of noncompliance with the requirements of this Subpart J.

k) To request renewal of approval, a provider shall, by no later than March 1 of the year of expiration, submit an application in a format specified by the State Board of Education containing:

1) a description of any significant changes in the material submitted as part of its approved application, which shall include changes in the courses' sequence, content, materials used, assessments, outcomes or purpose; or

2) a certification that no significant changes of the type outlined in subsection (k)(1) have occurred.

~~j) The State Board of Education may evaluate any approved provider at any time to ensure compliance with the requirements of this Section. Upon request by the State Board, a provider shall supply information regarding its schedule of training events, which the State Board may, at its discretion, monitor at any time.~~

~~1) In the event an evaluation indicates that applicable standards have not~~

~~been met, the State Board of Education and the SEPLB may jointly withdraw approval for one or more types of activities or of the provider.~~

~~2)~~ ~~Staff of the State Board of Education shall periodically report to the SEPLB on the providers reviewed and any changes in their approval status.~~

~~3)~~ ~~Pursuant to Section 21-14(e)(3)(H) of the School Code [105 ILCS 5/21-14(e)(3)(H)], *a teacher may not receive credit for any activity that is designed for entertainment, promotional, or commercial purposes or that is solely inspirational or motivational, and the State Board and the* SEPLB *may jointly disapprove any activity found to be of this nature.*~~

~~A)~~ ~~When an activity is disapproved under this subsection (j)(3), the provider may continue to offer the activity but shall immediately revise all relevant notices and advertisements to indicate the nature of the activity. The provider shall be required to state in each notice or advertisement that the activity generates no credit applicable to license renewal. Individuals who complete the activity once it is accurately described shall not claim credit for it.~~

~~B)~~ ~~Individuals who have completed an activity that is later disapproved under this subsection (j)(3) shall not be penalized with respect to continuing professional development credit accrued for that activity.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 25.860 Reporting by and Audits of~~Out-of-State~~ Providers

Each provider listed under Section 25.855(b) or approved under Section 25.855(c) is subject to the requirements of this Section.

a) Each provider shall submit to the State Board of Education by June 30 annually a list of the subcontractors used in the previous 12 months for professional development activities for which credit was provided in accordance with this Subpart J. For each subcontractor, the provider shall submit the name and summary of each activity provided and the outcomes anticipated, including the dates the activity occurred.

b) Each provider shall submit to the State Board of Education by June 30 annually any data and other information that responds to the requirements of Section 21B-45(j)(2) of the School Code.

c) An audit of each provider shall be conducted at least once every five years in accordance with Section 21B-45(j)(3) of the School Code. Data and information from the audits, as well as collected pursuant to subsections (a) and (b) of this Section, shall be used to determine if the provider has met the requirements of Section 21B-45 of the School Code and this Subpart J.

1) In the event that a determination is made that applicable standards have not been met, the State Board of Education may withdraw approval for one or more types of activities or of the provider.

2) A licensee may not receive credit for any professional development activity that is designed for entertainment, promotional or commercial purposes; that is solely inspirational or motivational; or that addresses purposes other than those listed in Section 25.855(d)(3), and the State Board may disapprove any activity found to be of this nature.

A) When an activity is disapproved under this subsection (c), the provider may continue to offer the activity but shall not provide to any participants the standard form referred to in Section 25.865 and shall immediately revise all relevant notices and advertisements to indicate the nature of the activity. The provider shall be required to state in each notice or advertisement that the activity generates no credit applicable to license renewal. Individuals who complete the activity once it is accurately described shall not claim credit for it.

B) Individuals who have completed an activity that is later disapproved under this subsection (c) shall not be penalized with respect to professional development credit accrued for that activity.

~~The requirements for approval of providers not based in Illinois shall be as set forth in this Section unless Section 25.872 of this Part applies.~~

~~a) Entities not based in Illinois that offer professional development activities for~~

~~which the target audience is groups of Illinois teachers shall be subject to the requirements of Section 25.855 of this Part. A licensee may not receive credit with respect to activities offered by an out-of-state entity unless it has been approved pursuant to that Section.~~

~~b)~~ ~~When an entity not based in Illinois conducts an activity outside Illinois, a licensee may receive CPDUs with respect to that activity, provided that:~~

~~1)~~ ~~the licensee documents his or her participation by maintaining on file:~~

~~A)~~ ~~the program, agenda, or other announcement of the event; and~~

~~B)~~ ~~a completion form supplied by the provider to indicate the licensee's attendance at the event or, if no form was supplied, a signed statement by the licensee to that effect; and~~

~~2)~~ ~~if the licensee's records are audited pursuant to Section 21-14(e)(4) of the School Code, the program, agenda, or other announcement of the event is found to demonstrate that there is an apparent correlation between the content of the training received and one or more of the purposes the recipient must address in his or her continuing professional development.~~

~~c)~~ ~~When a national or regional activity (e.g., the annual conference of the National Council of Teachers of Mathematics) happens to be held in Illinois, that activity shall not be treated as one for which the target audience is groups of Illinois teachers. That is, provider approval shall not be required and credit shall be available as described in subsections (b) and (c) of this Section.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 25.865 Awarding of Credit for Activities with Providers

The ~~SEPLB and the~~ State Board of Education shall develop the requirements for ~~a~~ standard forms~~form~~ that shall be used by approved providers. These forms shall serve two purposes: evaluation of the activity by the licensee and evidence of completion for the licensee with respect to the activity. The State Board of Education shall make available information about the required format and contents of these forms~~this form~~ so that providers may generate them for their own use~~, other than providers who are subject to the requirements of Section 25.872 of this Part~~.

a) This form shall be provided to each participant who completes the activity, who shall maintain it as evidence of completion of the professional development activity~~(see Section 25.875(k) of this Part)~~. In the case of a conference, workshop, or other event having more than one session, each session shall be considered an "activity" for purposes of this Section~~Subpart J~~.

b) The provider shall complete the standard form to indicate the title, time, date, location, ~~and~~ nature of the event and clock hours of credit earned (i.e., in increments of one-half hour).

~~c) The number of CPDUs to be credited shall be in keeping with the provisions of Section 25.875(k) of this Part. Time spent on multiple topics at the same event may be combined to generate CPDUs.~~

c)~~d)~~ If the licensee's records are audited pursuant to Section 21B-45(j)~~21-14(e)(4)~~ of the School Code and Section 25.860 of this Part, credit for professional development activities~~, CPDUs~~ claimed shall be affirmed only when the standard form is presented.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 25.872 Special Provisions for Interactive, Electronically Delivered Continuing Professional Development (Repealed)

~~The requirements of this Section shall apply to the approval of providers and the awarding of credit for activities that are electronically delivered, such as electronically mediated study groups, seminars, and conferences, interactive CD-ROMs, and on-line professional development curricula. The provisions of Sections 25.855, 25.860, and 25.865 of this Part shall apply to these activities only to the extent set forth in this Section.~~

~~a) A licensee may accrue professional development credit for an activity under this Section if the provider of the activity is approved for the applicable subject area pursuant to subsections (b) through (f) of this Section. Alternatively, a licensee may accrue credit for an activity without an approved provider by meeting the requirements of subsection (h) of this Section.~~

~~b) Each provider wishing to receive approval under this Section shall submit an application using a format prescribed by the State Board of Education. For each~~

~~area of professional knowledge or skill in which the provider wishes to secure approval, the application shall describe:~~

~~1) the intended offerings in terms of relevant standards to be addressed;~~

~~2) the qualifications and experience the provider will require of the presenters, moderators, and facilitators to be assigned in each area;~~

~~3) the means by which individuals' participation and participants' identities will be verified, consistent with subsection (e)(4) of this Section;~~

~~4) the assistance that the provider will furnish to participants to foster their understanding of the material covered in the activity and their ability to complete the activity's requirements successfully; and~~

~~5) the documentation that the provider will furnish to each individual who completes a continuing professional development activity.~~

~~c) Each application shall provide assurances that the following requirements will be met.~~

~~1) The provider shall verify individuals' participation in its training activities, provide documentation indicating whether those who participated in a particular activity have completed it, and require participants to complete evaluations of the activities that will gather at least the information specified by the State Board of Education. The evidence of completion provided to participants shall indicate the average or expected time required so that one CPDU per hour of participation may be documented.~~

~~2) The provider shall maintain participants' evaluations for a period of not less than three years and make them available for review upon request by staff of the State Board of Education.~~

~~3) The provider shall maintain records of participation and completion for each activity it conducts or sponsors for a period of not less than five years.~~

~~d) Applicants may be asked to clarify particular aspects of their materials.~~

~~e) A provider shall be approved under this Section only if all of the following conditions are met.~~

~~1) There is an apparent correlation between the content of the training activities, the standards applicable to their intended participants, and one or more of the purposes the participants are required to address in their continuing professional development pursuant to Section 21-14(e)(2) of the School Code.~~

~~2) The activities will be developed and presented by persons with education and experience in the applicable subject areas.~~

~~3) The provider makes available to participants a mentor or facilitator who is qualified by education and experience to serve as a presenter of the activity.~~

~~4) Participation in or completion of any portion of the activity that is not designed to be attended in person is verified by some other means. That is, each individual's participation yields either a product (e.g., a lesson plan, a tape of teaching performance, a completed test) or a record of interaction with a representative of the provider or with other participants (e.g., a discussion board). These products and records are available for evaluation by the provider, and each participant's receipt of the evidence of completion for the activity is contingent upon their presentation to the provider along with a brief written statement in which the licensee discusses the skills and/or knowledge acquired and indicates, where applicable, how the skills or knowledge will be applied in the context of his or her teaching. Alternatively, if the licensee determines that the experience has not yielded knowledge or skills that can be used in his or her teaching, he or she shall indicate that fact and briefly explain why this is the case.~~

~~5) Each participant who completes the activity receives verification from the provider to that effect.~~

~~f) The State Superintendent of Education, on behalf of the State Board of Education and the SEPLB, shall respond to each application for approval no later than 30 days after receiving it.~~

~~g) A licensee may receive continuing professional development credit for an activity conducted by a provider approved under this Section to the extent that the activity is relevant to one of the purposes applicable to the licensee.~~

~~h) A licensee may receive continuing professional development credit for an activity not conducted by a provider approved under this Section (to the extent that the activity is relevant to one of the purposes applicable to the licensee) by meeting the requirements of this subsection (h).~~

~~1) The licensee shall maintain a syllabus, program, or summary prepared by the provider or a summary written by the licensee.~~

~~2) The licensee shall maintain any documents or other products developed during the activity and any verification of completion supplied by the provider.~~

~~3) The licensee shall maintain a brief written statement meeting the requirements of subsection (e)(4) of this Section.~~

~~4) The licensee shall maintain a statement issued by the provider indicating the average or expected amount of time required for completion of the activity, which shall serve as the basis for credit in the form of CPDUs at a rate of one per hour of direct participation.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 25.875 Continuing Professional Development Units (CPDUs) (Through June 30, 2014)

This Section applies to CPDUs earned on or before June 30, 2014. A licensee shall record in ELIS no later than December 31, 2014 the number of CPDUs earned at a rate of one clock hour for one CPDU. Beginning January 1, 2015, the provisions of this Section shall no longer apply. The number of CPDUs that were 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)(F)(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)(F)(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 licensee'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)(F)(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 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)(F)(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)(F)(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 classes directly taught by the licensee.

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 being met; a written statement prepared by the licensee 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)(F)(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 licensee'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 licensee 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)(F)(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 it is designed to meet, and describes the activities conducted by the licensee; and a copy of the relevant portion of the school improvement plan that includes the specific needs 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)(F)(viii)]

1) Definitions

A) Service (as determined by the educator 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 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 preparation institution naming the licensee 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* endorsement *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)(G)(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 license and relevant endorsements and addresses the standards set forth in Subpart B of this Part relative to the licensee's fields of teaching or assignment.

2) Evidence of Completion: A grade report or official transcript issued by the institution indicating that the licensee has passed the course.

j) *Teaching college or university courses in areas relevant to the* endorsement *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)(G)(ii)]

1) Definition: Teaching a college-level course in a field that is related to an individual's endorsements 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 licensee 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 licensee 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)(H)(i)]; *participating in or presenting at workshops, seminars, conferences, institutes, and symposiums* [105 ILCS 5/21-14(e)(3)(H)(ii)]; *participating in or presenting at in-service training programs on suicide prevention* [105 ILCS 5/21-14(e)(3)(H)(v)]

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 licensee'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 licensee as presenter in a topic area relevant to his or her licensure or teaching assignment.

l) *Training as reviewers of university teacher preparation programs* [105 ILCS 5/21-14(e)(3)(H)(iv)]

1) Definition: Participation in a complete training sequence regarding the process used by the State Board of Education in approving educator preparation programs or recognizing educator 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 license's validity.

3) Evidence of Completion: A certificate issued by the State Board.

m) *Participating in action research and inquiry projects* [105 ILCS 5/21-14(e)(3)(I)(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 licensee's own classes; 11 CPDUs per semester shall be credited for a project involving or affecting classes other than or in addition to the licensee's own classes.

3) Evidence of Completion: The written protocol and a written summary of the inquiry and its results that describes what the licensee has learned and identifies the implications of the experience for the individual's future teaching.

n) *Observing programs or teaching in schools, related businesses, or industry that is*

systematic, purposeful, and relevant to license *renewal* [105 ILCS 5/21-14(e)(3)(I)(ii)]

1) Definition: Engaging in a series of observations, either of teaching performed by others or of work activity directly related to the licensee's areas of licensure.

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 licensee, 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.

o) *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)(I)(iii)]

1) Definition: Travel lasting no less than three consecutive, full days, that has been approved based on a plan submitted by the licensee. 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 licensee engages in an episode of qualifying travel, except that 15 CPDUs shall be awarded per year in which a licensee 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 licensee 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 this travel in

a subsequent year, provided that the licensee 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 licensee 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.

p) *Participating in study groups related to student achievement or school improvement plans* [105 ILCS 5/21-14(e)(3)(I)(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 licensee.

q) *Serving on a statewide education-related committee, including but not limited to the* SEPLB, *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)(I)(v)]

1) Definition: Attendance at and participation in no fewer than two-thirds of the meetings of any of these bodies.

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.

r) *Participating in work/learn programs or internships* [105 ILCS 5/21-14(e)(3)(I)(vi)]

1) Definition: Participation in a structured program that pairs the licensee with an employer or other entity under whose auspices the licensee 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 licensee's direct contact with other individuals from whose knowledge or experience he or she was to benefit.

s) *Developing a portfolio of student and teacher work* [105 ILCS 5/21-14(e)(3)(I)(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 licensee that describes:

i) the assignment to which the work responds and the teacher's goals 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 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.

2) Credit: 15 CPDUs.

3) Evidence of Completion: The materials referred to in subsection (s)(1) ~~of this Section~~.

t) *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)(J)(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 licensee's presence and participation; and the product of the group's work, such as a curriculum guide or new assessment.

u) *Participating in team or department leadership in a school or school district* [105 ILCS 5/21-14(e)(3)(J)(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.

v) *Participating on institution of higher education approval review teams* [105 ILCS 5/21-14(e)(3)(J)(iii)]

1) Definitions
Participating on a review team convened pursuant to Section 25.155(i) of this Part with respect to the initial recognition of an institution of higher education and its approval to provide educator preparation programs.

2) Credit: Fifteen CPDUs shall be credited 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.

3) Evidence of Completion: Documentation of the individual's assignment by State Board staff (program review panel, or institutional review team); and a statement signed by the team's chair or convenor verifying the licensee's participation for the duration of the process.

w) *Publishing educational articles, columns, or books relevant to the* endorsement *area being renewed* [105 ILCS 5/21-14(e)(3)(J)(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".

x) *Participating in non-strike-related professional association or labor organization service or activities related to professional development* [105 ILCS 5/21-14(e)(3)(J)(v)]

1) Definition: Service on local professional development committees, regional professional development review committees (including service by licensees 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.

y) Other
Continuing professional development units shall be available for activities not enumerated in subsections (a) through (x)~~ of this Section~~ based upon written evidence maintained by the licensee that:

1) describes the activity and its purpose, intensity, duration, and outcomes;

2) discusses how the activity related to the improvement of the licensee's knowledge and skills;

3) identifies which of the activities enumerated in subsections (a) through (x) 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 (y)(3)~~ of this Section~~.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 25.880 "Valid and Exempt" Licenses; Proportionate Reduction; Part-Time Teaching

a) The requirements of this Subpart J regarding continuing professional development are subject to proportionate reduction with respect to periods of time during which a license is maintained as valid and exempt. The requirements of this Section do not apply to licensees who *are working in a position that does not require educator licensure or working in a position for less than 50* percent of full-time equivalency *for any particular year*. These licensees *are considered to be exempt and shall be required to pay only the registration fee in order to renew and maintain the validity of the license*. (Section 21B-45(e)(5) of the School Code)

1) Each licensee shall, for~~ notify the regional superintendent of schools of~~ any year~~semester~~ that he or she believes qualifies as a period of exemption, enter the period of exemption into ELIS.~~ The State Board of Education shall make a form available for this purpose that will allow the regional superintendent to determine whether an individual's license will be considered valid and active or valid and exempt for any given semester. The regional superintendent shall verify~~ Upon verification of the licensee's employment status, the license for that period of time will be determined to be valid and active or valid and exempt.~~ and shall, as applicable:~~

~~A) enter the period of exemption into the centralized registry; or~~

~~B) return the notification form to the licensee with an indication as to why the period in question does not qualify as a period of exemption.~~

2) Periods of exemption shall be established in one-year~~one-semester~~ increments. A one-year period of exemption shall be available only for a school year~~semester~~ during which a licensee is employed and performing services for fewer than 50 percent of full-time equivalency~~45 school days. Each one-semester period of exemption shall result in a ten-percent reduction in the requirement for continuing professional development~~.

3) When applying for renewal of his or her licenses, each licensee shall identify the one-year periods of exemption that occurred during the 5-year renewal cycle~~period of validity~~ and the proportionate reduction (i.e., 20 percent reduction for each year of exemption) that applies to the requirements for ~~continuing~~ professional development activities.

4) Completion of professional development activities during a period of exemption shall not affect the proportionate reduction in the total number of clock hours~~units~~ required for a licensee, but may be credited toward the total amount of professional development needed in the 5-year renewal cycle~~other than an individual who is a special education teacher (see subsection (a)(5) of this Section)~~.

~~5) In the case of a special education teacher, if proportionate reduction in the requirements for continuing professional development results in a conflict between the total number of units of credit earned and the distribution of those units, the individual shall be required to accumulate 50 percent of the reduced number of credits required in activities attributable to the purposes set forth in Section 25.807(b) of this Part.~~

b) A valid and exempt license may be immediately (i.e., within six months) reactivated upon the licensee becoming employed in a position that requires an educator license and performing services in an Illinois public or State-operated school or cooperative or charter school. The licensee shall record the "active" status in ELIS before the end of the 5-year renewal cycle.

c) Holders of valid and exempt professional educator licenses endorsed in an administrative field who are not employed in an Illinois public or State-operated school or cooperative or charter school are not subject to the requirements of Section 21B-45 of the School Code or this Subpart J.

~~b) *The requirement for continuing professional development shall be reduced by 50 percent with respect to a period of time during which the* licensee *has been employed on a part-time basis, i.e., has been teaching for less than 50 percent of the school day or school term*. (Section 21-14(e)(1) of the School Code [105 ILCS 5/21-14(e)(1)])~~

~~c) The reduced requirements for continuing professional development that apply under Section 21-2(c)(8) of the School Code to licensees who have acquired master's degrees, education specialists, doctorates, or NBPTS master designations and whose applications for license renewal are received or processed on or after July 1, 2004, shall also be subject to proportionate reduction if applicable under this Section.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Section 25.APPENDIX E Endorsement Structure Beginning July 1, 2013

Section 25.100 explains the endorsements issued on the professional educator license and the availability of any content-specific endorsements (previously called "designations"). The relevant provisions of Section 25.100(d) shall apply in cases in which no test is available (see Section 25.710). Any individual holding only an endorsement available prior to July 1, 2004 that was not exchanged for an endorsement available after that date, and, as applicable, content-area endorsement, is limited to teaching only the content encompassed by the endorsement issued prior to July 1, 2004.

Endorsements Currently Available	Content-specific Endorsements Currently Available	Endorsements, with Designations, as applicable, Issued July 1, 2004 until July 1, 2013	Endorsements Issued Prior to July 1, 2004
Fundamental Learning Areas			
English Language Arts	None	English Language Arts	English Journalism Language Arts Speech
Reading Teacher	None	Reading Teacher	Reading
Reading Specialist	None	Reading Specialist	Reading
Mathematics	None	Mathematics	Mathematics
Science – Content-specific Endorsement Required	Science − Biology Science − Chemistry Science − Earth and Space Science Science − Environmental Science Sciences − Physics	Science endorsement with designations for: Biology Chemistry Earth and Space Science Environmental Science Physics	Biological Science/Biology Botany Physiology Zoology Chemistry Aerospace Astronomy Earth Science Geology Physical Geography/

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Endorsements Currently Available	Content-specific Endorsements Currently Available	Endorsements, with Designations, as applicable, Issued July 1, 2004 until July 1, 2013	Endorsements Issued Prior to July 1, 2004
			Physiography Biological Science Physical Science General Science Physics
Social Sciences – Content-specific Endorsement Required	Social Sciences – Economics Social Sciences – Geography Social Sciences – History Social Sciences– Political Science Social Sciences – Psychology Social Sciences – Sociology and Anthropology	Social Sciences endorsement with designations for: Economics Geography History Political Science Psychology Sociology and Anthropology	Economics Geography U.S. History World History Political Science Psychology Anthropology Sociology
Physical Education	None	Physical Education	Physical Education
Health Education	None	Health Education	Health Education
Dance	None	Dance	Dance
Drama/Theatre Arts	None	Drama/Theatre Arts	Theatre and Drama
Music	None	Music	Music Instrumental Music Vocal Music
Visual Arts	None	Visual Arts	Art
Foreign Languages – Content-specific Endorsement Required	Foreign Languages – Arabic Foreign Languages – Chinese (Cantonese or Mandarin) Foreign Languages –	Foreign Languages endorsement with designations for: Arabic (2008)	Arabic Cantonese, Mandarin French German Hebrew Italian

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Endorsements Currently Available	Content-specific Endorsements Currently Available	Endorsements, with Designations, as applicable, Issued July 1, 2004 until July 1, 2013	Endorsements Issued Prior to July 1, 2004
	French Foreign Languages – German Foreign Languages – Hebrew Foreign Languages – Italian Foreign Languages – Japanese Foreign Languages – Korean Foreign Languages – Latin Foreign Languages – Russian Foreign Languages – Spanish Other foreign languages, provided the candidate meets the requirements of Section 25.100(i).	Chinese (Cantonese or Mandarin) French German Hebrew Italian Japanese Korean Latin Russian Spanish Other foreign languages, provided the candidate completed a major in the foreign language designated.	Japanese Korean Latin Russian Spanish Other foreign languages, as applicable
Additional Teaching Fields			
Agricultural Education	None	Agricultural Education	Agricultural Business and Management Agriculture Agricultural Power and Machinery Horticulture Agricultural Resources

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Endorsements Currently Available	Content-specific Endorsements Currently Available	Endorsements, with Designations, as applicable, Issued July 1, 2004 until July 1, 2013	Endorsements Issued Prior to July 1, 2004
Business, Marketing, and Computer Education – Content-specific Endorsement Optional	Business Computer Programming	Business, Marketing, and Computer Education endorsement with a designation for: Business Computer Programming	Accounting Basic Business Business Computer Programming Business/Marketing/ Management Information Processing Information Processing/Secretaria l Marketing
Computer Applications	None	Computer Applications	Computer Applications
Computer Science	None	Computer Science	Computer Science
Family and Consumer Sciences – Content-specific Endorsement Required	Family and Consumer Sciences – Apparel and Textiles Family and Consumer Sciences – Living Environments Family and Consumer Sciences – Nutrition, Wellness, and Hospitality	Family and Consumer Sciences endorsement with designations for: Apparel and Textiles Living Environments Nutrition, Wellness, and Hospitality	Child and Day Care Services Consumer Education and Resource Management Fashion and Clothing Services Food and Nutrition Services Home Economics Institutional and Home Management Services Interior Furnishings Services/Living Environments Interpersonal, Family

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Endorsements Currently Available	Content-specific Endorsements Currently Available	Endorsements, with Designations, as applicable, Issued July 1, 2004 until July 1, 2013	Endorsements Issued Prior to July 1, 2004
			Relationships, Parenting
Health Careers	None	Health Careers	Health Occupations
Gifted Education Teacher	None	None	None
Gifted Education Specialist	None	None	None
Teacher Leader	None	Teacher Leader	None
Technology Education	None	Technology Education	Industrial Technology Education Construction Electronics Graphic Communications Transportation Manufacturing Industrial Technology Public Service Drafting/Design Autobody Repair Heating, Ventilation, and Air Conditioning
Technology Specialist	None	Technology Specialist	Computer Technology Instructional Technology
Library Information Specialist	None	Library Information Specialist	Media
Safety and Driver Education	None	Safety and Driver Education	Safety and Driver Education

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Endorsements Currently Available	Content-specific Endorsements Currently Available	Endorsements, with Designations, as applicable, Issued July 1, 2004 until July 1, 2013	Endorsements Issued Prior to July 1, 2004
Bilingual Education	Bilingual Education – Target Language	Bilingual Education endorsement with a designation for: Target Language	Bilingual Education with a Target Language Designation
English as a New Language (ENL) – Content-specific Endorsement Optional (secondary or K-12)	ENL – Bilingual Education (language-specific)	ENL endorsement with a designation for: Bilingual Education (language-specific)	Bilingual Education English as a Second Language
English as a Second Language (ESL)	None	ESL	ESL
Middle School (departmentalized)	Subject-specific	Middle School endorsement with subject specific designations	Middle-Grades Junior High School
Middle Grades (grades 5-8) (February 2018)	Subject-specific	Middle School (departmentalized)	Middle Grades Junior High School
Elementary			
Self-Contained General Education (grades K-9)	None	Self-Contained General Education	Self-Contained General Education
Self-Contained General Education (grades 1-6)	None	None	None
Early Childhood			
Early Childhood Special Education	None	Early Childhood Special Education	

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Endorsements Currently Available	Content-specific Endorsements Currently Available	Endorsements, with Designations, as applicable, Issued July 1, 2004 until July 1, 2013	Endorsements Issued Prior to July 1, 2004
Early Childhood Prekindergarten and Self-Contained General Education (kindergarten-grade 3)	None	Early Childhood Self-Contained General Education	Early Childhood
Special Education			
Learning Behavior Specialist I (LBS I)	None	LBS I	LBS I
Learning Behavior Specialist II – Content-specific Endorsement Required	LBS II/Transition Specialist LBS II/Technology Specialist LBS II/Bilingual Special Education Specialist LBS II/Deaf-Blind Specialist LBS II/Behavior Intervention Specialist LBS II/Curriculum Adaptation Specialist LBS II/Multiple Disabilities Specialist	An LBS II endorsement with designations for: LBS II/Transition Specialist LBS II/Technology Specialist LBS II/Bilingual Special Education Specialist LBS II/Deaf-Blind Specialist LBS II/Behavior Intervention Specialist LBS II/Curriculum Adaptation Specialist LBS II/Multiple Disabilities Specialist	LBS II/Transition Specialist LBS II/Technology Specialist LBS II/Bilingual Special Education Specialist LBS II/Deaf-Blind Specialist LBS II/Behavior Intervention Specialist LBS II/Curriculum Adaptation Specialist LBS II/Multiple Disabilities Specialist
Speech-Language Pathologist (teaching)	None	Speech-Language Pathologist	Speech-language impaired
Teacher of Blind or Visually Impaired	None	Blind or Visually Impaired	Blind or partially sighted

Endorsements Currently Available	Content-specific Endorsements Currently Available	Endorsements, with Designations, as applicable, Issued July 1, 2004 until July 1, 2013	Endorsements Issued Prior to July 1, 2004
Teacher of Deaf or Hard of Hearing	None	Deaf or Hard of Hearing	Hearing Impaired
Administrative			
Chief School Business Official	None	Chief School Business Official	Chief School Business Official
Director of Special Education	None	Director of Special Education	Director of Special Education
General Administrative (through June 30, 2014)	None	General Administrative	General Administrative
Principal (2013)	None	General Administrative	General Administrative
Superintendent	None	Superintendent	Superintendent
Teacher Leader	None	Teacher Leader	None
School Support Personnel			
School Counselor	None	School Counselor	Guidance
School Nurse	None	School Nurse	School Nurse
School Psychologist	None	School Psychologist	School Psychologist
School Social Worker	None	School Social Worker	School Social Worker
Speech-Language Pathologist (non-teaching)	None	Non-Teaching Speech-Language Pathologist	Non-Teaching Speech-Language Pathologist
Supervisory − endorsement area (special education only and school support personnel)	None; see ~~Sections 21-4 and 21-25 of the School Code and~~ Section 25.497 of this Part.	Supervisory − endorsement area	Supervisory

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 38 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Evaluation of Certified Employees under Articles 24A and 34 of the School Code

2) Code Citation: 23 Ill. Adm. Code 50

3)

Section Numbers:	Proposed Action:
50.30	Amendment
50.200	Amendment
50.210	New Section
50.220	New Section
50.230	New Section

4) Statutory Authority: 105 ILCS 5/24A-7

5) A Complete Description of the Subjects and Issues Involved: PA 96-861 (Performance Evaluation Reform Act (PERA)), enacted in 2010, amended Articles 24A and 34 of the School Code [105 ILCS 5/Art. 24A and 34] to transform the way in which the performance of teachers and principals in Illinois public schools is evaluated. Central to this transformation is the inclusion of data and indicators of student growth (in addition to consideration of professional practice) as a "significant" factor in determining a teacher's or principal's performance evaluation rating. The law requires that the student growth portion of performance evaluation be designed through a collaborative process between school district administrators and teacher representatives to determine the way in which student growth will be measured (Section 24A-4 of the School Code). If this does not occur within 180 days, then the school district must adopt those components of the State Performance Evaluation Model established by the State Board for which no agreement was reached. These requirements do not apply to CPS, whose joint committee has 90 days to establish a plan and, if it is unable to do so, the district may implement its "last best proposal".

New Section 50.210 individually lists the components upon which agreement may not be reached and how those will be addressed under the State Performance Evaluation Model.

- Student Growth: Section 50.210(a) repeats the statutory requirement of Section 24A-7 of the School Code that the State Performance Evaluation Model provide that student growth comprise 50 percent of the teacher's final performance evaluation rating.

- Assessments: Section 50.210(b) uses a Student Learning Objective (SLO) process as the mechanism to identify assessments that are appropriate for and collaboratively chosen by the teacher being evaluated and his or her qualified evaluator. This process also may be used to identify assessments that measure student growth of students with certain characteristics (e.g., special education placement, English language learners, low-income populations) to ensure that the assessments best measure the impact that the teacher has on these students' academic achievement (see Section 50.210(c)). The SLO includes the identification of two student learning goals (along with growth expectations for each) that are specific to the teacher's content/course of instruction and/or grade level of students taught. The teacher and his or her qualified evaluator then collaboratively choose the two assessments (or one, if only one assessment was the subject of joint committee disagreement) to be incorporated into the teacher's evaluation plan.

- The proposed rule at Section 50.210(b)(4) also recognizes that agreement may not be reached between the teacher and his or her evaluator about the learning goal, growth expectations and/or assessments to be used to measure student growth. Two options for making a final determination are being proposed, which are dependent upon whether agreement is not reached on one or both SLOs.

- Rating Scale: The joint committee also must identify the ratings to be used for student growth, if those ratings are different than the categories of "unsatisfactory", "needs improvement", "proficient" and "excellent" required under Section 24A-5 of the School Code for the final performance evaluation rating assigned. If agreement is not reached in this regard, a school district under the State Performance Evaluation Model would be required to use the Section 24A-5 categories and apply them on the basis of the percentage of students who have met the growth target for the learning goal. (See Section 50.210(d) for specific percentage ranges.)

By way of supporting the SLO process, new Section 50.220 lists the minimum information that must be assembled as part of the process. A sample template will be posted on the agency's website. It may be used as is or adapted by school districts, as applicable to their particular circumstances. While the SLO process was developed as a tool for classroom teachers to use for selecting and/or developing classroom assessments as part of the implementation of balanced assessment systems, its application to the performance evaluation process will help both the teacher and evaluator identify meaningful goals for student learning, encourage collaboration and understanding, and

work to improve instructional effectiveness by monitoring student and teacher progress toward the learning goal.

Although not specific to student growth and therefore, not required to be included in the State Performance Evaluation Model, Section 50.230 sets forth the performance evaluation ratings to be used when agreement is not reached; these ratings consider the 50/50 split between the professional practice rating and student growth rating required under the law.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rule 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? Yes

Section Numbers:	Proposed Action:	*Illinois Register* Citation:
50.10	Amendment	38 Ill. Reg. 8682; April 25, 2014
50.20	Amendment	38 Ill. Reg. 8682; April 25, 2014
50.30	Amendment	38 Ill. Reg. 8682; April 25, 2014
50.300	Amendment	38 Ill. Reg. 8682; April 25, 2014
50.400	Amendment	38 Ill. Reg. 8682; April 25, 2014
50.410	Amendment	38 Ill. Reg. 8682; April 25, 2014

11) Statement of Statewide Policy Objective: 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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Springfield IL 62777-0001

217/782-5270
rules@isbe.net

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 2014

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 50
EVALUATION OF CERTIFIED EMPLOYEES
UNDER ARTICLES 24A AND 34 OF THE SCHOOL CODE

SUBPART A: GENERAL REQUIREMENTS

Section
50.10 Purpose
50.20 Applicability
50.30 Definitions

SUBPART B: PERFORMANCE EVALUATION PLANS: TEACHERS

Section
50.100 Plan Components Required for the Evaluation of Teachers
50.110 Student Growth Components
50.120 Professional Practice Components for Teachers
50.130 Reporting

SUBPART C: STATE PERFORMANCE EVALUATION MODEL FOR TEACHERS

Section
50.200 Implementation Requirements
50.210 Components of the State Performance Evaluation Model
50.220 Student Learning Objective Process
50.230 Performance Evaluation Rating

SUBPART D: PERFORMANCE EVALUATION PLANS:
PRINCIPALS AND ASSISTANT PRINCIPALS

Section
50.300 Plan Components Required for the Evaluation of Principals and Assistant Principals
50.310 Student Growth Components

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

50.320 Professional Practice Components for Principals and Assistant Principals
50.330 Reporting

SUBPART E: TRAINING FOR EVALUATORS

Section
50.400 School District-Developed Prequalification Process or Retraining Program
50.410 Minimum Requirements for Prequalification Process and Retraining Program
50.420 Competencies of Qualified Evaluators

50.APPENDIX A Illinois Standards for Principal Evaluation

AUTHORITY: Implementing and authorized by Section 24A-7 of the School Code [105 ILCS 5/24A-7].

SOURCE: Old Part repealed at 29 Ill. Reg. 15902, effective October 3, 2005; new Part adopted at 36 Ill. Reg. 8330, effective May 21, 2012; amended at 38 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL REQUIREMENTS

Section 50.30 Definitions

As used in this Part:

"Adaptive conditional measurement model" means a measurement model used to analyze assessment data to determine student growth that consists of at least a collection of baseline data that is used to determine individual student growth expectations and the recording of student outcomes in comparison to the growth expectations identified.

"Assessment" means any instrument that measures a student's acquisition of specific knowledge and skills. Assessments used in the evaluation of teachers, principals and assistant principals shall be aligned to one or more instructional areas articulated in the Illinois Learning Standards (see 23 Ill. Adm. Code 1.Appendix D) or Illinois Early Learning and Development Standards − Children Age 3 to Kindergarten Enrollment Age (see 23 Ill. Adm. Code 235.Appendix A), as applicable. For the purposes of this Part, assessments will be defined as the following types.

"Type I assessment" means a reliable assessment that measures a certain group or subset of students in the same manner with the same potential assessment items, is scored by a non-district entity, and is administered either statewide or beyond Illinois. Examples include assessments available from the Northwest Evaluation Association (NWEA), Scantron Performance Series, Star Reading Enterprise, College Board's SAT, Advanced Placement or International Baccalaureate examinations, or ACT's EPAS® (i.e., Educational Planning and Assessment System).

"Type II assessment" means any assessment developed or adopted and approved for use by the school district and intended to be used on a districtwide basis by all teachers in a given grade, course or subject area. Examples include collaboratively developed common assessments, curriculum tests and assessments designed by textbook publishers.

"Type III assessment" means any assessment that is rigorous, that is aligned to the course's curriculum, and that the qualified evaluator and teacher determine measures student learning in that course. Examples include teacher-created assessments, assessments designed by textbook publishers, student work samples or portfolios, assessments of student performance, and assessments designed by staff who are subject or grade-level experts that are administered commonly across a given grade or subject. A Type I or Type II assessment may qualify as a Type III assessment if it aligns to the curriculum being taught and measures student learning in that subject area (see Section 50.110(b)(2) of this Part).

"Assistant principal" means an administrative employee of the school district who is required to hold an administrative certificate issued in accordance with Article 21 of the School Code [105 ILCS 5/Art. 21] or a professional educator's license issued in accordance with Article 21B of the School Code [105 ILCS 5/21B] endorsed for either general administration or principal, and who is assigned to assist the principal with his or her duties in the overall administration of the school.

"Formal observation" means a specific window of time that is scheduled with the teacher, principal, or assistant principal for the qualified evaluator, at any point during that window of time, to directly observe professional practices in the

classroom or in the school. (Also see Sections 50.120(c) and 50.320(c) of this Part.)

"Growth expectation" means the outcome that students are expected to achieve by the end of the instructional period and includes consideration of a starting level of achievement already acquired and determination of an ending goal for the level of achievement to be reached.

"Joint committee" means a committee composed of *equal representation selected by the district and its teachers or,* when *applicable, the exclusive bargaining representative of its teachers*, which shall have the duties set forth in this Part regarding the establishment of a performance evaluation plan that *incorporates data and indicators of student growth as a significant factor in rating teacher performance*. (Section 24A-4 of the School Code)

"Informal observation" means observations of a teacher, principal, or assistant principal by a qualified evaluator that are not announced in advance of the observation and not subject to a minimum time requirement.

"Measurement model" means the manner in which two or more assessment scores are analyzed for the purpose of identifying a change in a student's knowledge or skills over time.

"Performance evaluation plan" means a plan to evaluate a teacher, principal, or assistant principal that includes data and indicators on student growth as a significant factor in judging performance, measures the individual's professional practice, and meets the requirements of Article 24A of the School Code and this Part.

"Performance evaluation rating" means the final rating of a teacher's, principal's, or assistant principal's performance, using the rating levels required by Sections 24A-5(e), 34-8, and 34-85c of the School Code [105 ILCS 5/24A-5(e), 34-8, and 35-85c], that includes consideration of both data and indicators of student growth, when applicable under Section 24A-2.5 of the School Code [105 ILCS 5/24A-2.5] and Section 50.20 of this Part, and professional practice.

"Qualified evaluator~~Evaluator~~" shall have the meaning set forth in Section 24A-2.5 or 24A-15 of the School Code and shall be an individual who has completed the prequalification process required under Section 24A-3 of the School Code or

Subpart E of this Part, as applicable, and successfully passed the State-developed assessments specific to evaluation of teachers or principals and assistant principals. Each qualified evaluator shall maintain his or her qualification by completing the retraining required under Section 24A-3 of the School Code or Subpart E of this Part, as applicable.

"State performance evaluation model" means those components of an evaluation plan that address data and indicators of student growth that a school district is required to use in the event that its joint committee fails to reach agreement pursuant to Section 24A-4(b) of the School Code.

"Student growth" means a demonstrable change in a student's or group of students' knowledge or skills, as evidenced by gain and/or attainment on two or more assessments, between two or more points in time.

"Student learning objectives" or "SLO" consists of a learning goal, assessment and procedures to measure that goal and growth expectation.

"Student learning objective process" or "SLO process" means a process for organizing evidence of student growth over a defined period of time that addresses learning goals that are measurable and specific to the skills or content being taught and the grade level of the students being assessed, and are used to inform and differentiate instruction to ensure student success.

"Teacher" means full-time or part-time professional employees of the school district who are required to hold a teaching certificate issued in accordance with Article 21 of the School Code or a professional educator's license endorsed for a teaching field issued in accordance with Article 21B of the School Code. For the purposes of the requirements specific to student growth outlined in Article 24A of the School Code and this Part, "teacher" shall not include any individual who holds a school service personnel certificate issued under Article 21 of the School Code or a professional educator license endorsed for school support personnel issued under Article 21B of the School Code and is assigned to an area designated as requiring this certificate or endorsement, including but not limited to school counselor, school psychologist, nonteaching school speech and language pathologist, school nurse, or school social worker.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART C: STATE PERFORMANCE EVALUATION MODEL FOR TEACHERS

Section 50.200 Implementation Requirements

a) A school district, in conjunction with the joint committee established under Section 24A-4(b) of the School Code, shall be required to adopt those specific aspects of the State model contained in this Subpart C regarding data and indicators of student growth about which the joint committee is unable to agree within 180 calendar days after the date on which the joint committee held its first meeting.

b) The first meeting of a joint committee shall occur no later than November 1 of the school year immediately preceding the school district's implementation date specified in Section 24A-2.5 of the School Code (see Section 50.20~~ of this Part~~). For purposes of this subsection (b), the 180-day deadline set forth in subsection (a) ~~of this Section~~ does not preclude the members of the joint committee from meeting, either as a committee or with other administrators and teachers, provided that the district representatives and the union representatives on the joint committee formally agree to the date on which the 180-day clock will begin.

~~c) The student growth component of the plan shall conform to the requirements of Section 50.110 of this Part and shall comprise 50 percent of the performance evaluation rating assigned. (See Section 24A-7 of the School Code.)~~

c)~~d)~~ The requirements of this Subpart C do not apply to CPS, except that the district's joint committee may meet to discuss student growth without triggering its 90-day clock for action, provided the procedures set forth in subsection (b) ~~of this Section~~ are followed.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 50.210 Components of the State Performance Evaluation Model

A school district shall conform to the requirements of this Section for any portion of the performance evaluation plan outlined in Section 50.110 for which its joint committee could not reach agreement pursuant to Section 24A-4(b) of the School Code.

a) Any joint committee that cannot agree to the percentage of student growth that shall comprise the performance evaluation rating assigned shall adopt a

performance evaluation plan in which student growth is 50 percent of the performance evaluation rating assigned. (See Section 50.110(a) of this Section and Section 24A-7 of the School Code.)

b) Any joint committee that cannot agree upon one or both of the assessments required under Section 50.110(b)(2) and (3) and/or the measurement models required under Section 50.110(b)(1) shall employ a student learning objective (SLO) process to identify how student growth will be measured for the applicable category of teacher (e.g., career and technical education, grade 2) for which no agreement is reached. The SLO process shall include at least the information listed in Section 50.220.

1) Teachers in the category for which agreement was not reached, or their representatives, shall recommend no more than four SLOs in response to each assessment for which no agreement was reached. Using the SLO process, the teacher being evaluated and the qualified evaluator shall work collaboratively to identify the SLO, using the list of SLOs recommended. The learning goal, assessment and growth expectation that comprise the SLO shall conform to the provisions of this subsection (b)(1).

A) Each learning goal of the SLO shall be aligned to the needs of the teacher's students or the classroom and shall be based on:

i) schoolwide or districtwide initiatives that address the content of the learning goal; and/or

ii) the school improvement plan, as the plan may relate to the content of the learning goal.

B) The assessment of the SLO shall support and measure the applicable learning goal identified pursuant to subsection (b)(1)(A). An adaptive conditional measurement model shall be employed to determine student growth specific to the learning goal being measured.

i) Any assessment identified under this subsection (b)(1)(B) shall not be the same assessment upon which the joint committee could not reach agreement.

ii) If two assessments are to be identified under this subsection (b)(1)(B), then at least one shall be used by more than one teacher in the building or across the district, or by students in one grade level or course, if there is no more than one teacher in a particular category (e.g., career and technical education, grade 2).

iii) If only one assessment is to be identified under this subsection (b)(1)(B), then it shall not be of the same type for which agreement has already been reached.

C) The growth expectations for the applicable learning goal shall be evaluated at the midpoint of the evaluation cycle and modified as may be necessary.

2) Results from each assessment shall constitute 50 percent of the final student growth rating to be assigned.

3) The teacher and the qualified educator shall agree in writing to the determinations made pursuant to subsection (b)(1).

4) The provisions of this subsection (b)(4) apply only to those components listed in subsection (b)(1) to which the teacher and qualified evaluator are unable to jointly agree within 30 days after the start of the school year, as "school year" is defined under Section 50.100(e).

A) If agreement is not reached regarding both of the SLOs identified in response to Section 50.110(b)(1), the teacher being evaluated shall choose one SLO and the qualified evaluator shall choose the other SLO.

B) If agreement is not reached regarding only one SLO (or if only one SLO is to be identified and no agreement is reached), the qualified evaluator shall notify the district superintendent of this fact.

i) Within three school days after receiving notification, the district superintendent, or his or her designee, shall provide to the teacher being evaluated a list of qualified evaluators,

who may be either teachers or administrators, employed by the district.

ii) Within five school days after receiving the roster, the teacher being evaluated and the qualified evaluator shall jointly agree to a second qualified evaluator, who may be a teacher or an administrator. No later than five school days after the date on which the second qualified evaluator was appointed, the second qualified evaluator chosen shall make a final determination about the components of the SLO for which no agreement was reached.

iii) If the teacher and qualified evaluator are unable to jointly choose a second qualified evaluator from the roster within five school days after receiving the roster, or if the district superintendent is the only qualified evaluator on the roster, the district superintendent shall make the determination about those components of the SLO or SLOs for which no agreement was reached. A district superintendent may delegate the responsibility for making a final determination under this subsection (b)(4)(B) to an individual who has successfully completed the prequalification process required under Section 24A-3 of the School Code.

c) Any joint committee that cannot agree to a process to consider certain student characteristics (e.g., special education placement, English language learners, low-income populations) in each measurement model as required under Section 50.110(c) shall employ an SLO process as set forth in this Section to make that determination.

d) Any joint committee that cannot agree to the rating scale to be used to determine the student growth rating to be assigned pursuant to Section 50.110(d) shall meet the requirements of this subsection (d). The determination of the student growth rating to be assigned shall be made by totaling the percentage of students meeting the growth expectation from each assessment used to determine student growth and averaging that result, rounding up to the next nearest whole number.

1) In instances in which less than 25 percent of students met the growth expectation identified pursuant to subsection (b), the teacher shall be assigned a student growth rating of "unsatisfactory".

2) In instances in which at least 25 percent but no more than 50 percent of students met the growth expectation identified pursuant to subsection (b), the teacher shall be assigned a student growth rating of "needs improvement".

3) In instances in which at least 51 percent but no more than 75 percent of the students met the growth expectation identified pursuant to subsection (b), the teacher shall be assigned a student growth rating of "proficient".

4) In instances in which 76 percent or more of the students met the growth expectation identified pursuant to subsection (b), the teacher shall be assigned a student growth rating of "excellent".

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 50.220 Student Learning Objective Process

The information assembled as part of the SLO process shall address at least the following elements for each of the learning goals identified pursuant to Section 50.210(b)(1). The State Board of Education will make available an SLO template on its website at www.isbe.net that districts may choose to use or adapt for this purpose.

a) A list of the student population whose achievement will be measured for the purpose of determining student growth under the provisions of Section 50.210(b);

b) A description of the learning goal established pursuant to Section 50.210(b)(1)(A).

c) Standards associated with the learning goal.

d) A description of the assessments and scoring procedures established pursuant to Section 50.210(b)(1)(B) that measure students' understanding of the learning goal.

e) Identification of growth expectations established pursuant to Section 50.210(b)(1)(C) at the beginning of the SLO process.

f) Identification of adjustments made to the identified growth expectations at the midpoint of the SLO process, as applicable.

g) Documentation of the number or percentage of students who achieved the identified growth expectations.

h) An explanation of how the qualified evaluator translates the number or percentage of students who achieved the identified growth expectations into a final student growth rating; and

i) A final growth rating assigned at the conclusion of the SLO process.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 50.230 Performance Evaluation Rating

Any joint committee that cannot agree on the way in which the professional practice rating and student growth rating will be used to determine the performance evaluation rating shall meet the requirements of this Section.

a) "Unsatisfactory" Performance Evaluation Rating
A teacher shall be assigned a performance evaluation rating of "unsatisfactory" when both his or her professional practice rating and student growth rating are "unsatisfactory".

b) "Needs Improvement" Performance Evaluation Rating
A teacher shall be assigned a performance evaluation rating of "needs improvement" when his or her:

1) professional practice rating is "proficient" or "needs improvement" and student growth rating is "unsatisfactory";

2) professional practice rating and student growth ratings are "needs improvement";

3) professional practice rating is "unsatisfactory" and student growth rating is "needs improvement"; or

4) professional practice rating is "unsatisfactory" and student growth rating is "proficient".

c) "Proficient" Performance Evaluation Rating
A teacher shall be assigned a performance evaluation rating of "proficient" when his or her:

1) professional practice rating is "excellent" and the student growth rating is "unsatisfactory";

2) professional practice rating is "excellent" and student growth rating is "needs improvement";

3) professional practice rating is "proficient" and student growth rating is "needs improvement";

4) professional practice and student growth ratings are "proficient";

5) professional practice rating is "needs improvement" and student growth rating is "proficient";

6) professional practice rating is "needs improvement" and student growth rating is "excellent"; or

7) professional practice rating is "unsatisfactory" and student growth rating is "excellent".

d) "Excellent" Performance Evaluation Rating
A teacher shall be assigned a performance evaluation rating of "excellent" when his or her:

1) professional practice rating is "excellent" and student growth rating is "proficient";

2) professional practice rating and student growth ratings are "excellent"; or

3) professional practice rating is "proficient" and student growth rating is "excellent".

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 38 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Dismissal of Tenured Teachers Under Article 24 and Dismissal of Tenured Teachers and Principals Under Article 34 of the School Code

2) Code Citation: 23 Ill. Adm. Code 51

3)

Section Numbers:	Proposed Action:
51.10	Amendment
51.235	New Section
51.290	Amendment

4) Statutory Authority: 105 ILCS 5/Art. 24 and Art. 34

5) A Complete Description of the Subjects and Issues Involved: Section 24-16.5 of the School Code [105 ILCS 5/24-16.5] provides for the dismissal of teachers by a school board under an optional alternative evaluative dismissal (OAED) process. The OAED process may be used when a tenured teacher has failed to complete a remediation plan with a performance evaluation rating of "proficient" or higher and the teacher received the "unsatisfactory" rating that necessitated the remediation plan through a performance evaluation that incorporated data and indicators of student growth (referred to as "PERA evaluations"), as authorized under Article 24A of the School Code [105 ILCS 5/Art. 24A]. Section 24-16.5 further provides that before a school board member can vote to dismiss a teacher using the OAED process, he or she first must have "completed a training program on PERA evaluations either administered or approved by the State Board of Education".

When Part 51 was amended in 2012 to address changes in dismissal procedures, agency staff relied on the application process for leadership training for school board members set forth in Section 1.210 of rules governing Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1.210) as the procedures to be used for approval of providers of PERA evaluation training. School Board leadership training is required under Section 10-16a of the School Code [105 ILCS 5/10-16a] and that statute addresses particular areas of training that are specific to the general duties of school board members. Additionally, Section 10-16a of the School Code also authorizes the Illinois Association of School Boards (IASB) as an approved provider. Since Section 1.210 reiterates both the content of the leadership training and the need for the State Board to consult with IASB when approving providers, its provisions, when applied to approval of PERA trainers, were confusing for both agency staff implementing the application process and entities applying for approval.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

For these reasons, it is proposed that the cross-reference to Section 1.210's application process that is now stated in Section 51.290 of the dismissal rules be removed, and new Section 51.235 (Approval of Providers of PERA Training) articulate the process entities would use to seek approval to become PERA trainers for school board members. While proposed Section 51.235 relies heavily on the application process set forth in Section 1.210, it differs in several respects. Namely, it ties the course content to PERA evaluations and removes any references to IASB since that organization is not statutorily authorized to provide PERA training or participate in the approval of other PERA trainers.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rule 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 Objective: 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 IL 62777-0001

217/782-5270
rules@isbe.net

13) Initial Regulatory Flexibility Analysis:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent Agendas because the need for the rulemaking did not become apparent until after the agenda was published.

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 51
DISMISSAL OF TENURED TEACHERS UNDER ARTICLE 24 AND
DISMISSAL OF TENURED TEACHERS AND PRINCIPALS
UNDER ARTICLE 34 OF THE SCHOOL CODE

SUBPART A: GENERAL PROVISIONS

Section
51.10 Definitions

SUBPART B: STANDARD DISMISSAL PROCEDURES
UNDER ARTICLES 24 AND 34 OF THE SCHOOL CODE

51.20 Applicability of this Subpart B
51.30 Notice of Charges to Tenured Teachers
51.35 Suspension without Pay
51.40 Qualifications and Selection of Hearing Officers; Conditions of Service
51.50 Suspension Pending the Hearing (Repealed)
51.55 Pre-Hearing Procedures
51.60 The Hearing
51.70 The Decision: School Districts Not Organized under Article 34 of the School Code
51.75 The Decision: School Districts Organized under Article 34 of the School Code
51.80 Waiver, Interpretation and Application of this Part (Repealed)

SUBPART C: OPTIONAL ALTERNATIVE EVALUATIVE DISMISSAL
UNDER SECTION 24-16.5 OF THE SCHOOL CODE

Section
51.200 Purpose and Applicability of this Subpart C
51.210 Establishment of the List of Second Evaluators; Qualifications
51.220 Selection of Second Evaluators
51.230 Use of a Second Evaluator in Specific Remediations
51.235 Approval of Providers of PERA Training

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51.240 Hearing Procedures
51.250 Notice of Dismissal to the Affected Tenured Teacher
51.260 Qualifications and Selection of Hearing Officers
51.270 Scope of the Hearing
51.280 Findings of Fact and Recommendation of the Hearing Officer
51.290 Decision of Board

AUTHORITY: Implementing and authorized by Sections 24-12 and 34-85 of the School Code [105 ILCS 5/24-12 and 34-85].

SOURCE: Rules Prescribed by the State Board of Education Governing the Procedure for the Dismissal of Tenured Teachers in Illinois, adopted February 19, 1976; codified at 8 Ill. Reg. 13739; emergency amendment at 9 Ill. Reg. 13116, effective August 9, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5807, effective April 2, 1986; emergency amendment at 10 Ill. Reg. 19572, effective October 30, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 5950, effective March 23, 1987; amended at 29 Ill. Reg. 10108, effective June 30, 2005; amended at 32 Ill. Reg. 4824, effective March 21, 2008; amended at 36 Ill. Reg. 12829, effective July 25, 2012; amended at 38 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 51.10 Definitions

As used in this Part:

"Board" means the local school board and not the State Board of Education.

"Day" means calendar day unless otherwise specified in this Part, and the time within which any action required under this Part must occur shall be determined in accordance with the provisions of Section 1.11 of the Statute on Statutes [5 ILCS 70/1.11].

"General Superintendent" means the chief executive officer of City of Chicago School District 299. (See 105 ILCS 5/34-6.)

"Parties" means the tenured teacher against whom charges are brought and the school board bringing the charges.

"PERA" means the Performance Evaluation Reform Act of 2010 (P.A. 96-861,

effective January 15, 2010).

"State Board" means the Illinois State Board of Education.

"Tenured Teacher" means any teacher who has entered upon contractual continued service pursuant to Section 24-11 of the School Code [105 ILCS 5/24-11] and, in school districts organized under Article 34 of the School Code [105 ILCS 5/Art. 34], a teacher or principal (see Sections 34-84 and 34-85 of the School Code [105 ILCS 5/34-84 and 34-85]).

(Source: Amended at 38 Ill. Reg. _____, effective _____)

SUBPART C: OPTIONAL ALTERNATIVE EVALUATIVE DISMISSAL UNDER SECTION 24-16.5 OF THE SCHOOL CODE

Section 51.235 Approval of Providers of PERA Training

In accordance with Section 24-16.5(f) of the School Code, only members of the Board who have successfully completed a training program regarding performance evaluations administered or approved by the State Board shall consider the findings of fact and recommendation and make a determination as to whether the affected tenured teacher should be retained or dismissed using procedures set forth in this Subpart C.

a) Entities that offer professional development activities, such as training organizations, institutions, regional offices of education, firms, professional associations, and universities and colleges, may apply to the State Board of Education for approval to conduct PERA training.

b) Each entity wishing to receive approval to offer PERA training shall submit an application on a form supplied by the State Board of Education. An entity shall submit the application to the State Board of Education any time between March 1 and May 1 of each even-numbered year. Any application received after May 1 shall not be considered for that approval cycle. The application shall include, but is not limited to:

1) evidence that the entity is knowledgeable about PERA and the optional alternative evaluation process;

2) a description of the training to be provided, to address how the training activities will present participants with:

A) a basic foundation of PERA;

B) information specific to the components of a performance evaluation plan required under Article 24A of the School Code [105 ILCS 5/Art. 24A]; and

C) information about the processes and procedures (i.e., professional development plans, remediation plans, dismissal procedures) to take place in the event of a "needs improvement" or "unsatisfactory" performance evaluation rating, as defined in 23 Ill. Adm. Code 50.30 (Evaluation of Educator Licensed Employees under Articles 24A and 34 of the School Code);

3) the qualifications and experience of the entity and of each presenter to be assigned to provide the PERA training, which shall include evidence of a presenter's specific skills and knowledge in this area; and

4) assurances that the requirements of subsection (c) of this Section will be met.

c) Each entity approved to provide training under this Section shall:

1) verify attendance at its training activities, provide to participants a written confirmation of their completion of the training, and require participants to complete an evaluation of the training; and

2) maintain attendance and evaluation records for a period of not less than five years for each event or activity it conducts or sponsors.

d) Applicants may be asked to clarify particular aspects of their materials.

e) The State Superintendent of Education shall respond to each application for approval no later than 30 days after receiving it.

f) An entity shall be approved to offer PERA training if the entity's application presents evidence that the training that it conducts will be developed and presented by persons knowledgeable about PERA.

g) The State Board of Education will post on its website at www.isbe.net the list of all approved providers.

h) Approval as a provider shall be valid for two calendar years (i.e., January 1 through December 31). To request renewal of approval, a provider shall submit a renewal application on a form supplied by the State Board of Education, within the timeframe specified in subsection (b) of this Section, and containing:

1) a description of any significant changes in the material submitted as part of its approved application or a certification that no such changes have occurred;

2) assurances that the PERA trainings will be provided in a manner consistent with the content of the approved application and any changes proposed for the renewal period.

i) A provider's approval shall be renewed if the application conforms to the requirements of subsection (h), provided that the State Superintendent has received no evidence of noncompliance with the requirements of this Section.

j) The State Board of Education may evaluate an approved provider at any time to ensure compliance with the requirements of this Section. Upon request by the State Board, a provider shall supply information regarding its schedule of training, which the State Board may, at its discretion, monitor at any time. In the event an evaluation indicates that the requirements have not been met, the State Board of Education may withdraw approval of the provider.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 51.290 Decision of Board

a) Within 45 days after receiving the hearing officer's findings of fact and recommendation, the Board shall render a written order as to whether the affected tenured teacher be retained or dismissed.

1) A copy of the Board's decision shall be provided to the tenured teacher either by certified mail, return receipt requested, or personal delivery with receipt within five days after the date on which the Board rendered a decision to retain or dismiss the affected tenured teacher. A copy of the Board's decision also shall be given by certified mail to the State Board of Education addressed to the General Counsel, 100 W. Randolph Street, Chicago, Illinois 60601.

~~2) Only Board members who have successfully completed a training program regarding performance evaluations administered or approved by the State Board shall consider the findings of fact and recommendation and make a determination as to whether the affected tenured teacher should be retained or dismissed. Approval of an entity to offer the training required under this subsection (a)(2) shall be as set forth in 23 Ill. Adm. Code 1.210 (Approval of Providers of Training for Board Members).~~

2)~~3)~~ If the Board determines that the affected tenured teacher should be dismissed, contrary to the hearing officer's findings of fact and recommendation, then the Board shall provide in its written order its conclusion and the reasons for making that determination.

3)~~4)~~ *The failure of the Board to strictly adhere to the timeline* set forth in this subsection (a) *does not render it without jurisdiction to dismiss the teacher* (Section 24-16.5(f) of the School Code).

b) The decision of the Board is final unless reviewed under the Administrative Review Law, as provided in Section 24-16.5(g) of the School Code.

1) The affected tenured teacher shall file the appeal within 35 days from the date that he or she received the Board's decision pursuant to subsection (a)(1)~~ of this Section~~.

A) *For a teacher dismissed by a school district having fewer than 500,000 inhabitants, the judicial review must be taken directly to the appellate court of the judicial district in which the school district's Board maintains its primary administrative offices* (Section 24-16.5(g)(2) of the School Code).

B) *For a teacher dismissed by a school district* organized under Article 34 of the School Code, *the judicial review must be taken directly to* the Illinois Appellate Court for the First District (Section 24-16.5(g)(1) of the School Code).

2) *If the hearing officer recommended dismissal, the decision of the Board may be reversed only if it is found to be arbitrary, capricious, an abuse of discretion, or not in accordance with law* (Section 24-16.5(g) of the School Code).

3) *In the event judicial review is instituted by a teacher, any costs of preparing and filing the record of proceedings must be paid by the teacher* (Section 24-16.5(g) of the School Code).

4) The record of the proceedings shall contain each of the items enumerated in Section 51.70(a)(2)(B) ~~of this Part~~.

c) Pursuant to Section 24-16.5(f) of the School Code, *the Board shall not lose jurisdiction to discharge a teacher if the hearing officer fails to render a decision within the applicable time specified in this Section.*

(Source: Amended at 38 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: School Food Service

2) Code Citation: 23 Ill. Adm. Code 305

3)

Section Numbers:	Proposed Action:
305.5	Amend
305.15	Amend

4) Statutory Authority: 105 ILCS 125 and the Richard B. Russell National School Lunch Act (42 USC 1751 et seq.) and Child Nutrition Act of 1966 (42 USC 1771 et seq.)

5) A Complete Description of the Subjects and Issues Involved: During its January 2014 meeting, the State Board of Education discussed options available to the agency to comply with federal regulations implementing the Richard B. Russell National School Lunch Act (42 USC 1751 et seq.) and Child Nutrition Act of 1966 (42 USC 1771 et seq.), as amended by the Healthy, Hunger-Free Kids Act of 2010 (P.L. 111-296). Those regulations, promulgated by the USDA, require that starting July 1, 2014, all schools participating in the National School Lunch Program and School Breakfast Program comply with federally established nutrition standards for food and beverages sold on the school campus during the school day.

Referred to as the "Smart Snack" rules, these nutrition standards also apply to any food and beverages sold through school-sponsored fundraisers. Under the federal regulations, participating schools either may sell foods and beverages that meet the standards to students on the school campus during the school day or may sell food and beverages not meeting the standards to students "during non-school hours, (on) weekends or (through) off-campus fundraising events, such as concessions during sporting events and school plays".

The federal regulations further authorize participating schools to sponsor fundraisers that offer food or beverages not meeting the standards (i.e., "exempted fundraising days") if their respective state education agency (SEA) has set a limit that ensures these types of fundraisers are "infrequent". While USDA did not define "infrequent" in its rules, it did state that any established limit should be such that it would not "impair the effectiveness of the Smart Snack requirements". In the event that a SEA fails or declines to set a limit, then participating schools in that state are prohibited from sponsoring exempted fundraising days.

When considering a limit for exempted fundraising days earlier this year, Nutrition and Wellness Program staff conducted an initial consultation with 500 participating schools.

STATE BOARD OF EDUCATION

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Based on the results of that consultation and direction staff received from the State Board of Education in January, staff initially proposed that participating schools be allowed to set their own limits for exempted fundraising days via a school-board adopted policy. That initial recommendation was shared with USDA for its review and approval; however, USDA staff in late April concluded that a state "may not delegate the authority to specify exempt fundraiser frequency to local education agencies or to school food authorities".

In response to USDA's direction, staff now are proposing limits for exempted fundraising days that would phase in the impact of the Smart Snack standards over the next several school years, culminating in school year 2016-17 with a prohibition for exempted fundraising days for participating schools with grades 8 and below and a limit of nine exempted fundraising days for participating schools with grades 9 through 12.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rule currently in effect? Yes

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

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: 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 of the publication of this Notice to:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777-0001

217/782-5270
rules@isbe.net

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

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 2014

The full text of the Proposed Amendments is identical to that of the Emergency Amendments, and can be found in this issue of the *Illinois Register* on page 14445:

DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Community Care Program

2) Code Citation: 89 Ill. Adm. Code 240

3)

Section Numbers:	Adopted Action:
240.120	Amendment
240.237	New Section
240.741	New Section
240.945	Amendment
240.1505	Amendment
240.1543	New Section
240.1544	New Section
240.1600	Amendment
240.1650	Amendment
240.1955	Amendment
240.1957	New Section

4) Statutory Authority: 20 ILCS 10/4.01(11) and 4.02

5) Effective Date of Rule: June 25, 2014

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 rule, 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 the *Illinois Register*: 38 Ill. Reg. 1408; January 17, 2014

10) Has JCAR issued a Statement of Objection to these rulemakings? No

11) Differences between Proposal and Final Version:

In Section 240.237(a)(1) and (a)(2), Section 240.237(b)(2), Section 240.237(c)(1), Section 240.1543(c)(1)(F), Section 240.1543(d)(3)(A), Section 240.1543(d)(3)(H), Section 240.1957(a), replaced references to "home" with "residence".

In Section 240.237(a)(1), deleted "home or temporary" in the last sentence.

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NOTICE OF ADOPTED AMENDMENTS

In Section 240.237(b)(1), replaced "provided to the participant" with "installed in the participant's residence".

In Section 240.237(b)(2)(B), deleted "and an identification number" and added "/authorized representative" after "participant".

In Section 240.237(b)(3), Section 240.237(b)(6), Section 240.237(b)(11), Section 240.237(b)(14), and Section 240.237(c)(1), replaced references to "representative/responsible" with "representative and responsible".

In Section 240.237(b)(5), deleted "selection/" and replaced a reference to "Responsible Party Identification Form" with "responsible party change" in the second sentence.

In Section 240.237(b)(15), Section 240.1543(b)(2)(A)(ii), Section 240.1543(b)(2)(B), Section 240.1543(b)(2)(C) Section 140.1543(c)(3), and Section 240.1543(d)(3)(B), deleted references to "/authorized representative/responsible party" or "participant/authorized representative/".

In Section 240.741(d), replaced clause stating "and sign a form" with "documentation prescribed by the Department".

In Section 240.741(d)(2), changed clause to read "and manually filling or arranging for the AMD unit to be filled,".

In Section 240.741(e), deleted clause stating ", execute a new Responsible Party Information Form," in first sentence. Changed "should" to "shall" in second sentence. Also deleted the last sentence in its entirety.

In Section 240.1543(b)(2)(A), replaced clause stating "with addition and removal of" with "to add and remove".

In Section 240.1543(b)(2)(A)(i), changed text to read: "local or remote accessibility to the AMD unit in order to program it in accordance with physician orders for medication administration; the unit must allow medication to be dispensed at least 4 times a day; and".

DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

In Section 240.1543(b)(2)(A)(ii), changed text to read: "to alert the participant at the times programmed for dispensing medication;".

In Section 240.1543(b)(2)(E), added "securely" before "transmit".

In Section 240.1543(b)(3), replaced reference to "activation device" with "AMD unit".

In Section 240.1543(b)(5), replaced reference to "should" with "must".

In Section 240.1543(c), Section 240.1543(c)(1), and Section 240.1543(c)(2), replaced references to "base" with "AMD".

In Section 240.1600(a), replaced "Participants" with "participants".

In Section 240.1650(d)(2), replaced reference to "Case" with "Care".

Section 240.1955(e), changed text to read: "In establishing the rates of reimbursement, the Department will comply with federal requirements for Medicaid waivers, which are described in the State Medicaid Plan maintained by HFS and posted on the HFS website. The Department will use a Request for Information process to obtain rate information from providers and then consider whether the resulting average is supported by the appropriation level for the program in light of trend analyses on use of the service and current market conditions. The goal is to ensure adequate provider participation and participant choice. The specific amount that the service provider will be reimbursed for a unit of service is reflected in the provider contract and is listed on the Department's website.".

Section 240.1957(a), replaced reference to "family/responsible party" with "participant/authorized representative/responsible party" in the first sentence.

Section 240.1957(b), replaced reference to "family/" with "the ".

The other changes made to this rulemaking were technical, grammatical, and editorial at the recommendation of the Joint Committee on Administrative Rules.

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 an emergency rule currently in effect? No

DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemakings: This rulemaking will add Automated Medication dispenser (AMD) service as a core service under the Community Care Program (CCP).

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

Karen Alice Kloppe
Deputy General Counsel
Illinois Department on Aging
One Natural Resources Way, Suite 100
Springfield IL 62702-1271

Phone: 217/785-3346

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

DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING

PART 240
COMMUNITY CARE PROGRAM

SUBPART A: GENERAL PROGRAM PROVISIONS

Section
240.100 Community Care Program
240.110 Department Prerogative
240.120 Services Provided
240.130 Maintenance of Effort
240.140 Program Limitations
240.150 Completed Applications Prior to August 1, 1982 (Repealed)
240.160 Definitions

SUBPART B: SERVICE DEFINITIONS

Section
240.210 In-home Service
240.220 Chore-Housekeeping Service (Repealed)
240.230 Adult Day Service
240.235 Emergency Home Response Service
240.237 Automated Medication Dispenser Service
240.240 Information and Referral
240.250 Demonstration/Research Projects
240.260 Case Management Service
240.270 Alternative Provider
240.280 Individual Provider

SUBPART C: RIGHTS AND RESPONSIBILITIES

Section
240.300 Applicant/Client Rights and Responsibilities
240.310 Right to Apply
240.320 Nondiscrimination
240.330 Freedom of Choice
240.340 Confidentiality/Safeguarding of Case Information

240.350 Applicant/Client/Authorized Representative Cooperation
240.360 Reporting Changes
240.370 Voluntary Repayment

SUBPART D: APPEALS

Section
240.400 Appeals and Fair Hearings
240.405 Representation
240.410 When the Appeal May Be Filed
240.415 What May Be Appealed
240.420 Group Appeals
240.425 Informal Review
240.430 Informal Review Findings
240.435 Withdrawing an Appeal
240.436 Cancelling an Appeal
240.440 Examining Department Records
240.445 Hearing Officer
240.450 The Hearing
240.451 Conduct of Hearing
240.455 Continuance of the Hearing
240.460 Postponement
240.465 Dismissal Due to Non-Appearance
240.470 Rescheduling the Appeal Hearing
240.475 Recommendations of Hearing Officer
240.480 The Appeal Decision
240.485 Reviewing the Official Report of the Hearing

SUBPART E: APPLICATION

Section
240.510 Application for Community Care Program
240.520 Who May Make Application
240.530 Date of Application
240.540 Statement to be Included on Application

SUBPART F: ELIGIBILITY

Section

240.600 Eligibility Requirements
240.610 Establishing Eligibility
240.620 Home Visit
240.630 Determination of Eligibility
240.640 Eligibility Decision
240.650 Continuous Eligibility
240.655 Frequency of Redeterminations
240.660 Extension of Time Limit

SUBPART G: NON-FINANCIAL REQUIREMENTS

Section
240.710 Age
240.715 Determination of Need
240.720 Clients Prior to Effective Date of This Section (Repealed)
240.725 Clients After Effective Date of This Section (Repealed)
240.726 Emergency Budget Act Reduction (Repealed)
240.727 Minimum Score Requirements
240.728 Maximum Payment Levels for Plans of Care Including In-home Service
240.729 Maximum Payment Levels for Plans of Care Including Adult Day Service
240.730 Plan of Care
240.735 Supplemental Information
240.740 Assessment of Need
240.741 Prerequisites for Automated Medication Dispenser Service
240.750 Citizenship
240.755 Residence
240.760 Furnishing of Social Security Number

SUBPART H: FINANCIAL REQUIREMENTS

Section
240.800 Financial Factors
240.810 Assets
240.815 Exempt Assets
240.820 Asset Transfers
240.825 Income
240.830 Unearned Income Exemptions
240.835 Earned Income
240.840 Potential Retirement, Disability and Other Benefits

240.845 Family
240.850 Monthly Average Income
240.855 Applicant/Client Expense for Care
240.860 Change in Income
240.865 Application For Medical Assistance (Medicaid)
240.870 Determination of Applicant/Client Monthly Expense for Care
240.875 Client Responsibility

SUBPART I: DISPOSITION OF DETERMINATION

Section
240.905 Prohibition of Institutionalized Individuals From Receiving Community Care Program Services
240.910 Written Notification
240.915 Service Provision
240.920 Reasons for Denial
240.925 Frequency of Redeterminations (Renumbered)
240.930 Suspension of Services
240.935 Discontinuance of Services to Clients
240.940 Penalty Payments
240.945 Notification
240.950 Reasons for Termination
240.955 Reasons for Reduction or Change

SUBPART J: SPECIAL SERVICES

Section
240.1010 Nursing Facility Screening
240.1020 Interim Services
240.1040 Intense Service Provision
240.1050 Temporary Service Increase

SUBPART K: TRANSFERS

Section
240.1110 Individual Transfer Request – Vendor to Vendor – No Change in Service
240.1120 Individual Transfer Request – Vendor to Vendor – With Change in Service
240.1130 Individual Transfers – Case Coordination Unit to Case Coordination Unit
240.1140 Transfer of Pending Applications

240.1150 Interagency Transfers
240.1160 Temporary Transfers – Case Coordination Unit to Case Coordination Unit
240.1170 Caseload Transfer – Vendor to Vendor
240.1180 Caseload Transfer – Case Coordination Unit to Case Coordination Unit

SUBPART L: ADMINISTRATIVE SERVICE CONTRACT

Section
240.1210 Administrative Service Contract

SUBPART M: CASE COORDINATION UNITS AND PROVIDERS

Section
240.1310 Standard Contractual Requirements for Case Coordination Units and Providers
240.1320 Vendor or Case Coordination Unit Fraud/Illegal or Criminal Acts
240.1330 General Vendor and CCU Responsibilities (Repealed)
240.1396 Payment for Services (Repealed)
240.1397 Purchases and Contracts (Repealed)
240.1398 Safeguarding Case Information (Repealed)
240.1399 Termination of a Vendor or Case Coordination Unit (CCU)

SUBPART N: CASE COORDINATION UNITS

Section
240.1400 Community Care Program Case Management
240.1410 Case Coordination Unit Administrative Minimum Standards
240.1420 Case Coordination Unit Responsibilities
240.1430 Case Management Staff Positions, Qualifications and Responsibilities
240.1440 Training Requirements For Case Management Supervisors and Case Managers

SUBPART O: PROVIDERS

Section
240.1505 Administrative Requirements for Certification
240.1510 Provider Administrative Minimum Standards
240.1520 Provider Responsibilities
240.1525 Standard Requirements for In-home Service Providers
240.1530 General In-home Service Staffing Requirements
240.1531 Electronic Visit Verification (EVV) Requirements for In-home Service Providers

DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

240.1535 In-home Service Staff Positions, Qualifications, Training and Responsibilities
240.1540 General Chore-Housekeeping Staffing Requirements (Repealed)
240.1541 Minimum Equipment Specifications for Emergency Home Response Service
240.1542 Administrative Requirements for Emergency Home Response Service Providers
240.1543 Minimum Equipment Specifications for Automated Medication Dispenser Service
240.1544 Administrative Requirements for Automated Medication Dispenser Service Providers
240.1545 Chore-Housekeeping Staff Positions, Qualifications and Responsibilities (Repealed)
240.1550 Standard Requirements for Adult Day Service Providers
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SUBPART P: PROVIDER PROCUREMENT

Section
240.1600 Provider Agency Certification
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240.1640 Determination and Notification of Provider Awards (Repealed)
240.1645 Objection to Certification Decision
240.1650 Classification, Identification and Receipt of Provider Service Violations
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DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

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SUBPART R: ADVISORY COMMITTEE

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240.1800 Community Care Program Advisory Committee
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SUBPART S: PROVIDER RATES

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240.1910 Establishment of Fixed Unit Rates
240.1920 Contract Specific Variations
240.1930 Fixed Unit Rate of Reimbursement for Homemaker Service
240.1940 Fixed Unit Rates of Reimbursement for Adult Day Service and Transportation
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Section
240.2020 Financial Reporting of In-home Service
240.2030 Unallowable Costs for In-home Service
240.2040 Minimum Direct Service Worker Costs for In-home Service
240.2050 Cost Categories for In-home Service

AUTHORITY: Implementing Section 4.02 and authorized by Section 4.01(11) and 4.02 of the Illinois Act on the Aging [20 ILCS 105/4.02 and 4.01(11)].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 1, p. 67, effective December 20, 1979, for a maximum of 150 days; adopted at 4 Ill. Reg. 17, p. 151, effective April 25, 1980; amended at 4 Ill. Reg. 43, p. 86, effective October 15, 1980; emergency amendment at 5 Ill. Reg. 1900,

effective February 18, 1981, for a maximum of 150 days; amended at 5 Ill. Reg. 12090, effective October 26, 1981; emergency amendment at 6 Ill. Reg. 8455, effective July 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 14953, effective December 1, 1982; amended at 7 Ill. Reg. 8697, effective July 20, 1983; codified at 8 Ill. Reg. 2633; amended at 9 Ill. Reg. 1739, effective January 29, 1985; amended at 9 Ill. Reg. 10208, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 14011, effective August 29, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5076, effective March 15, 1986; recodified at 12 Ill. Reg. 7980; amended at 13 Ill. Reg. 11193, effective July 1, 1989; emergency amendment at 13 Ill. Reg. 13638, effective August 18, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17327, effective November 1, 1989; amended at 14 Ill. Reg. 1233, effective January 12, 1990; amended at 14 Ill. Reg. 10732, effective July 1, 1990; emergency amendment at 15 Ill. Reg. 2838, effective February 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 10351, effective July 1, 1991; emergency amendment at 15 Ill. Reg. 14593, effective October 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 17398, effective November 15, 1991, for a maximum of 150 days; emergency amendment suspended at 16 Ill. Reg. 1744; emergency amendment modified in response to a suspension by the Joint Committee on Administrative Rules and reinstated at 16 Ill. Reg. 2943; amended at 15 Ill. Reg. 18568, effective December 13, 1991; emergency amendment at 16 Ill. Reg. 2630, effective February 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 2901, effective February 6, 1992, to expire June 30, 1992; emergency amendment at 16 Ill. Reg. 4069, effective February 28, 1992, to expire June 30, 1992; amended at 16 Ill. Reg. 11403, effective June 30, 1992; emergency amendment at 16 Ill. Reg. 11625, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 11731, effective June 30, 1992; emergency rule added at 16 Ill. Reg. 12615, effective July 23, 1992, for a maximum of 150 days; modified at 16 Ill. Reg. 16680; amended at 16 Ill. Reg. 14565, effective September 8, 1992; amended at 16 Ill. Reg. 18767, effective November 27, 1992; amended at 17 Ill. Reg. 224, effective December 29, 1992; amended at 17 Ill. Reg. 6090, effective April 7, 1993; amended at 18 Ill. Reg. 609, effective February 1, 1994; emergency amendment at 18 Ill. Reg. 5348, effective March 22, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 13375, effective August 19, 1994; amended at 19 Ill. Reg. 9085, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10186, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12693, effective August 25, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16031, effective November 20, 1995; amended at 19 Ill. Reg. 16523, effective December 1, 1995; amended at 20 Ill. Reg. 1493, effective January 10, 1996; emergency amendment at 20 Ill. Reg. 5388, effective March 22, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 8995, effective July 1, 1996; amended at 20 Ill. Reg. 10597, effective August 1, 1996; amended at 21 Ill. Reg. 887, effective January 10, 1997; amended at 21 Ill. Reg. 6183, effective May 15, 1997; amended at 21 Ill. Reg. 12418, effective September 1, 1997; amended at 22 Ill. Reg. 3415, effective February 1, 1998; amended at 23 Ill. Reg. 2496, effective February 1, 1999; amended at 23 Ill. Reg. 5642, effective May 1, 1999; amended at 26

Ill. Reg. 9668, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10829, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17358, effective November 25, 2002; emergency amendment at 28 Ill. Reg. 923, effective December 26, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 7611, effective May 21, 2004; emergency amendment at 30 Ill. Reg. 10117, effective June 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 11767, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 16281, effective September 29, 2006; amended at 30 Ill. Reg. 17756, effective October 26, 2006; amended at 32 Ill. Reg. 7588, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10940, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17929, effective November 10, 2008; amended at 32 Ill. Reg. 19912, effective December 12, 2008; amended at 33 Ill. Reg. 4830, effective March 23, 2009; amended at 34 Ill. Reg. 3448, effective March 8, 2010; emergency amendment at 34 Ill. Reg. 10854, effective July 15, 2010, for a maximum of 150 days; emergency expired December 11, 2010; emergency amendment at 34 Ill. Reg. 12224, effective August 4, 2010, for a maximum of 150 days; emergency expired December 31, 2010; amended at 35 Ill. Reg. 8919, effective June 2, 2011; emergency amendment at 35 Ill. Reg. 13936, effective July 28, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 20130, effective December 6, 2011; emergency amendment at 37 Ill. Reg. 11381, effective July 1, 2013, for a maximum of 150 days; emergency expired November 27, 2013; amended at 38 Ill. Reg. 5800, effective February 21, 2014; amended at 38 Ill. Reg. 14230, effective June 25, 2014.

SUBPART A: GENERAL PROGRAM PROVISIONS

Section 240.120 Services Provided

a) The Community Care Program (CCP) provides necessary services designed to prevent premature and unnecessary institutionalization of individuals determined eligible to receive those services.

b) Services provided through the CCP are: in-home care~~homemaker~~, adult day care, emergency home response, automated medication dispenser, information and referral, comprehensive care coordination ~~case management~~, individual provider (closed caseload), alternative provider and services made available through special demonstration/research projects.

(Source: Amended at 38 Ill. Reg. 14230, effective June 25, 2014)

SUBPART B: SERVICE DEFINITIONS

DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

Section 240.237 Automated Medication Dispenser Service

a) Service Description

1) Automated Medication Dispenser (AMD) service is defined as a portable, mechanical system for individual use that can be programmed to dispense or alert the participant to take non-liquid oral medications through auditory, visual or voice reminders; to provide notification of a missed medication dose; and to provide 24 hour technical assistance for the AMD service in the participant's residence. The service may include medication specific directions or reminders to take other types of medications such as liquid medications or injections based on individual need. The AMD unit is connected to a Department approved support center through a telephone line or wireless/cellular connection in the participant's residence.

2) The purpose of the service is to provide eligible participants with medication reminders to foster timely and safe administration of a complex medication schedule, thereby promoting independence and safety of the participants in their own residence, as well as reducing the need for nursing home care.

3) The authorization to receive this service is determined by the care coordinator through a screening process set forth in Section 240.741, which requires the participant/authorized representative to designate a responsible party to manage the AMD unit and medications as set forth in Section 240.741.

4) This service does not include medication management, oversight or handling of the participant's medications.

5) Provision of this service is contingent upon it being approved by the federal government as a State Medicaid Waiver service.

b) Specific components of AMD service must include, at a minimum, the following:

1) an AMD unit installed in the participant's residence with all connectors, parts and equipment necessary for installation, and adaptations for operation by individuals who have functional, hearing or visual impairments, or who exhibit language barriers.

2) delivery of the AMD unit to the participant and installation of the unit into a functioning telephone or wireless/cellular system in the participant's residence within 48 hours after the referral when the participant is at imminent risk of institutionalization and within 15 calendar days from the date of the referral in all other instances.

A) This timeline can be extended if requested by the participant/authorized representative/responsible party.

B) This service shall not be subcontracted and shall be provided by trained employees who will identify themselves by picture identification that can be verified by the participant/authorized representative.

C) Delivery and installation of the AMD unit may include coordination of emergency home response service (see Section 240.235) for a participant/authorized representative.

3) training for the participant/authorized representative and responsible party on the proper use of the AMD system at the time of installation and subsequently when needed.

4) provision of verbal and written instructions that are easy to understand in the following areas:

A) demonstration of the AMD unit and equipment, including, but not limited to:

i) activation, use and maintenance of the unit;

ii) programming the unit;

iii) filling the unit with medications;

iv) sanitization and proper handling of medications that could cause medication poisoning or cross-contaminate other medications;

v) message options;

vi) early dose features;

vii) locking features;

viii) volume control;

ix) manual requirements for operation;

x) voice, text, buttons and flashing light features;

xi) battery back-up systems in case of power failure;

xii) HIPAA-compliant (e.g., privacy-protected and secure) methods of communicating with the support center and web-based systems, including toll free help-lines and other language options, if needed;

xiii) options for pick-up or return of the AMD equipment when no longer used;

xiv) description of other troubleshooting interventions; and

xv) explanation of how ongoing training needs are met.

B) explanation of the AMD provider's services, including how the participant and family member or other individuals designated as a responsible party for the unit may communicate through a HIPAA-compliant (e.g., privacy-protected and secure) website, fax, or phone call to change the programming of medications, such as adding new medications, changing the schedule of medications or discontinuing medications.

C) explanation of the notification process for missed medication doses; agreed mode of notification; and access to participant-specific information through other modalities, such as a HIPAA-compliant (e.g., privacy-protected and secure) website, texts or phone calls or written reports.

D) provision of instructions on any testing or monitoring required to assure the proper functioning of the AMD equipment, including how to report a malfunction of the equipment.

E) provision of appropriate training adaptations for individuals who have functional, hearing or visual impairments, or who exhibit language barriers, i.e., instructions in large print, Braille, audible recordings or other languages to meet individual needs.

5) ensuring the participant/authorized representative reviews his or her responsible party designation at least every 6 months. Any changes in this designation must be sent to the Care Coordination Unit (CCU) within 5 calendar days from the date of execution of the responsible party change. If there is a change in designation, the AMD provider must complete new training as required under subsection (b)(3) within 7 calendar days from the date of execution of the responsible party change.

6) obtaining the signature of the participant/authorized representative and responsible party to verify that the AMD equipment was delivered and installed and that instructions and demonstration were given and understood by the participant/authorized representative and responsible party, including acknowledgement of their responsibilities in managing medications, medication administration and oversight of medications and of the limited role of the Department in approving of and paying for the AMD service. A copy of this receipt and acknowledgment must be sent to and kept at the CCU.

7) ownership and operation of a support center to provide live monitoring on a continuous basis, notify participant/authorized representative/responsible party of missed medication doses and provide necessary technical support for fault conditions, including a language line that provides interpreter service for at least 140 languages and communication facilitated by a teletypewriter (TTY) communication device for the deaf, as appropriate.

8) ownership and operation of a back-up support center that provides all components specified in subsection (b)(7) and that operates on a separate power grid.

9) maintaining adequate local staffing levels of qualified personnel to conduct and provide necessary administrative activities, installation, in-home training, equipment monitoring, technical support, medication program changes and repair requests in a timely manner. An AMD provider must have a written training program for personnel and be able to demonstrate that its staff members are qualified and have passed background checks.

10) repairing or replacing the AMD equipment within 24 hours after receiving a malfunction report.

11) alerts to the participant/authorized representative and responsible party when electric power to the AMD equipment has been interrupted (e.g., unplugged) and the unit is operating on a standby power source.

12) notification to the CCU within 1 business day after activation of the AMD unit and working with the appropriate care coordinator to resolve service complaints from the participant/authorized representative/responsible party.

13) notification to the CCU within 2 calendar days if the AMD service cannot be initiated or must be terminated.

14) maintaining records in accordance with Section 240.1544 relating to participant referral and service statistics, including equipment delivery; unit activation and programming; participant/authorized representative and responsible party training; missed medication notifications and dispositions; other AMD equipment monitoring and test transmission activity; equipment malfunction, repair and replacement; power interruption alerts; notifications to the CCUs; billing and payment information; and personnel qualifications, training and background checks.

15) making available individual reports on missed medication doses, power and battery status, and other reporting features on an ongoing basis to the responsible party and care coordinators via a HIPAA-compliant (e.g., privacy-protected and secure) website or other modality.

16) providing access to individual and aggregate reports, consumer satisfaction surveys, and AMD system performance measures on an ongoing basis to authorized persons through a HIPAA-compliant (e.g., privacy-protected and secure) website or other modality.

17) providing ad hoc reports to the Department upon request.

c) Units of Service

1) One unit of installation service is the one-time fee to the AMD provider for the activity associated with the installation of the AMD equipment in the participant's residence and training of the participant/authorized representative and responsible party.

2) One unit of monthly service is the fixed unit rate of reimbursement, per month, for the provider agency activity associated with providing the AMD service to each participant.

(Source: Added at 38 Ill. Reg. 14230, effective June 25, 2014)

SUBPART G: NON-FINANCIAL REQUIREMENTS

Section 240.741 Prerequisites for Automated Medication Dispenser Service

a) Authorization for the AMD dispenser service is determined based on an individual's need for the service, including the applicant's/participant's medication, medical, cognitive and physical needs that indicate the potential to benefit from the AMD service.

b) To be authorized for the service, the applicant/participant must:

1) meet all of the following criteria:

A) take 5 or more long term prescription medications that are:

i) administered 2 or more different times per day; and

ii) complex or necessitate that the medication be taken at a set schedule to avoid complications;

B) have the potential to benefit from the service, understand the need to take medications, respond to alerts to take medication and is physically able to take medication independently from the AMD unit;

C) designate a responsible party to manage the AMD unit and medications as required under Section 240.741(d); and

D) commit to using the AMD unit appropriately; and

2) exhibit at least one of the following issues:

A) a history of non-adherence to treatment, medication or therapy regimens;

B) resides alone or lacks assistance from others to assist with regular medication administration;

C) impaired motor function that causes difficulty in handling medication receptacles and small pills;

D) attempts at using less costly alternatives (e.g., pill reminders, medication organizers with alarms and telephone reminders/prompts) have failed;

E) recent transition from a more restrictive care setting, such as a hospital or nursing facility; or

3) have two or more of the following diagnoses requiring medication therapy:

A) cognitive impairment;

B) diabetes;

C) congestive heart failure;

D) hypertension;

E) depression/mental illness; or

F) cancer.

c) Other criteria may be developed by the Department to assist in determining what is the most appropriate AMD system to meet the participant's needs.

d) The responsible party must complete documentation prescribed by the Department verifying that:

1) the AMD unit was installed;

2) he/she is responsible for the management of medications of the participant, including all prescribed medications, assuring the medications are administered according to physician orders; and manually filling or arranging for the AMD unit to be filled, working with the AMD provider to program the dispenser for the initial medication schedule and subsequent changes.

3) the medications in the AMD unit are prescribed by a medical provider who has prescriptive authority under Illinois law;

4) he/she is willing to serve as a point of contact for the AMD provider and is committed to acting on any notifications of missed medication doses and other system issues;

5) he/she received and understood the instructions and demonstration given by the AMD provider for the AMD equipment; and

6) he/she understands how to access reports about the unit and medication regimen and contact the AMD provider when medication schedules are changed.

e) Whenever a responsible party can no longer meet these obligations, it is the responsibility of the participant/authorized representative to make a new designation, and arrange for another individual to be trained by the AMD

provider. Notification of the change shall be communicated with the AMD provider and the CCU before the change is made.

f) A responsible party cannot be an individual or entity providing other services under the Community Care Program, such as an in-home service provider.

(Source: Added at 38 Ill. Reg. 14230, effective June 25, 2014)

SUBPART I: DISPOSITION OF DETERMINATION

Section 240.945 Notification

a) Any participant~~client~~ whose CCP services are being changed in the following manner shall be advised of the change by written notice: change of service type; reduced amount of service; increased monthly incurred expense prior to July 1, 2010; or termination.

1) The written notice shall be sent to a participant/authorized representative~~client~~ by certified mail, return receipt requested, or given ~~to the client~~ personally, in which case the participant/authorized representative~~individual~~ is to provide a signed and dated receipt for the notice. In the event of death of a participant~~client~~, regular mail is acceptable.

2) The notice shall clearly state the reason for the action being taken.

3) The participant/authorized representative~~client~~ shall be notified of the action being taken no later than 15 calendar days from the date of assessment~~redetermination~~ and the action shall be effective no sooner than 15 calendar days from the date of the notice if the action is adverse to the participant~~client~~ (see Section 240.160 for a definition of adverse action). This time frame does not apply to termination as a result of the non-cooperative act specified in Section 240.350(b)(1).

4) In the event of death of the participant~~client~~, the termination shall be effective the date of the notice. The ~~Case Action Notice~~ form shall be dated and mailed/hand-delivered on the same day.

b) A CCP participant's~~client's~~ services, as specified in subsection (a), may be

changed or reduced at the request of the participant/authorized representative~~client~~ and not require the 15-calendar day notice period under the following circumstances:

1) the participant/authorized representative~~client~~ provides the CCU with a signed statement that the change or reduction is at his/her~~the client's~~ request;

2) the CCU, participant/authorized representative~~client~~ and provider~~vendor~~ mutually agree to the initiation of the change or reduction on the agreed upon date (which may be less than the required 15 calendar days from the date of the notice to the participant/authorized representative~~client~~);

3) a~~A~~ written notice is provided to the participant/authorized representative~~client~~ (either by certified mail, return receipt requested, or handed to the participant/authorized representative~~client~~, with a receipt provided by the participant/authorized representative~~client~~ for the notice) prior to the initiation of the change or reduction. The notice shall indicate the agreed upon effective date;

4) rights of appeal shall not be denied to a participant~~client~~ who has requested a change or reduction in CCP services; and

5) the CCU has documented all of the requirements of this subsection (b) and placed the participant's~~client's~~ statement in the case record~~client's file~~.

c) When an assessment or reassessment for services~~a redetermination of eligibility~~ requires an increase, or no change in service, ~~or no change in the amount of expense to be incurred by the client (if applicable),~~ the participant/authorized representative~~client~~ shall be notified in writing. The notice shall be mailed by regular mail to the participant/authorized representative~~client~~ within 15 calendar days from the date of the assessment or reassessment~~redetermination~~.

d) A copy of any notification mailed/hand-delivered to a participant/authorized representative~~client~~ shall be mailed/provided to the appropriate provider~~vendor~~ on the same date it is mailed/hand-delivered to the participant/authorized representative~~client~~.

(Source: Amended at 38 Ill. Reg. 14230, effective June 25, 2014)

DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

SUBPART O: PROVIDERS

Section 240.1505 Administrative Requirements for Certification

a) In order to qualify for certification as a provider of CCP services, a provider agency must, to the satisfaction of the Department, meet the following administrative requirements:

1) Serve an entire CCP geographic area.

A) Other than in Cook County, the geographic area will be the county.

B) In Cook County outside the City of Chicago, the geographic area will be the township.

C) Within the City of Chicago, the geographic area will be the following subareas, defined by Zip Code:

i) 60645, 60626, 60659, 60660, 60640

ii) 60625, 60631, 60630, 60646, 60656

iii) 60666, 60634, 60641, 60707, 60639, 60635

iv) 60613, 60614, 60618, 60647, 60657

v) 60601, 60602, 60603, 60604, 60605, 60661, 60606, 60607, 60610, 60611, 60622

vi) 60637, 60616, 60615, 60649, 60653

vii) 60629, 60632, 60623, 60609, 60638

viii) 60628, 60617, 60619, 60633, 60627, 60827

ix) 60620, 60652, 60636, 60643, 60621, 60655

x) 60608, 60612, 60624, 60644, 60651.

2) The Department reserves the right to adjust this geographic area requirement to assure that:

A) no geographic area remains unserved.

B) the following entities are not excluded from participation as service providers in the CCP:

i) entities serving limited- or non-English-speaking participants~~clients~~;

ii) providers that are, or are controlled by, a unit of local government and cannot operate outside the jurisdiction of that local government; and

iii) regional benevolent, charitable, social or religious organizations that have as their charter providing services to a specific population or geographic area smaller than a county, township or CCP subarea.

C) transportation to/from adult day service facilities can be completed in a reasonable period of time.

3) Submit a request for certification providing the information described in this Section and Sections 240.1600 and 240.1605, in the form and manner prescribed by the Department, including all required supporting compliance material or other information documenting its administrative and operational ability, and institute all necessary action based on the outcome of the Department's review.

4) Document the legal structure under which it is organized to do business as set forth in Section 240.1607(h).

5) Provide a list of the directors, officers or owners, as applicable to the legal structure of the provider agency.

6) Verify experience in providing service comparable to the CCP, as defined in Sections 240.210, 240.230, ~~and~~ 240.235 and 240.237, for which

certification is requested, and that is consistent with the requirements set forth in this Part.

A) Required Experience

i) For prospective emergency home response service provider agencies: A minimum of 5 years experience in business operations providing emergency home response service.

ii) For prospective adult day service provider agencies: A minimum of 2 years experience in business operations providing adult day service.

iii) For prospective in-home service providers: A minimum of 3 years experience in business operations providing in-home service, one of which must be in Illinois.

iv) For prospective automated medication dispenser service provider agencies: a minimum of 5 years experience in business operation providing automated medication dispenser services.

B) The Department reserves the right to:

i) adjust the experience requirements specified in subsection (a)(6)(A)~~(a)(5)(A)~~ if the provider agency submits proof of current accreditation or certification by an appropriate national organization for the service for which Department certification is being requested.

- For in-home services, the following national accreditation organizations are acceptable:

  Accreditation Commission for Health Care (2005, no later amendments or editions included), 4700 Falls of Neuse Rd., Suite 280, Raleigh NC 27609;

Community Health Accreditation Program (2004, no later amendments or editions included), 1300 19th St., Suite 150, Washington DC 20036;

The Joint Commission (2009, no later amendments or editions included), One Renaissance Blvd., Oakbrook Terrace IL 60181.

- For adult day services, accreditation from the Commission on Accreditation of Rehabilitation Facilities (CARF) (2009, no later amendments or editions included), CARF-CCAC, 1730 Rhode Island Ave. NW, Suite 209, Washington DC 20036 is acceptable.

- Consideration of other accreditation organizations may be requested in writing with supporting documentation regarding the particular competency requirements for another designation. If approved by the Department, additional accreditation organizations will be added to this subsection (a)(6)(B)(i).

ii) adjust the experience requirement (e.g., substituting management team experience for agency experience) when it is in the best interests of the CCP. The Department will continue to assure that any adjustment of the experience requirement will occur only when the health, safety and welfare of CCP participants~~clients~~ and the quality of services provided will not be adversely affected.

C) The Department will not adjust the experience requirement for any accredited provider agency that is not currently in operation and actually providing services.

7) Disclosure of information regarding past business practices of the provider agency and its affiliates, including the managers, directors or owners, relevant to the service applied for, involving, but not limited to, the following circumstances:

A) denial, suspension, revocation or termination for cause of a license or Provider Agreement, or any other enforcement action, such as civil court or criminal action;

B) termination of a Provider Agreement or surrender of a license before expiration or allowing a contract or a license to expire in lieu of enforcement action;

C) any federal or state Medicaid or Medicare sanctions or penalties relating to the operation of the agency, including, but not limited to, Medicaid abuse or fraud;

D) any federal or state civil or criminal felony convictions;

E) operation of an agency that has been decertified in any state under Medicare or Medicaid; or

F) citations for client abuse, neglect, injury, financial exploitation or inadequate care in any state.

8) Document its written policies and procedures in compliance with the applicable administrative standards imposed on provider agencies under the CCP, as set forth in Section 240.1510.

9) Document its ability to comply with all applicable responsibilities imposed on provider agencies under the CCP, as set forth in Section 240.1520, including proof of required insurance coverages.

10) Submit audited financial reports from the last complete business fiscal year.

11) Submit proof that it is fiscally sound, as that term is defined in Section 240.160, by verifying assets (e.g., audited financial statements with accompanying notes, bank statements, investment statements, and letters of credit from financial institutions) sufficient to cover 90 days of CCP operating expenses, as defined by the agency business plan.

12) Provide assurance that its business operations comply with the service, staffing and training requirements imposed on provider agencies under this Part.

13) Provide a minimum of 5 references ~~or letters of recommendation~~ from such entities as persons who have been served by the provider, nonprofit or business organizations or governmental bodies that have observed the operations and/or services of the provider, employees of the provider, an Area Agency on Aging, etc., attesting to the provider agency's qualifications relevant to providing CCP services. The references shall be from a diverse group of knowledgeable entities.

14) Comply with all applicable federal, State and local laws, regulations, rules, service standards and policies or procedures pertaining to the provider agency in its business operations and to the services provided under the CCP.

b) If a provider agency is not able or is unwilling to meet the administrative requirements in subsection (a), the Department shall deny its request for certification.

c) The Department reserves the right to accept documentation of Illinois Department of Public Health (DPH) home service licensure for applicable administrative requirements. (See 77 Ill. Adm. Code 245.Subpart B.)

(Source: Amended at 38 Ill. Reg. 14230, effective June 25, 2014)

Section 240.1543 Minimum Equipment Specifications for Automated Medication Dispenser Service

a) All AMD equipment must be capable of portability to be temporarily transferred to another non-institutional residence in Illinois without additional activation fees.

b) AMD Unit Specifications

1) The AMD unit must be a portable, waterproof, mechanical system configured with:

A) all the cords and interfaces needed for installation;

B) an internal battery capable of operating as a power source for a minimum of 3 years;

C) a battery back-up that charges automatically when unit is powered and maintains a charge for at least 12 hours when the electric power to the AMD unit is interrupted;

D) a low battery charge signal;

E) components certified as appropriate by the Federal Communications Commission (FCC) under 47 CFR 15 and 68; and

F) appropriate Underwriters Laboratories (UL) safety standards (UL 60950 and 60950-1) certification for battery powered technology equipment.

2) The AMD unit must have the following operating features:

A) ability to be loaded, programmed and changed to add and remove prescriptions, including:

i) local or remote accessibility to the AMD unit in order to program it in accordance with physician orders for medication administration; the unit must allow medication to be dispensed at least 4 times a day; and

ii) to alert the participant at the times programmed for dispensing medication;

B) ability to be filled with medications by the responsible party, including:

i) holding at least 7 days' supply of prescription medications;

ii) holding 8 or more different medications in individual compartments;

iii) access to medication for an early dose option; and

iv) locking after the medication is loaded;

C) ability to alert the participant when it is time to take medications at least every 5 to 10 minutes for at least 60 minutes until the dose is taken or the dose is locked, including:

i) using verbal, auditory or visual prompts such as flashing lights and audible tones or verbal instructions, which may also provide messages to take medication that cannot be stored in the machine (e.g., take medications with food; time to take insulin) based on participant's needs;

ii) dispensing medications at the correct time of day in the correct combinations and in the correct quantities; and

iii) easy adjustment of the volume on auditory or verbal features;

D) use of HIPAA-compliant (e.g., privacy-protected and secure) methods of communication with the participant/authorized representative/responsible party, including:

i) notification when battery is low or unit is jammed, or if participant has not taken the medication within 90 minutes after the prescribed time;

ii) contact by the unit or call center to the participant/authorized representative/responsible party to assure adherence or needed intervention; and

E) ability to securely transmit information and provide data to the participant/authorized representative/responsible party, the Department or its designees.

3) The AMD unit must be capable of conducting automatic battery testing and transmitting the results through the AMD unit to the support center on an ongoing basis.

4) If an AMD unit is a Class I medical device, the AMD unit is subject to the General Controls mandated by the Federal Food and Drug Administration, including provisions that relate to adulteration (21 USC 351); misbranding (21 USC 352); device registration and listing (21 USC 360); notification, including repair, replacement, or refund (21 USC 360h); records and reports (21 USC 360i); and restricted devices (21 USC 520(e)). In addition, the manufacturer of the device must fulfill requirements under 21 CFR 820.180 (Record keeping) and 820.198 (Complaint files). If an AMD unit has enhanced features, such as remote capability, it may be classified as a Class II medical device and must then meet applicable Special Controls under the FDA.

5) The AMD unit must have adaptations for operation by individuals who have functional, hearing or visual impairments, and language barriers at no extra cost to the participant.

c) AMD Unit Specifications

1) The AMD unit must have:

A) an integrated unit that connects to either a rotary dial or touchtone telephone via a modular jack or wireless/cellular system that does not interfere with the normal use of the telephone or other devices using the telephone line, such as Emergency Home Response Service;

B) an Underwriters Laboratory (UL) approved plug as the connector to a standard residential electrical outlet for its power supply;

C) an easily identifiable "ready" light to verify whether the batteries on the base unit are charged;

D) a battery that automatically charges whenever the base unit is powered and that maintains a charge for at least 12 hours when the electric power to the base unit is interrupted;

E) transmission capability to signal the support center if the base unit battery fails or has a low charge, or electric power to the base unit is interrupted;

F) configuration that allows signaling services through more than one unit for more than one participant in a residence; and

G) an easy method to control the volume of the unit.

2) The AMD unit must give both audible and visual technology and lighting cues to provide medication alerts.

3) The AMD unit must provide repeated alerts or messages until the medication is taken, or until the time limit on reminders is met, at which time the dose is transferred to a locked storage area and the responsible party is notified of the missed medication dose.

d) Support Center Specifications

1) The AMD support center must have back-up monitoring capacity to take over all medication dispenser notification functions, monitoring and technical support functions.

2) The AMD back-up monitoring center must be at a location different from the primary center, on a different power grid system, and on a different telephone trunk line. It must have a back-up battery and electrical generating capacity, as well as telephone line and wireless/cellular system monitoring abilities. If the back-up center is in the same city as the support center, the AMD provider must provide assurances that back-up can be maintained in the event of a natural disaster.

3) All AMD support center and back-up center equipment, at a minimum, must:

A) monitor the AMD system for the receipt of incoming signals from installed and programmed AMD units in a participant's residence, including missed medication doses, power interruptions and outages, and test transmissions and fault conditions, on a continuous basis;

B) direct an appropriate response to the receipt of a signal immediately via texts/emails to the responsible party and call the responsible party within 90 minutes after missed medications and within 8 hours after power interruptions and outages;

C) provide technical support as required, 24 hours a day, 365 days a year;

D) identify each participant and simultaneously record all communication between the participant/authorized representative/responsible party and the support center, as applicable, for all signals, including missed medication doses, test transmissions and fault conditions;

E) display, print and archive the participant identifier, date, time, communication and response for each signal, test and fault condition, which must be maintained for at least a 3-year period of time for quality control and liability purposes;

F) have an uninterruptible power supply (UPS) back-up that will automatically take over system operation in the event electric power to the support center is interrupted, other type of malfunction occurs, or repairs are needed. The back-up power supply must be sufficient to operate the entire system for a minimum of 7 calendar days;

G) have separate and independent primary and back-up systems, computer servers, databases, and other components to provide an uninterruptible monitoring system in the event of equipment malfunction;

H) perform self-diagnostic testing for malfunctions in equipment in a participant's residence and at the support center, and for fault conditions in the primary and back-up operating systems and power supply at the support center, that could interfere with receiving and responding to signals, such as non-operational AMD units, messages sent from the AMD unit to the

participant/authorized representative/responsible party without confirmation of receipt, telephone line outages, power loss, etc.;

I) capability to centrally generate medication compliance data and reports as requested by the Department;

J) have quality management systems that include tracking and trending of data, response times and dispositions; and

K) maintain appropriate certification by the FCC under 47 CFR 15 and 68.

(Source: Added at 38 Ill. Reg. 14230, effective June 25, 2014)

Section 240.1544 Administrative Requirements for Automated Medication Dispenser Service Providers

a) In order to qualify for certification, an Automated Medication Dispenser (AMD) provider must, to the satisfaction of the Department:

1) meet the administrative requirements and minimum administrative standards under Sections 240.1505 and 240.1510;

2) meet the applicable responsibilities imposed on provider agencies under the Community Care Program (CCP) set forth in Section 240.1520;

3) meet the certification requirements under Sections 240.1600 or 240.1605;

4) provide assurance that its equipment and support center are in continual compliance with the business and technology requirements imposed on provider agencies under Section 240.1543;

5) provide assurance that its business operations comply with the service, staffing and training requirements under Section 240.237;

6) complete management training provided by the Department or its designee:

A) Training shall be completed by management staff (e.g., managers, supervisors, billing agents) of the AMD provider prior to the award of a CCP AMD contract from the Department;

B) At a minimum, the individual responsible for administration of the CCP AMD program at the provider agency shall complete this training;

C) The Department is authorized to charge a reasonable fee for this training to cover related administrative costs;

7) submit audited financial reports as requested from the last complete business fiscal year to prove it is fiscally sound as that term is defined in Section 240.160;

8) accept all correspondence from the Department and maintain adequate records for administration, audit, budgeting, evaluation, operation and planning efforts by the Department in offering the AMD service through the CCP, which shall include, but are not limited to:

A) records of all referrals, including the disposition of each referral;

B) participant records, which shall include, but are not limited to:

i) applicable forms required by the Department;

ii) dates and times of all AMD notifications and communications with the participant/authorized representative/responsible party;

iii) disposition of all participant/authorized representative/responsible party communications;

iv) dates and times of all equipment tests and system interruptions; and

C) administrative records, including but not limited to:

i) service statistics;

ii) complaint resolution;

iii) billing and payment information plus the underlying documentation to support the units of service submitted to the Department for reimbursement; and

9) comply with all applicable federal, State and local laws, regulations, rules, service standards and policies or procedures pertaining to the AMD provider in its business operations and to the services provided under the CCP.

b) If an AMD provider is not able to meet these administrative requirements, the Department shall deny its request for a certification of qualifications under Section 240.1600.

(Source: Added at 38 Ill. Reg. 14230, effective June 25, 2014)

SUBPART P: PROVIDER PROCUREMENT

Section 240.1600 Provider Agency Certification

a) All services provided to Community Care Program participants~~clients~~ shall be delivered in accordance with Provider Agreements entered into between certified provider agencies and the Department.

b) For purposes of administrative efficiency, the Department may initiate the provider certification process for the CCP by a specific service, on a geographic basis, or in accordance with other criteria determined by the Department.

c) Initial Certification
Any willing and qualified provider agency (see the federal Medicaid waiver, this Part and 42 CFR 431.51 (2008)) interested in the opportunity to enter into a Provider Agreement with the Department for the provision of CCP services shall comply with the following certification procedures:

1) A provider agency requesting initial certification of qualifications shall submit, in a form and manner prescribed by the Department, material documenting the ability to comply with administrative requirements,

service specifications and any other administrative or operational information required by the Department for the applicable service.

A) The Department or its designee will review the material submitted and, if necessary, will request additional information. The Department or its designee will conduct on-site reviews of a prospective provider agency for in-home service and adult day service under the CCP unless a performance review of the provider agency has already been completed by the Department or its designee within the prior 12 months. The Department reserves the right to conduct on-site reviews of a prospective provider agency for emergency home response service and automated medication dispenser service under the CCP.

B) If additional information is requested by the Department, the provider agency has 30 calendar days from the date of request to submit this information.

C) After 60 calendar days, the provider agency's request for certification of qualifications will be closed and all information must be resubmitted to the Department if the provider agency wants to continue to request certification.

2) Provider agencies will be notified in writing of the results of the certification request. Those provider agencies determined by the Department to be qualified will be certified for a period of no more than 3 years and afforded the opportunity to execute a Provider Agreement (generally for a 3-year period) for the applicable service.

d) Recertification
The Department, or its designee, shall conduct recertification of each provider agency with a valid Provider Agreement no less frequently than every 3 years to determine continued compliance with qualifications for the applicable service. The timing of recertification shall be based upon the timing of the initial certification (see subsection (b)) or of the most recent recertification.

1) The Department, or its designee, shall notify each provider agency, in writing, at least 30 calendar days prior to recertification to request the material required for the recertification. Any provider agency interested in

renewing its Provider Agreement shall submit, in a form and manner prescribed by the Department, material documenting the continued ability to comply with the administrative requirements, service specifications, and any other administrative or operational information required by the Department for the applicable service.

2) Before recertifying a service provider, the Department will conduct a performance review under Section 240.1660.

3) Provider agencies will be notified in writing of the results of the recertification.

4) Those provider agencies determined by the Department to be qualified will be recertified for a period of no more than 3 years and afforded the opportunity to execute renewal of the Provider Agreement (generally for a 3-year period) for the applicable service.

e) Other initial certification or recertification considerations include, but are not limited to:

1) pending or current Departmental on-notice or contract action for failure to adhere to Provider Agreement requirements, including a history of non-compliance with the Provider Agreement;

2) notification from another governmental entity of similar contract actions or non-compliance findings;

3) financial insolvency, criminal indictment or conviction, or other legal issues that, in the opinion of the Department, would make the award of a Provider Agreement contrary to the best interest of the State;

4) complaints forwarded to the Department by the Attorney General's office, the Better Business Bureau or other consumer protection organizations; or

5) the current provider agency is not in good standing with the Department.

f) The Department may require completion of additional disclosure statements and/or background inquiries if there is reason to believe offenses have occurred since completion of previous disclosures and background inquiries.

g) The Director shall represent and act for the State in all matters pertaining to the Application for Certification process and Provider Agreements awarded. The Director receives all recommendations and has the ultimate decision making authority for issuing Provider Agreements. The Director reserves the right to allow the applicant to correct inadvertent, technical errors in the application when, in the Director's opinion, the best interest of the State will be served by the correction.

h) Any provider agency denied initial certification of qualifications or recertification for the provision of CCP services shall be afforded the opportunity to submit another request to the Department after a 60-day period of time from issuance of the determination or notification of a final decision or other action on an objection filed pursuant to Section 240.1645. The provider agency may also object to the decision in a form and manner prescribed by the Department in the written notification of denial (see Section 240.1645).

i) Provider Agreements will be entered with qualified provider agencies on a schedule determined by the Department, but no more frequently than semiannually after initial certification.

(Source: Amended at 38 Ill. Reg. 14230, effective June 25, 2014)

Section 240.1650 Classification, Identification and Receipt of Provider Service Violations

Failure to comply with the contract, proposal and Department rules shall be identified and classified by the Department.

a) In determining the classification assigned to each provider service violation, the Department shall consider the following:

1) the severity of the violation;

2) the danger posed by the violation to the health, safety or welfare of the participant~~client~~, based upon degree of participant~~client~~ impairment and availability of support sources;

3) the provider's efforts to correct violations;

4) the volume and scope of violations.

b) There are 3 classifications of violations: Type I, Type II and Type III.

1) Type I provider service violations are participant-centered~~client-centered~~ violations that pose an imminent risk to the health, safety or welfare of the Community Care Program (CCP) participant~~client~~, and represent situations in which failure to correct the violation could result in the participant's~~client's~~ potential hospitalization or nursing facility placement. Type I violations shall receive priority attention, requiring immediate (within 24 hours) correction to remove the risk environment. Permanent correction must be achieved within 60 calendar days.

2) Type II provider service violations are participant-centered~~client-centered~~ violations that pose a potentially serious risk to the participant~~client~~. These violations are to be corrected within 60 calendar days.

3) Type III provider service violations are administrative violations that pose a very low risk to the participant~~client~~. The timeframe for correction of Type III violations shall be 60 calendar days or as established in an approved work plan.

c) Provider service violations include, but are not limited to, violation of the following Community Care Program rules:

1) adult day service standard requirements, as specified in Section 240.1550 ~~of this Part~~;

2) adult day service and in-home provider staffing requirements, as specified in Sections 240.1530 and 240.1555~~ of this Part~~;

3) special services, as specified in Subpart J;

4) provider administrative minimum standards and responsibilities, as specified in Sections 240.1510, 240.1520, 240.1542, 240.1544 and 240.2020~~ of this Part~~;

5) service components, as specified in Sections 240.210, 240.230, 240.235, 240.237, 240.270 and 240.280~~ of this Part~~;

6) adult day service and in-home provider staff qualification and responsibilities, as specified in Sections 240.1535 and 240.1560~~ of this Part~~;

7) service provision requirements, as specified in Subpart B and Section 240.915~~ of this Part~~;

8) emergency home response equipment, as specified in Section 240.1541~~ of this Part~~;~~.~~

9) automated medication dispenser equipment, as specified in Section 240.1543.

d) The Department will be in receipt of reported violations through the following methods:

1) Performance reviews of contracted provider agencies, as specified in Section 240.1660 of this Part;

2) Service complaints/violations that are reported directly to the Department or to the Senior HelpLine of the Department or are referred to the Senior HelpLine by the Department/Care~~Case~~ Coordination Unit or service provider/other; and/or

3) Reports from Department staff.

(Source: Amended at 38 Ill. Reg. 14230, effective June 25, 2014)

SUBPART S: PROVIDER RATES

Section 240.1955 Fixed Unit Rates of Reimbursement for Emergency Home Response Service

Emergency home response service (EHRS) providers executing a contractual agreement with the Department pursuant to Section 240.1600 shall be uniformly reimbursed for the provision of EHRS at fixed unit rates of reimbursement established by the Department. The reimbursable units of EHRS shall be as follows:

a) Installation and Removal
The Department shall pay a one-time installation fee at a fixed unit reimbursement rate established by the Department for the installation of the base unit in the participant's~~client's~~ home. The Department shall not pay any fee for expenses incurred by the EHRS provider if service could not be provided due to either the participant's~~client's~~ absence or the participant's~~client's~~ refusal to admit the EHRS provider's employee into the home. The Department shall not pay any fee for removal of the base unit.

b) Monthly Service
The Department shall pay a monthly service fee per participant~~client~~ at a fixed unit reimbursement rate established by the Department for providing EHRS to participants~~clients~~. The Department shall not pay for the cost of maintaining telephone service for the participant~~client~~ or any associated charges or fees.

c) Rate for EHRS and Automated Medication Dispenser (AMD) Provided by the Same Provider:

1) For individual participant households, the Department shall pay a single installation fee and a single monthly service fee for EHRS and AMD when these services are installed and provided at the same time, by the same provider.

2) For dual participant households when both participants are utilizing EHRS and AMD services, the Department shall pay a single installation fee, an AMD monthly service fee per participant, and a shared EHRS monthly service fee when these services are installed and provided at the same time, by the same provider.

d) The rates will be reviewed annually, at a minimum, and adjustments may be made to conform to the appropriation, service requirements and/or changes in federal and State laws, regulations and/or rules affecting the service.

e) In establishing the rates of reimbursement, the Department will comply with federal requirements for Medicaid waivers, which are described in the State Medicaid Plan maintained by HFS and posted on the HFS website. The Department will use a Request for Information process to obtain rate information from providers and then consider whether the resulting average is supported by the appropriation level for the program in light of trend analyses on use of the

service and current market conditions. The goal is to ensure adequate provider participation and participant choice. The specific amount that the service provider will be reimbursed for a unit of service is reflected in the provider contract and is listed on the Department's website.

f) Upon written notification from the Department of a change in the rates of reimbursement, an AMD provider may exercise its 30 calendar day termination rights if the EHRS provider no longer wishes to provide services thereafter at the new rates of reimbursement.

(Source: Amended at 38 Ill. Reg. 14230, effective June 25, 2014)

Section 240.1957 Fixed Unit Rates of Reimbursement for Automated Medication Dispenser Service

Automated Medication Dispenser (AMD) service providers executing a contractual agreement with the Department pursuant to Section 240.1600 shall be uniformly reimbursed for the provision of AMD units at fixed unit rates of reimbursement established by the Department. The reimbursable units of AMD service shall be as follows:

a) Installation, Initial Training and Removal
The Department shall pay a one-time installation fee at a fixed unit reimbursement rate established by the Department for the installation and initial training of the participant/authorized representative/responsible party of the AMD unit in the participant's residence. The Department shall not pay any fee for expenses incurred by the AMD provider if service could not be provided due to either the participant's absence or the participant's refusal to admit the AMD provider's employee into the residence. The Department shall not pay any fee for removal of the AMD unit.

b) Monthly Service
The Department shall pay a monthly service fee per participant at a fixed unit reimbursement rate established by the Department for providing AMD service which includes maintaining administrative and technical support to program machines; providing 24 hour technical assistance and additional training; signal monitoring, troubleshooting, machine maintenance, repair and replacement; notifications to the responsible party on missed medication doses and power outage; tracking and analyzing data; and providing reports as requested by the

Department. The Department will not pay for the cost of maintaining telephone service for the participant or any associated charges or fees.

c) Rate for AMD and Emergency Home Response Services (EHRS) Provided by the Same Provider:

1) For individual participant households, the Department shall pay a single installation fee and a single monthly service fee for AMD and EHRS when these services are installed and provided at the same time, by the same provider.

2) For dual participant households when both participants are utilizing AMD and EHRS, the Department shall pay a single installation fee, an AMD monthly service fee per participant, and a shared EHRS monthly service fee when these services are installed and provided at the same time, by the same provider.

d) The rates will be reviewed annually, at a minimum, and adjustments may be made to conform to the appropriation, service requirements and/or changes in federal and State laws, regulations and/or rules affecting the service.

e) In establishing the rates of reimbursement, the Department may consider any of the following factors:

1) appropriation levels;

2) cost information provided by the providers; and/or

3) current market conditions and trend analyses.

f) Upon written notification from the Department of a change in the rates of reimbursement, an AMD provider may exercise its 30 calendar day termination rights if the AMD provider no longer wishes to provide services thereafter at the new rates of reimbursement.

(Source: Added at 38 Ill. Reg. 14230, effective June 25, 2014)

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Video Gaming (General)

2) Code Citation: 11 Ill. Adm. Code 1800

3)

Section Numbers:	Proposed Action:
1800.110	Amendment
1800.320	Amendment

4) Statutory Authority: Authorized by the Video Gaming Act [230 ILCS 40], specifically Section 78 (a) (3) and (b) of that Act [230 ILCS 40/78 (a) (3) and (b)]

5) Effective Date of Rule: June 30, 2014

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

7) Does this rulemaking contain an incorporation by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 37 Ill. Reg. 19812; December 13, 2013

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: The final version removes all provisions establishing a Video Gaming Board Exclusion List (List). Specifically, the final version deletes amendatory changes pertaining to the List contained in Sections 1800.110, 1800.310, 1800.610, 1800.615, 1800.650, and 1800.690, and deletes new Sections 1800.1610, 1800.1620, 1800.1630, 1800.1640, and 1800.1650.

The rulemaking also amends Section 1800.110, "Definitions," by restoring language to the definition of "licensed technician" that was originally added by 36 Ill. Reg. 13178 (August 17, 2012) but subsequently was inadvertently deleted from the Illinois Administrative Code.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

ILLINOIS GAMING BOARD

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13) Will this rulemaking replace any emergency rule currently in effect? No

14) Are there any rulemakings pending on this part? Yes

Section Numbers:	Proposed Action:	*Illinois Register* Citation:
1800.230	Amendment	38 Ill. Reg. 12655, June 20, 2014
1800.240	Amendment	38 Ill. Reg. 12655, June 20, 2014
1800.250	Amendment	38 Ill. Reg. 12655, June 20, 2014
1800.270	Amendment	38 Ill. Reg. 12655, June 20, 2014

15) Summary and Purpose of Rulemaking: The rulemaking amends Section 1800.320, "Minimum Standards for Use Agreements", to require that beginning July 15, 2014, a use agreement can only be between a licensed terminal operator *licensed by the Board at the time the use agreement is signed* and a licensed establishment, licensed truck stop establishment, licensed veterans establishment, or licensed fraternal establishment. Currently, Section 1800.320 does not require a terminal operator to be licensed by the Board at the time it signs a use agreement with a licensed establishment, licensed truck stop establishment, licensed veterans establishment, or licensed fraternal establishment.

The rulemaking also amends the definition of "use agreement" in Section 1800.110, "Definitions", by adding language requiring use agreements to comply with the minimum standards for use agreements contained in Section 1800.320.

In addition, the rulemaking amends Section 1800.110 by restoring language to the definition of "licensed technician" that was originally added by 36 Ill. Reg. 13178 (August 17, 2012) but subsequently was inadvertently deleted from the Illinois Administrative Code.

16) Information and questions regarding this adopted rule may be addressed to:

Emily Mattison
General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago IL 60601

312/814-4700

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

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE D: VIDEO GAMING
CHAPTER I: ILLINOIS GAMING BOARD

PART 1800
VIDEO GAMING (GENERAL)

SUBPART A: GENERAL PROVISIONS

Section
1800.110 Definitions
1800.115 Gender
1800.120 Inspection

SUBPART B: DUTIES OF LICENSEES

Section
1800.210 General Duties of All Video Gaming Licensees
1800.220 Continuing Duty to Report Violations
1800.230 Duties of Licensed Manufacturers
1800.240 Duties of Licensed Distributors
1800.250 Duties of Licensed Video Terminal Operators
1800.260 Duties of Licensed Technicians and Licensed Terminal Handlers
1800.270 Duties of Licensed Video Gaming Locations

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section
1800.310 Grounds for Disciplinary Actions
1800.320 Minimum Standards for Use Agreements
1800.330 Economic Disassociation

SUBPART D: LICENSING QUALIFICATIONS

Section
1800.410 Coverage of Subpart
1800.420 Qualifications for Licensure
1800.430 Persons with Significant Influence or Control

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SUBPART E: LICENSING PROCEDURES

Section
1800.510 Coverage of Subpart
1800.520 Applications
1800.530 Submission of Application
1800.540 Application Fees
1800.550 Consideration of Applications by the Board
1800.555 Withdrawal of Applications
1800.560 Issuance of License
1800.570 Renewal of License
1800.580 Renewal Fees and Dates
1800.590 Death and Change of Ownership of Video Gaming Licensee

SUBPART F: DENIALS OF APPLICATIONS FOR LICENSURE

Section
1800.610 Coverage of Subpart
1800.615 Requests for Hearing
1800.620 Appearances
1800.625 Appointment of Administrative Law Judge
1800.630 Discovery
1800.635 Subpoenas
1800.640 Motions for Summary Judgment
1800.650 Proceedings
1800.660 Evidence
1800.670 Prohibition on Ex Parte Communication
1800.680 Sanctions and Penalties
1800.690 Transmittal of Record and Recommendation to the Board
1800.695 Status of Applicant for Licensure Upon Filing Request for Hearing

SUBPART G: DISCIPLINARY ACTIONS AGAINST LICENSEES

Section
1800.710 Coverage of Subpart
1800.715 Notice of Proposed Disciplinary Action Against Licensees
1800.720 Hearings in Disciplinary Actions
1800.725 Appearances

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1800.730 Appointment of Administrative Law Judge
1800.735 Discovery
1800.740 Subpoenas
1800.745 Motions for Summary Judgment
1800.750 Proceedings
1800.760 Evidence
1800.770 Prohibition on Ex Parte Communication
1800.780 Sanctions and Penalties
1800.790 Transmittal of Record and Recommendation to the Board

SUBPART H: LOCATION OF VIDEO GAMING TERMINALS IN LICENSED VIDEO GAMING LOCATIONS

Section
1800.810 Location and Placement of Video Gaming Terminals
1800.820 Measurement of Distances from Locations
1800.830 Waivers of Location Restrictions

SUBPART I: SECURITY INTERESTS

Section
1800.910 Approvals Required, Applicability, Scope of Approval
1800.920 Notice of Enforcement of a Security Interest
1800.930 Prior Registration

SUBPART J: TRANSPORTATION, REGISTRATION, AND DISTRIBUTION OF VIDEO GAMING TERMINALS

Section
1800.1010 Restriction on Sale, Distribution, Transfer, Supply and Operation of Video Gaming Terminals
1800.1020 Transportation of Video Gaming Terminals into the State
1800.1030 Receipt of Video Gaming Terminals in the State
1800.1040 Transportation of Video Gaming Terminals Between Locations in the State
1800.1050 Approval to Transport Video Gaming Terminals Outside of the State
1800.1060 Placement of Video Gaming Terminals
1800.1065 Registration of Video Gaming Terminals
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SUBPART K: STATE-LOCAL RELATIONS

Section
1800.1110 State-Local Relations

SUBPART L: FINGERPRINTING OF APPLICANTS

Section
1800.1210 Definitions
1800.1220 Entities Authorized to Perform Fingerprinting
1800.1230 Qualification as a Livescan Vendor
1800.1240 Fingerprinting Requirements
1800.1250 Fees for Fingerprinting
1800.1260 Grounds for Revocation, Suspension and Denial of Contract

SUBPART M: PUBLIC ACCESS TO INFORMATION

Section
1800.1310 Public Requests for Information

SUBPART N: PAYOUT DEVICES AND REQUIREMENTS

Section
1800.1410 Ticket Payout Devices
1800.1420 Redemption of Tickets Following Removal or Unavailability of Ticket Payout Devices

SUBPART O: NON-PAYMENT OF TAXES

Section
1800.1510 Non-Payment of Taxes

AUTHORITY: Implementing and authorized by the Video Gaming Act [230 ILCS 40].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 14793, effective October 19, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 2893, effective February 22, 2010; emergency amendment at 34 Ill. Reg. 8589, effective June 15, 2010, for a maximum of 150 days; emergency expired November 11, 2010; amended at 35 Ill. Reg. 1369, effective January 5, 2011; emergency amendment at 35 Ill. Reg. 13949, effective July 29, 2011, for a maximum of 150

days; emergency expired December 25, 2011; amended at 36 Ill. Reg. 840, effective January 6, 2012; amended by emergency rulemaking at 36 Ill. Reg. 4150, effective February 29, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 5455, effective March 21, 2012; amended at 36 Ill. Reg. 10029, effective June 28, 2012; emergency amendment at 36 Ill. Reg. 11492, effective July 6, 2012, for a maximum of 150 days; emergency expired December 2, 2012; emergency amendment at 36 Ill. Reg. 12895, effective July 24, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13178, effective July 30, 2012; amended at 36 Ill. Reg. 15112, effective October 1, 2012; amended at 36 Ill. Reg. 17033, effective November 21, 2012; amended at 36 Ill. Reg. 18550, effective December 14, 2012; amended at 37 Ill. Reg. 810, effective January 11, 2013; amended at 37 Ill. Reg. 4892, effective April 1, 2013; amended at 37 Ill. Reg. 7750, effective May 23, 2013; amended at 37 Ill. Reg. 18843, effective November 8, 2013; emergency amendment at 37 Ill. Reg. 19882, effective November 26, 2013, for a maximum of 150 days; emergency amendment suspended by the Joint Committee on Administrative Rules at 38 Ill. Reg. 3384, effective January 14, 2014; suspension withdrawn at 38 Ill. Reg. 5897; emergency repeal of emergency amendment at 38 Ill. Reg. 7337, effective March 12, 2014, for the remainder of the 150 days; amended at 38 Ill. Reg. 849, effective December 27, 2013; amended at 38 Ill. Reg. 14275, effective June 30, 2014.

SUBPART A: GENERAL PROVISIONS

Section 1800.110 Definitions

For purposes of this Part the following terms shall have the following meanings:

"Act": The Video Gaming Act [230 ILCS 40].

"Adjusted gross receipts" means the gross receipts less winnings paid to wagerers. The value of expired vouchers shall be included in computing adjusted gross receipts.

"Administrator": The chief executive officer responsible for day-to-day operations of the Illinois Gaming Board.

"Affiliate": An "affiliate of", or person "affiliated with", a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person.

"Affiliated entity": An "affiliated entity" of a person is any business entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the person.

"Applicant": A person applying for any license under the Act.

"Application": All material submitted, including the instructions, definitions, forms and other documents issued by the Illinois Gaming Board, comprising the video gaming license application submitted to the Illinois Gaming Board.

"Associated video gaming equipment": Ticket payout systems and validation procedures; wireless, promotional and bonusing systems; kiosks; gaming-related peripherals; hardware, software and systems; and other gaming devices and equipment for compliance with:

Illinois laws, regulations and requirements as codified or otherwise set forth; and

Board-approved video gaming industry standards.

"Attributed interest": A direct or indirect interest in an enterprise deemed to be held by an individual not through the individual's actual holdings but either through the holdings of the individual's relatives or through a third party or parties on behalf of the individual pursuant to a plan, arrangement, agreement or contract.

"Board": The Illinois Gaming Board.

"Business entity" or "Business": A partnership, incorporated or unincorporated association or group, firm, corporation, limited liability company, partnership for shares, trust, sole proprietorship or other business enterprise.

"Chi-square test": A statistical test used to determine if a relationship between variables exists by comparing expected and observed cell frequencies. Specifically, a chi-square test examines the observed frequencies in a category and compares them to what would be expected by chance or would be expected if there was no relationship between variables.

"Control": The possession, direct or indirect, of power to direct or cause the direction of the management and policies of an applicant or licensee through the ownership of voting securities, by contract or otherwise.

"Convenience store": A retail store that is open long hours and sells motor fuel and a limited selection of snacks and general goods.

"Credit": One, five, 10 or 25 cents.

"Distributor": An individual, partnership, corporation or limited liability company licensed under the Act to buy, sell, lease or distribute video gaming terminals or major components or parts of video gaming terminals to or from terminal operators.

"Enforce a security interest": To transfer possession of ownership or title pursuant to a security interest.

"EPROM": An acronym for Erasable, Programmable, Read Only Memory, which is a microprocessor component that stores memory and affects payout percentage and/or contains a random number generator that selects the outcome of a game on a video gaming terminal.

"Facility-pay" or "facility payment" means a manual payment of currency by an authorized employee of a licensed video gaming location or an authorized employee of a terminal operator for amounts owed to a patron by a video gaming terminal when a video gaming terminal or ticket payout device has malfunctioned and is unable to produce or redeem a ticket.

"Fraternal organization": An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation and that is exempt from federal income taxation under section 501(c)(8) or (c)(10) of the Internal Revenue Code (26 USC 501(c)(8) or (c)(10)).

"Game": A gambling activity that is played for money, property or anything of value, including without limitation those played with cards, chips, tokens, vouchers, dice, implements, or electronic, electrical or mechanical devices or machines.

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"Gaming": The dealing, operating, carrying on, conducting, maintaining or exposing for play of any game.

"Gaming operation": The conducting of gaming or the providing or servicing of gaming equipment.

"Gaming property collateral": Video gaming equipment subject to a security interest.

"Illinois resident":

With respect to an individual, an individual who is either:

domiciled in Illinois or maintains a bona fide place of abode in Illinois; or

is required to file an Illinois tax return during the taxable year.

With respect to a corporation, any corporation organized under the laws of this State and any foreign corporation with a certificate of authority to transact business in Illinois. A foreign corporation not authorized to transact business in this State is a nonresident of this State.

With respect to a partnership, a partnership in which any partner is an Illinois resident, or where the partnership has an office and is doing business in Illinois.

With respect to an irrevocable trust, a trust where the grantor was an Illinois resident individual at the time the trust became irrevocable.

"Institutional investor":

A retirement fund administered by a public agency for the exclusive benefit of federal, state or local public employees;

An investment company registered under section 8 of the Investment Company Act of 1940 (15 USC 80a-8);

A collective investment trust organized by a bank under Part 9 of the Rules of the Comptroller of the Currency (12 CFR 9.18);

A closed end investment trust registered with the United States Securities and Exchange Commission;

A chartered or licensed life insurance company or property and casualty insurance company;

A federal or state bank;

An investment advisor registered under the Investment Advisors Act of 1940 (15 USC 80b-1 through 80b-21); or

Such other person as the Illinois Gaming Board may determine for reasons consistent with the Act and this Part.

"License": Authorization granted by the Board permitting a licensee to engage in the defined activities of video gaming.

"Licensed establishment": Any retail establishment licensed under the Act where alcoholic liquor is drawn, poured, mixed or otherwise served for consumption on the premises. Licensed establishment does not include a facility operated by an organization licensee, an intertrack wagering licensee, or an intertrack wagering location licensee licensed under the Illinois Horse Racing Act of 1975 [230 ILCS 5] or a riverboat licensed under the Riverboat Gambling Act [230 ILCS 10].

"Licensed fraternal establishment": The location licensed under the Act where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

"Licensed technician": An individual who is licensed under the Act to repair, service and maintain video gaming terminals. A licensed technician is not licensed under the Act to possess or control a video gaming terminal or have access to the inner workings of a video gaming terminal (i.e., the logic area maintained in a separately locked cabinet of the video gaming terminal that houses electronic components that have the potential to significantly influence the operation of the video gaming terminal).

"Licensed terminal handler": A person, including but not limited to an employee or independent contractor working for a manufacturer, distributor, supplier, technician or terminal operator, who is licensed under the Act to possess or control a video gaming terminal or to have access to the inner workings of a video gaming terminal. A licensed terminal handler does not include an individual, partnership, corporation or limited liability company defined as a manufacturer, distributor, supplier, technician or terminal operator under Section 5 of the Act.

"Licensed truck stop establishment": A facility licensed under the Act that is at least a 3-acre facility with a convenience store, that has separate diesel islands for fueling commercial motor vehicles, that sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month, and that has parking spaces for commercial motor vehicles. "Commercial motor vehicles" has the same meaning as defined in Section 18b-101 of the Illinois Vehicle Code [625 ILCS 5/18b-101]. The 10,000 gallon requirement may be met by showing that estimated future sales or past sales average at least 10,000 gallons per month.

"Licensed veterans establishment": The location licensed under the Act where a qualified veterans organization that derives its charter from a national veterans organization regularly meets.

"Licensed video gaming location": A licensed establishment, licensed fraternal establishment, licensed veterans establishment, or licensed truck stop establishment, all as defined in Section 5 of the Act and this Part.

"Liquor license": A license issued by a governmental body authorizing the holder to sell and offer for sale at retail alcoholic liquor for use or consumption.

"Major components or parts": Components or parts that comprise the inner workings and peripherals of a video gaming terminal, including but not limited to the device's hardware, software, human interface devices, interface ports, power supply, ticket payout system, bill validator, printer and any component that affects or could affect the result of a game played on the device.

"Manufacturer": An individual, partnership, corporation or limited liability company that is licensed under the Act and that manufactures or assembles video gaming terminals.

"Net terminal income": Money put into a video gaming terminal minus credits paid out to players.

"Nominee": Any individual or business entity that holds as owner of record the legal title to tangible or intangible personal or real property, including without limitation any stock, bond, debenture, note, investment contract or real estate on behalf of another individual or business entity, and as such is designated and authorized to act on his, her or its behalf with respect to the property.

"Ownership interest": Includes, but is not limited to, direct, indirect, beneficial or attributed interest, or holder of stock options, convertible debt, warrants or stock appreciation rights, or holder of any beneficial ownership or leasehold interest in a business entity.

"Payout device": A device, approved by the Board and provided by a supplier or distributor, that redeems for cash tickets dispensed by a video gaming terminal in exchange for credits accumulated on a video gaming terminal.

"Person": Includes both individuals and business entities.

"Person with significant interest or control": Any of the following:

Each person in whose name the liquor license is maintained for each licensed video gaming location;

Each person who, in the opinion of the Administrator, has the ability to influence or control the activities of the applicant or licensee, or elect a majority of its board of directors, other than a bank or licensed lending institution that holds a mortgage or other lien, or any other source of funds, acquired in the ordinary course of business;

Persons having the power to exercise significant influence or control over decisions concerning any part of the applicant's or licensee's video gaming operation.

"Place of worship under the Religious Corporation Act": A structure belonging to, or operated by, a church, congregation or society formed for the purpose of religious worship and eligible for incorporation under the Religious Corporation

Act [805 ILCS 110], provided that the structure is used primarily for purposes of religious worship and related activities.

"Redemption period": The one-year period, starting on the date of issuance, during which a ticket dispensed by a video gaming terminal may be redeemed for cash.

"Secured party": A person who is a lender, seller or other person who holds a valid security interest.

"Security": An ownership right or creditor relationship.

"Security agreement": An agreement that creates or provides a security interest, including but not limited to a use agreement.

"Security interest": An interest in property that secures the payment or performance of an obligation or judgment.

"Sole proprietor": An individual who in his or her own name owns 100% of the assets and who is solely liable for the debts of a business.

"Substantial interest": With respect to a partnership, a corporation, an organization, an association, a business or a limited liability company means:

When, with respect to a sole proprietorship, an individual or his or her spouse owns, operates, manages, or conducts, directly or indirectly, the organization, association or business, or any part thereof; or

When, with respect to a partnership, the individual or his or her spouse shares in any of the profits, or potential profits, of the partnership activities; or

When, with respect to a corporation, an individual or his or her spouse is an officer or director or the individual or his or her spouse is a holder, directly or beneficially, of 5% or more of any class of stock of the corporation; or

When, with respect to a limited liability company, an individual or his or her spouse is a member, or the individual or his or her spouse is a holder,

directly or beneficially, of 5% or more of the membership interest of the limited liability company; or

When, with respect to any other organization not covered in the preceding four paragraphs, an individual or his or her spouse is an officer or manages the business affairs, or the individual or his or her spouse is the owner of, or otherwise controls, 10% or more of the assets of the organization; or

When an individual or his or her spouse furnishes 5% or more of the capital, whether in cash, goods or services, for the operation of any business, association or organization during any calendar year.

For purposes of this definition, "individual" includes all individuals or their spouses whose combined interest would qualify as a substantial interest under this definition and whose activities with respect to an organization, association, or business are so closely aligned or coordinated as to constitute the activities of a single entity.

"Supplier": An individual, partnership, corporation or limited liability company that is licensed under the Act to supply major components or parts to video gaming terminals to licensed terminal operators.

"Terminal operator": An individual, partnership, corporation or limited liability company that is licensed under the Act that owns, services, and maintains video gaming terminals for placement in licensed establishments, licensed truck stop establishments, licensed fraternal establishments or licensed veterans establishments.

"Use agreement": A contractual agreement between a licensed terminal operator and a licensed video gaming location establishing terms and conditions for placement and operation of video gaming terminals by the licensed terminal operator within the premises of the licensed video gaming location, and complying with all of the minimum standards for use agreements contained in Section 1800.320.

"Veterans organization": An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation and that is exempt from federal income taxation under section 501(c)(19) of the Internal Revenue Code (26 USC 501(c)(19)).

"Video gaming equipment": Video gaming terminals, associated video gaming equipment and major components or parts.

"Video gaming operation": As the context requires, the conducting of video gaming and all related activities.

"Video gaming terminal": Any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to video poker, line up and blackjack, as authorized by the Board utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, or tokens or is for amusement purposes only.

(Source: Amended at 38 Ill. Reg. 14275, effective June 30, 2014)

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section 1800.320 Minimum Standards for Use Agreements

In addition to the requirements set forth in the Act, a Use Agreement must satisfy the following:

a) Only be between:

1) a licensed terminal operator that, beginning July 15, 2014, is licensed by the Board at the time the Use Agreement is signed; and

2) a licensed establishment, licensed truck stop establishment, licensed veterans establishment or licensed fraternal establishment;

b) Contain an affirmative statement that no inducement was offered or accepted regarding the placement or operation of video gaming terminals in a licensed establishment, licensed truck stop establishment, licensed veterans establishment or licensed fraternal establishment;

c) Contain an indemnity and hold harmless provision on behalf of the State, the Board, and its agents relative to any cause of action arising from a use agreement;

d) Prohibit any assignment other than from a licensed terminal operator to another licensed terminal operator;~~.~~

e) Contain a provision that releases the video gaming location from any continuing contractual obligation to the terminal operator in the event that the terminal operator has its license revoked or surrenders its license.

(Source: Amended at 38 Ill. Reg. 14275, effective June 30, 2014)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Home Rule County Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 220

3) Section Number: 220.115 — Adopted Action: Amendment

4) Statutory Authority: 55 ILCS 5/5-1006

5) Effective Date of Rule: June 25, 2014

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 rule, 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 the *Illinois Register*: 38 Ill. Reg. 6549, March 21, 2014

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Various changes were made in response to comments received, as well as additional changes agreed upon with JCAR which were technical and grammatical.

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 an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking provides guidance for retailers to determine what local taxes they incur based on the location where they are "engaged in the business of selling tangible personal property." The Department's prior regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680
fax: 312/814-4344

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 220
HOME RULE COUNTY RETAILERS' OCCUPATION TAX

Section

220.101 Nature of the Home Rule County Retailer's Occupation Tax
220.105 Registration and Returns
220.110 Claims to Recover Erroneously Paid Tax
220.115 Jurisdictional Questions
220.120 Incorporation of Retailers' Occupation Tax Regulations by Reference
220.125 Penalties, Interest and Procedures
220.130 Effective Date

AUTHORITY: Implementing the Home Rule County Retailers' Occupation Tax Law of the Counties Code [55 ILCS 5/5-1006] and authorized by Section 2505-95 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-95].

SOURCE: Adopted August 5, 1959; amended at 3 Ill. Reg. 44, p. 185, effective October 19, 1979; codified at 6 Ill. Reg. 9681; amended at 15 Ill. Reg. 5783, effective April 9, 1991; amended at 24 Ill. Reg. 8105, effective May 26, 2000; amended at 24 Ill. Reg. 18345, effective December 1, 2000; emergency amendment at 38 Ill. Reg. 4047, effective January 22, 2014, for a maximum of 150 days; emergency expired June 20, 2014; amended at 38 Ill. Reg. 14292, effective June 25, 2014.

Section 220.115 Jurisdictional Questions

a) Definitions

When used in this Part, "County" includes all territory located within the county, including all territory within cities, villages or incorporated towns, including an incorporated town that has superseded a civil township.

When used in this Part, "Selling Activities" refers to those activities that comprise "an occupation, the business of which is to sell tangible personal property at retail". "Selling Activities" includes "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final

consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O-Corp. v. McKibbin, 383 Ill. 316, 321 (1943).

b) Retailer's Selling Activities Determine Taxing Jurisdiction

1) Occupation of Selling. The Home Rule County Retailers' Occupation Tax Law [55 ILCS 5/5-1006] authorizes home rule counties to impose a tax on those engaged in the business of selling tangible personal property at retail within the county. Because the statute imposes a tax on the retail business of selling and not on specific sales, the jurisdiction in which the sale takes place is not necessarily the jurisdiction where the retailers' occupation tax is owed. Rather, it is the jurisdiction where the seller is engaged in the business of selling that can impose the tax. Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951) ("In short, the tax is imposed on the "occupation" of the retailer and not upon the "sales" as such.") (citing Mahon v. Nudelman, 377 Ill. 331 (1941) and Standard Oil Co. v. Dep't of Finance, 383 Ill. 136 (1943)); see also Young v. Hulman, 39 Ill. 2d 219, 225 (1968) ("the retailers occupational tax...imposes liability upon the occupation of selling at retail and not on the sale itself").

2) Composite of Selling Activities. The occupation of selling is comprised of "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 32 (citing Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943)).

3) Multijurisdictional Retailers. Some retailers are engaged in retail operations with selling activities in multiple jurisdictions within the State, or in jurisdictions located in more than one state. The selling activities that comprise these businesses "are as varied as the methods which men select to carry on retail businesses". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Consequently, "it is...not possible to prescribe by definition which of the many activities must take place in [a jurisdiction] to constitute it an occupation conducted in [that jurisdiction].... It is necessary to determine each case according to the facts which reveal the

method by which the business was conducted". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943); see also Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 36.

4) Statutory Intent. It is the intent of the Home Rule County Retailers' Occupation Tax that retailers will incur local retailers' occupation tax in a jurisdiction in Illinois if they "enjoyed the greater part of governmental [services and] protection" in that jurisdiction. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)). By allowing the county to impose tax on retailers who conduct business in the county, the Home Rule County Retailers' Occupation Tax Law links the retailer's tax liability to where it principally enjoys the benefits of government services. Svithiod Singing Club v. McKibbin, 38 Ill. 194, 199 (1942).

5) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(4), a seller incurs Home Rule County Retailers' Occupation Tax in the county if its predominant and most important selling activities take place in the county. Isolated or limited business activities within a jurisdiction do not constitute engaging in the business of selling in that jurisdiction when other more significant selling activities occur outside the jurisdiction, and the business predominantly takes advantage of government services provided by other jurisdictions. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 322-23 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraphs 30 through 35.

6) Substance over Form. The Department "may look through the form of a putatively [multijurisdictional] transaction to its substance" to determine where "enough of the business of selling took place" and, thus, where the seller is subject to local retailers' occupation tax. Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill 2d 496, 501 (1960); Fed. Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 67 (1968); Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31. For example, the Department will not look to the location of a party that is owned by or has common ownership with a supplier or a purchaser if that party does not, in substance, conduct the selling activities related to the sales.

7) Same Standard Applies to Intrastate and Interstate Retailers. For purposes of determining where a retailer is engaged in the business of selling, it does not matter whether the retailer is engaged in selling activities in taxing jurisdictions in multiple states, or in multiple jurisdictions in this State. The legal standard is the same. The retailer is engaged in the business of selling in the taxing jurisdiction where its predominant and most important selling activities take place. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 30 ("the location of the business of selling inside or outside the [S]tate controls..."). If a retailer engages in some selling activities in a taxing jurisdiction in this State, but that retailer's predominant selling activities are outside the State, the retailer's obligation to collect and remit taxes on Illinois sales is governed by the Illinois Use Tax Act [35 ILCS 105/2] (defining "retailer maintaining a place of business in the State"); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31 ("some combination of activities within the [S]tate are insufficient for the retail occupation tax to apply") (citing Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951)).

8) Because it is not practicable for retailers to divide retailers' occupation tax among competing jurisdictions, a retailer subject to the retailers' occupation tax is engaged in the business of selling in only one location in Illinois for each sale.

c) Application of Composite of Selling Activities Test to Retailers Conducting Selling Activities in Multiple Taxing Jurisdictions
Every retailer maintaining a place of business in this State shall determine the taxing jurisdictions in which it is engaged in the business of selling with respect to each of its sales by applying the standards set forth in this subsection (c), except when a retailer is engaged in particular Selling Activities identified by a statute that specifies the taxing jurisdiction where retailers engaged in those activities shall remit retailers' occupation tax. These retailers shall remit retailers' occupation tax as directed by statute, notwithstanding anything in this Part to the contrary.

1) Primary Selling Activities. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions shall consider the following selling activities to determine where they are engaged in the business of

selling with respect to each sale. A retailer is engaged in the business of selling in only one location for each sale, but may be engaged in the business of selling in different locations for different sales:

A) Location of sales personnel exercising discretion and authority to solicit customers on behalf of a seller and to bind the seller to the sale;

B) Location where the seller takes action that binds it to the sale, which may be acceptance of purchase orders, submission of offers subject to unilateral acceptance by the buyer, or other actions that bind the seller to that sale;

C) The location where payment is tendered and received, or from which invoices are issued with respect to each sale;

D) Location of inventory if tangible personal property that is sold is in the retailer's inventory at the time of its sale or delivery; and

E) The location of the retailer's headquarters, which is the principal place from which the business of selling tangible personal property is directed or managed. In general, this is the place at which the offices of the principal executives are located. When executive authority is located in multiple jurisdictions, the place of daily operational decision making is the headquarters.

2) A retailer engaging in three or more primary selling activities in one location in the State for a particular sale shall remit the Retailers' Occupation Tax imposed by the taxing bodies with authority to impose Retailers' Occupation Tax on those engaged in the business of selling in that location for that sale. A retailer engaging in three or more primary selling activities for a particular sale outside the State shall collect and remit tax to the State to the extent required by the Illinois Use Tax Act [35 ILCS 105] for that sale, except as provided in subsection (d).

3) Application of Primary Selling Activities to Common Selling Operations. Retailers engaged in selling operations with a single location where the primary selling activities predominate constitute the vast majority of retailers in the State. Subsections (c)(3)(A) through (c)(3)(C) apply the

primary selling activities to certain common selling operations and identify the location where the Department will presume the seller is engaged in the business of selling with respect to each sale.

A) Over the Counter Sales. If a purchaser is present at a place of business owned or leased by a retailer and there enters into an agreement with the retailer's sales personnel to purchase tangible personal property, and makes payment for that property at the same place of business, then the retailer's occupation tax for that sale is incurred at the retailer's place of business where the sale occurred regardless of whether the purchaser takes immediate possession of the tangible personal property, or the retailer delivers or arranges for the property to be delivered to the purchaser.

B) Sales through Vending Machines. A retailer is engaged in the business of selling food, beverages or other tangible personal property through a vending machine at the location where the vending machine is located when the sale is made if:

i) the vending machine is a device operated by coin, currency, credit card, token, coupon or similar device that dispenses food, beverage or other tangible personal property;

ii) the food, beverage or other tangible personal property is contained within the vending machine and dispensed from the vending machine; and

iii) the purchaser takes possession of the purchased food, beverage or other tangible personal property immediately.

C) Sales from Vehicles Carrying Uncommitted Stock of Goods. The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously completed sales, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries actually are made. The vehicle carrying the stock of goods for sale is regarded as a portable place of business.

4) Secondary Selling Activities. If the primary selling activities listed in subsection (c)(1) occur in multiple jurisdictions, but no individual jurisdiction has more than two primary selling activities, the following additional selling activities shall be considered to determine the jurisdiction in which the retailer is engaged in the business of selling.

A) Location where marketing and solicitation occur;

B) Location where the seller engages in activities necessary to procure goods for sale;

C) Location of the retailer's officers, executives or employees with authority to set prices or determine other terms of sale if determinations are made in a location different than that identified in subsection (c)(1)(A);

D) Location where purchase orders or other contractual documents are received when purchase orders are accepted, processed or fulfilled in a location or locations different from where they are received;

E) Location where title passes; and

F) Location where the retailer displays goods to prospective customers, such as a showroom.

5) Except as provided in subsection (d), a retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) is engaged in the business of selling in the jurisdiction where its inventory is located under subsection (c)(1)(D), or where its headquarters is located under subsection (c)(1)(E), whichever jurisdiction is the location where more selling activities occur, considering both primary and secondary selling activities.

6) A retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) or (c)(5) is presumed to be engaged in the business of selling at the location of its headquarters absent clear and convincing evidence to the contrary.

d) Presumptions Applying to Certain Selling Operations

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) For certain classes of retailers with unique, complicated or widely dispersed selling activities, determining appropriate tax situs in every situation presents substantial administrative difficulties for both retailers and tax enforcement personnel. Subsection (d)(2) through (d)(5) provide administrative "short cuts" that balance the administrative difficulties presented by certain selling operations against the need for accurate tax assessment.

2) In-State Inventory/Out of State Selling Activity. If a retailer's selling activities take place in taxing jurisdictions outside this State, except that the tangible personal property that is sold in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time or its sale (or is subsequently produced by the retailer in the jurisdiction), then delivered in Illinois to the purchaser, the jurisdiction where the property is located at the time of the sale or when it is subsequently produced by the retailer will determine where the retailer is engaged in business with respect to that sale. Chemed Corp., Inc. v. Department of Revenue, 186 Ill. App. 3d 402 (4th Dist. 1989).

3) Sales over the Internet. When a customer places an order for the purchase of tangible personal property through a consumer-based retailer website available without limitation on the world wide web and the retailer ships the property to the customer in this State, the Department will presume that the retailer's predominant selling activities take place outside of this State. Therefore, such a sale will be subject to the Illinois Use Tax Act unless there is clear and convincing evidence the retailer's predominant and most important selling activities take place in this State. Clear and convincing evidence sufficient to overcome the presumption provided for in this subsection (d)(3) includes, but is not limited to, the following circumstances:

A) the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), in which case the retailer is engaged in the business of selling in the jurisdiction where the property is located at the time of the sale with respect to that sale;

B) the customer takes possession of the tangible personal property at a place of business owned or leased by the retailer in the State, in which case the retailer is engaged in the business of selling in the jurisdiction where the customer takes possession of the property with respect to that sale.

4) Leases with an Option to Purchase. A lease with a dollar or other nominal option to purchase is considered to be conditional sale subject to retailers' occupation tax. (See 86 Ill. Adm. Code 130.2010(a).) Persons selling tangible personal property to a nominal lessee or bailee for use or consumption under a conditional sales agreement are presumed to be engaged in the business of selling at the physical location of the property at the time the parties enter into the conditional sales agreement.

5) Sales of Coal or Other Minerals. A retail sale by a producer of coal or other mineral mined in Illinois is a sale at retail in the jurisdiction where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this subsection (d)(5) "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.

A) A retail sales is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.

B) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the jurisdiction and transports it over its own line to an out-of-state destination.

C) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the

user, and local retailers' occupation tax on that sale will go to the jurisdiction where the retailer is engaged in the business of selling, as provided in this subsection (d)(5).

~~a) County Defined~~
~~When used in this Part, "county" includes all territory located within the county, including all territory within cities, villages or incorporated towns, including an incorporated town that has superseded a civil township.~~

~~b) Mere Solicitation of Orders Not Doing Business~~

~~1) For a seller to incur Home Rule County Retailers' Occupation Tax liability in a given county, the sale must be made in the course of the seller's engaging in the retail business within that county. In other words, enough of the selling activity must occur within the home rule county to justify concluding that the seller is engaged in business within the home rule county with respect to that sale.~~

~~2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where the orders were subject to acceptance outside the taxing jurisdiction and title passed outside the jurisdiction, with the goods being shipped from outside the jurisdiction to the purchaser in the jurisdiction, did not constitute engaging in the business of selling within the jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to a home rule county as the taxing jurisdiction as much as to the State as the taxing jurisdiction.~~

~~c) Seller's Acceptance of Order~~

~~1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the county or by someone who is working out of that place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (g) and (h) of this Section, or if a purchase order that is an acceptance of the seller's complete and~~

~~unconditional offer to sell is received by the seller's place of business within the home rule county or by someone working out of that place of business, the seller incurs Home Rule County Retailers' Occupation Tax liability in that home rule county if the sale is at retail and the purchaser receives the physical possession of the property in Illinois. The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives the purchase order from the purchaser in the absence of clear proof to the contrary.~~

~~2)~~ ~~If a purchase order is accepted outside this State, but the tangible personal property that is sold is in an inventory of the retailer located within a county at the time of its sale (or is subsequently produced in the county), then delivered in Illinois to the purchaser, the place where the property is located at the time of the sale (or subsequent production in the county) will determine where the seller is engaged in business for Home Rule County Retailers' Occupation Tax purposes with respect to that sale.~~

~~d)~~ ~~Some Considerations That Are Not Controlling~~

~~1)~~ ~~Delivery of the property within the county to the purchaser is not necessary for the seller to incur Home Rule County Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intercounty commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the county for the seller to be regarded as being engaged in the business of selling within the county with respect to that sale.~~

~~2)~~ ~~The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether the seller incurs Home Rule County Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the county" in the Home Rule County Retailers' Occupation Tax Act refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made. (See Standard Oil Company v. Department of Finance, et al., 383 Ill. 136 (1934), for a similar problem under the Illinois Retailers'~~

~~Occupation Tax Act.)~~

~~e) Place of Business Where Long Term or Blanket Contracts are Involved~~
~~Under a long term blanket or master contract that (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Home Rule County Retailers' Occupation Tax purposes with respect to those orders.~~

~~f) Sales Through Vending Machines~~
~~The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when the sales are made.~~

~~g) Sales From Vehicles Carrying Uncommitted Stock of Goods~~
~~The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries happen to be made – the vehicle carrying the stock of goods for sale being regarded as a portable place of business.~~

~~h) Sales of Coal or Other Minerals~~
~~For the purpose of determining the local governmental unit whose tax is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.~~

~~1) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.~~

~~2) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than~~

~~common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the county and transports it over its own line to an out-of-State destination.~~

~~3)~~ ~~A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Municipal or Home Rule County Retailers' Occupation Tax on that sale will go to the municipality or county where the retailer is located.~~

(Source: Amended at 38 Ill. Reg. 14292, effective June 25, 2014)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Home Rule Municipal Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 270

3) Section Number: 270.115 — Adopted Action: Amendment

4) Statutory Authority: 65 ILCS 5/8-11-1

5) Effective Date of Rule: June 25, 2014

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 rule, 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 the *Illinois Register*: 38 Ill. Reg. 6562, March 21, 2014

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Various changes were made in response to comments received, as well as additional changes agreed upon with JCAR which were technical and grammatical.

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 an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking provides guidance for retailers to determine what local taxes they incur based on the location where they are "engaged in the business of selling tangible personal property." The Department's prior regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680
fax: 312/814-4344

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 270
HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX

Section
270.101 Nature of the Home Rule Municipal Retailers' Occupation Tax
270.105 Registration and Returns
270.110 Claims to Recover Erroneously Paid Tax
270.115 Jurisdictional Questions
270.120 Incorporation of Retailers' Occupation Tax Regulations by Reference
270.125 Penalties, Interest and Procedures
270.130 Effective Date

AUTHORITY: Implementing the Home Rule Municipal Retailers' Occupation Tax Act [65 ILCS 5/8-11-1] and authorized by Section 2505-15 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-15].

SOURCE: Adopted August 1, 1955; amended at 3 Ill. Reg. 44, p. 189, effective October 19, 1979; amended at 6 Ill. Reg. 2836, 2839 and 2841, effective March 3, 1982; codified at 6 Ill. Reg. 9681; amended at 15 Ill. Reg. 3507, effective February 21, 1991; amended at 24 Ill. Reg. 8111, effective May 26, 2000; amended at 24 Ill. Reg. 18351, effective December 1, 2000; emergency amendment at 38 Ill. Reg. 4060, effective January 22, 2014, for a maximum of 150 days; emergency expired June 20, 2014; emergency expired June 20, 2014; amended at 38 Ill. Reg. 14307, effective June 25, 2014.

Section 270.115 Jurisdictional Questions

a) Definitions

When used in this Part, "Municipality" includes all territory located within the municipality, and refers to all cities, villages or incorporated towns, including an incorporated town that has superseded a civil township.

When used in this Part, "Selling Activities" refers to those activities that comprise "an occupation, the business of which is to sell tangible personal property at retail". "Selling Activities" includes "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final

consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943).

b) Retailer's Selling Activities Determine Taxing Jurisdiction

1) Occupation of Selling. The Home Rule Municipal Retailers' Occupation Tax Act [65 ILCS 5/8-11-1] authorizes home rule municipalities to impose a tax on those engaged in the business of selling tangible personal property at retail within the municipality. Because the statute imposes a tax on the retail business of selling, and not on specific sales, the jurisdiction in which the sale takes place is not necessarily the jurisdiction where the local retailers' occupation tax is owed. Rather, it is the jurisdiction where the seller is engaged in the business of selling that can impose the tax. Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951) ("In short, the tax is imposed on the "occupation" of the retailer and not upon the "sales" as such.") (citing Mahon v. Nudelman, 377 Ill. 331 (1941) and Standard Oil Co. v. Dep't of Finance, 383 Ill. 136 (1943)); see also Young v. Hulman, 39 Ill. 2d 219, 225 (1968) ("the retailers occupational tax...imposes liability upon the occupation of selling at retail and not on the sale itself").

2) Composite of Selling Activities. The occupation of selling is comprised of "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 32 (citing Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943)).

3) Multijurisdictional Retailers. Some retailers are engaged in retail operations with selling activities in multiple jurisdictions within the State, or in jurisdictions located in more than one state. The selling activities that comprise these businesses "are as varied as the methods which men select to carry on retail business". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Consequently, "it is…not possible to prescribe by definition which of many activities must take place in a [a jurisdiction] to constitute it an occupation conducted in [that jurisdiction]…. [I]t is

necessary to determine each case according to the facts which reveal the method by which the business was conducted". Ex-Cell-O-Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943); see also Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 36.

4) Statutory Intent. It is the intent of the Home Rule Municipal Retailers' Occupation Tax that retailers will incur local retailers' occupation tax in a jurisdiction in Illinois if they "enjoyed the greater part of governmental [services and] protection" in that jurisdiction. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)). By allowing the municipalilty to impose tax on retailers who conduct business in the municipality, the Home Rule Municipal Retailers' Occupation Tax Act links the retailer's tax liability to where it principally enjoys the benefits of government services. Svithiod Club v. McKibbin, 38 Ill. 194, 199 (1942).

5) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(4), a seller incurs Home Rule Municipal Retailers' Occupation Tax if its predominant and most important selling activities take place in the municipality. Isolated or limited business activities within a jurisdiction do not constitute engaging in the business of selling in that jurisdiction when other more significant selling activities occur outside the jurisdiction, and the business predominantly takes advantage of government services provided by other jurisdictions. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 322-23 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraphs 30 through 35.

6) Substance over Form. The Department "may look through the form of a putatively [multijurisdictional] transaction to its substance" to determine where "enough of the business of selling took place" and, thus, where the seller is subject to local retailers' occupation tax. Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); Fed. Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 67 (1968); Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31. For example, the Department will not look to the location of a party that is owned by or has common ownership with a supplier or a purchaser if the party does not, in substance, conduct the selling activities related to the sales.

7) Same Standard Applies to Intrastate and Interstate Retailers. For purposes of determining where a retailer is engaged in the business of selling, it does not matter whether the retailer is engaged in selling activities in taxing jurisdictions in multiple states, or in multiple jurisdictions in this State. The legal standard is the same. The retailer is engaged in the business of selling in the taxing jurisdiction where its predominant and most important selling activities take place. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 30 ("the location of the business of selling inside or outside the [S]tate controls…"). If a retailer engages in some selling activities in a taxing jurisdiction in this State, but that retailer's predominant selling activities are outside the State, the retailer's obligation to collect and remit taxes on Illinois sales is governed by the Illinois Use Tax Act [35 ILCS 105/2] (defining "retailer maintaining a place of business in the State"); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31 ("some combination of activities within the [S]tate are insufficient for the retail occupation tax to apply") (citing Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951)).

8) Because it is not practicable for retailer to divide retailers' occupation tax among competing jurisdictions, a retailer subject to the retailers' occupation tax is engaged in the business of selling in only one location in Illinois for each sale.

c) Application of Composite of Selling Activities Test to Retailers Conducting Selling Activities in Multiple Taxing Jurisdictions. Every retailer maintaining a place of business in this State shall determine the taxing jurisdictions in which it is engaged in the business of selling with respect to each of its sales by applying the standards set forth in this subsection (c), except when a retailer is engaged in particular selling activities identified by a statute that specifies the taxing jurisdiction where retailers engaged in those activities shall remit retailers' occupation tax. These retailers shall remit retailers' occupation tax as directed by statute, notwithstanding anything in this Part to the contrary.

1) Primary Selling Activities. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions shall consider the following selling activities to determine where they are engaged in the business of

selling with respect to each sale. A retailer is engaged in the business of selling in only one location for each sale, but may be engaged in the business of selling in different locations for different sales:

A) Location of sales personnel exercising discretion and authority to solicit customers on behalf of a seller and to bind the seller to the sale;

B) Location where the seller takes action that binds it to the sale, which may be acceptance of purchase orders, submission of offers subject to unilateral acceptance by the buyer, or other actions that bind the seller to that sale;

C) Location where payment is tendered and received, or from which invoices are issued with respect to each sale;

D) Location of inventory if tangible personal property that is sold is in the retailer's inventory at the time of its sale or delivery; and

E) The location of the retailer's headquarters, which is the principal place from which the business of selling tangible personal property is directed or managed. In general, this is the place at which the offices of the principal executives are located. When executive authority is located in multiple jurisdictions, the place of daily operational decision making is the headquarters.

2) A retailer engaging in three or more primary selling activities in one location in the State after a particular sale shall remit the retailers' occupation tax imposed by the taxing bodies with authority to impose retailers' occupation tax on those engaged in the business of selling in that location. A retailer engaging in three or more primary selling activities for a particular sale outside the State shall collect and remit tax to the State to the extent required by the Illinois Use Tax Act [35 ILCS 105] for that sale, except as provided in subsection (d).

3) Application of Primary Selling Activities to Common Selling Operations. Retailers engaged in selling operations with a single location where the primary selling activities predominate constitute the vast majority of retailers in the State. Subsections (c)(3)(A) through (c)(3)(C) apply the

primary selling activities to certain common selling operations and identify the location where the Department will presume the seller is engaged in the business of selling with respect to each sale.

A) Over the Counter Sales. If a purchaser is present at a place of business owned or leased by a retailer and there enters into an agreement with the retailer's sales personnel to purchase tangible retailers' personal property, and makes payment for that property at the same place of business, then the retailers' occupation tax for that sale is incurred at the retailers' occupation tax for that sale is incurred at the retailer's place of business where the sale occurred regardless of whether the purchaser takes immediate possession of the tangible personal property, or the retailer delivers or arranges for the property to be delivered to the purchaser.

B) Sale through Vending Machines. A retailer is engaged in the business of selling food, beverages or other tangible personal property through a vending machine at the location where the vending machine is located when the sale is made if:

i) the vending machine is a device operated by coin, currency, credit card, token, coupon or similar device that dispenses food, beverage or other tangible personal property;

ii) the food, beverage or other tangible personal property is contained within the vending machine and dispensed from the vending machine; and

iii) the purchaser takes possession of the purchased food, beverage or other tangible personal property immediately.

C) Sales from Vehicles Carrying Uncommitted Stock of Goods. The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously completed sales, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries actually are made. The vehicle carrying the stock of goods for sale is regarded as a portable place of business.

4) Secondary Selling Activities. If the primary selling activities listed in subsection (c)(1) occur in multiple jurisdictions, but no individual jurisdiction has more than two primary selling activities, the following additional selling activities shall be considered to determine the jurisdiction in which the retailer engaged in the business of selling.

A) Location where marketing and solicitation occur;

B) Location where the seller engages in activities necessary to procure goods for sale;

C) Location of the retailer's officers, executives or employees with authority to set prices or determine other terms of sale if determinations are made in a location different than that identified in subsection (c)(1)(A);

D) Location where purchase orders or other contractual documents are received when purchase orders are accepted, processed, or fulfilled in a location or locations different from where they are received;

E) Location where title passes; and

F) Location where the retailer displays goods to prospective customers, such as a showroom.

5) Except as provided in subsection (d), a retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) is engaged in the business of selling in the jurisdiction where inventory is located under subsection (c)(1)(D), or where its headquarters is located under subsection (c)(1)(E), whichever jurisdiction is the location where more selling activities occur, considering both primary and secondary selling activities.

6) A retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) or (c)(5) is presumed to be engaged in the business of selling at the location of its headquarters absent clear and convincing evidence to the contrary.

d) Presumptions Applying to Certain Selling Operations

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) For certain classes of retailers with unique, complicated or widely dispersed selling activities, determining appropriate tax situs in every situation presents substantial administrative difficulties for both retailers and tax enforcement personnel. Subsections (d)(2) through (d)(5) provide administrative "short cuts" that balance the administrative difficulties presented by certain selling operations against the need for accurate tax assessment.

2) In-State-Inventory/Out of State Selling Activity. If a retailer's selling activities take place in taxing jurisdictions outside the State, except that the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), then delivered in Illinois to the purchaser, the jurisdiction where the property is located at the time of the sale or when it is subsequently produced by the retailer will determine where the retailer is engaged in business with respect to the sale. Chemed Corp., Inc. v. Department of Revenue, 186 Ill. App. 3d 402 (4th Dist. 1989).

3) Sales over the Internet. When a customer places an order for the purchase of tangible personal property through a consumer-based retailer website available without limitation on the world wide web and the retailer ships the property to the customer in this State, the Department will presume that the retailer's predominant selling activities take place outside of this State. Therefore, such a sale will be subject to the Illinois Use Tax Act unless there is clear and convincing evidence the retailer's predominant and most important selling activities take place in this State. Clear and convincing evidence sufficient to overcome the presumption provided for in this subsection (d)(3) includes, but is not limited to, the following circumstances:

A) the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), in which case the retailer is engaged in the business of selling in the jurisdiction where the property is located at the time of the sale with respect to the sale

B) the customer takes possession of the tangible personal property at a place of business owned or leased by the retailer in the State, in which case the retailer is engaged in the business of selling in the jurisdiction where the customer takes possession of the property with respect to that sale.

4) Leases with an Option to Purchase. A lease with a dollar or other nominal option to purchase is considered to be a conditional sale subject to retailers' occupation tax. (See 86 Ill. Adm. Code 130.2010(a).) Persons selling tangible personal property to a nominal lessee or bailee for use or consumption under a conditional sales agreement are presumed to be engaged in the business of selling at the physical location of the property at the time the parties enter into the conditional sales agreement.

5) Sales of Coal or Other Minerals. A retail sale by a producer of coal or other mineral mined in Illinois is a sale at retail in the jurisdiction where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this subsection (d)(5), "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.

A) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.

B) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carries by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the jurisdiction and transports it over its own line to an out-of-state destination.

C) A sale by mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the

user, and local retailers' occupation tax on that sale will go to the jurisdiction where the retailer is engaged in the business of selling, as provided in this subsection (d)(5).

~~a) Mere Solicitation of Orders Not Doing Business~~

~~1) For a seller to incur Home Rule Municipal Retailers' Occupation Tax liability in a given home rule municipality, the sale must be made in the course of such seller's engaging in the retail business within such home rule municipality. In other words, enough of the selling activity must occur within the home rule municipality to justify concluding that the seller is engaged in business within the home rule municipality with respect to that sale.~~

~~2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to a home rule municipality as the taxing jurisdiction as much as to the State as the taxing jurisdiction.~~

~~b) Seller's Acceptance of Order~~

~~1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the municipality or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (f) and (g) of this Section, or if a purchase order which is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the home rule municipality or by someone working out of such place of business, the seller incurs Home Rule Municipal Retailers' Occupation Tax liability in that home rule municipality if the sale is at~~

~~retail and the purchaser receives the physical possession of the property in Illinois.~~

~~2)~~ ~~The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.~~

~~3)~~ ~~If a purchase order is accepted outside this State but the tangible personal property which is sold is in an inventory of the retailer located within a home rule municipality at the time of its sale (or is subsequently produced in the home rule municipality), then delivered in Illinois to the purchaser, the place where the property is located at the time of the sale (or subsequent production in the home rule municipality) will determine where the seller is engaged in business for Home Rule Municipal Retailers' Occupation Tax purposes with respect to such sale.~~

~~e)~~ ~~Some Considerations Which Are Not Controlling~~

~~1)~~ ~~Delivery of the property within the municipality to the purchaser is not necessary for the seller to incur Home Rule Municipal Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intercity commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the home rule municipality for the seller to be regarded as being engaged in the business of selling within such home rule municipality with respect to that sale.~~

~~2)~~ ~~The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether or not the seller incurs Home Rule Municipal Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase in the municipality in the Home Rule Municipal Retailers' Occupation Tax Act refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made. (See Standard Oil Company v. Department of Finance, et al., 383 Ill. 136 (1934), for a similar problem under the Illinois Retailers'~~

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~~Occupation Tax Act.)~~

~~d) Place of Business Where Long Term or Blanket Contracts are Involved~~
~~Under a long term blanket or master contract which (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Home Rule Municipal Retailers' Occupation Tax purposes with respect to such orders.~~

~~e) Sales Through Vending Machines~~
~~The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when such sales are made.~~

~~f) Sales From Vehicles Carrying Uncommitted Stock of Goods~~
~~The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which such sales and deliveries happen to be made -- the vehicle carrying such stock of goods for sale being regarded as a portable place of business.~~

~~g) Sales of Coal or Other Minerals~~

~~1) For the purpose of determining the local governmental unit whose tax is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.~~

~~2) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.~~

~~3) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce).~~

~~This exemption does not extend, however, to sales to carriers, other than a common carrier by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the home rule municipality and transports it over its own line to an out-of-State destination.~~

~~4)~~ ~~A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Home Rule Municipal, Non-Home Rule Municipal or Home Rule County Retailers' Occupation Tax on that sale will go to the home rule municipality, non-home rule municipality or home rule county where the retailer is located.~~

(Source: Amended at 38 Ill. Reg. 14307, effective June 25, 2014)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Regional Transportation Authority Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 320

3) Section Number: 320.115 — Adopted Action: Amendment

4) Statutory Authority: 70 ILCS 3615/4.03

5) Effective Date of Rule: June 25, 2014

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 rule, 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 the *Illinois Register*: 38 Ill. Reg. 6575, March 21, 2014

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Various changes were made in response to comments received, as well as additional changes agreed upon with JCAR which were technical and grammatical.

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 rulelmaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rule: This rulemaking provides guidance for retailers to determine what local taxes they incur based on the location where they are "engaged in the business of selling tangible personal property." The Department's prior regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680
fax: 312/814-4344

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 320
REGIONAL TRANSPORTATION AUTHORITY
RETAILERS' OCCUPATION TAX

Section

320.101 Nature of the Regional Transportation Authority Retailers' Occupation Tax
320.105 Registration and Returns
320.110 Claims to Recover Erroneously Paid Tax
320.115 Jurisdictional Questions
320.120 Incorporation of the Retailers' Occupation Tax Regulations by Reference
320.125 Penalties, Interest and Procedures
320.130 Effective Date

AUTHORITY: Authorized by and implementing Section 4.03 of the Regional Transportation Authority Act [70 ILCS 3615/4.03].

SOURCE: Adopted at 4 Ill. Reg. 28, p. 542, effective July 1, 1980; codified at 6 Ill. Reg. 9681; amended at 15 Ill. Reg. 6316, effective April 11, 1991; amended at 24 Ill. Reg. 18370, effective December 1, 2000; amended at 34 Ill. Reg. 11444, effective July 26, 2010; emergency amendment at 38 Ill. Reg. 4073, effective January 22, 2014, for a maximum of 150 days; emergency expired June 20, 2014; amended at 38 Ill. Reg. 14322, effective June 25, 2014.

Section 320.115 Jurisdictional Questions

a) Definitions

When used in this Part, "Metropolitan Region" means all territory included within the Regional Transportation Authority as provided in the Regional Transportation Authority Act, and such territory as may be annexed to the Regional Transportation Authority.

When used in this Part, "Selling Activities" refers those activities that comprise "an occupation, the business of which is to sell tangible personal property at retail". "Selling Activities" includes "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase

price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943).

b) Retailer's Selling Activities Determine Taxing Jurisdiction

1) Occupation of Selling. The Regional Transportation Authority Act [70 ILCS 3615] authorizes the Authority to impose a tax on those engaged in the business of selling tangible personal property at retail in the metropolitan region. Because the statute imposes a tax on the retail business of selling, and not on specific sales, the jurisdiction in which the sale takes place is not necessarily the jurisdiction where the Regional Transportation Authority Retailers' Occupation Tax is owed. Rather, it is the jurisdiction where the seller is engaged in the business of selling that can impose the tax. Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951) ("In short, the tax is imposed on the "occupation" of the retailer and not upon the "sales" as such.") (citing Mahon v. Nudelman, 377 Ill. 331 (1941) and Standard Oil Co. v. Dep't of Finance, 383 Ill. 136 (1943)); see also Young v. Hulman, 39 Ill. 2d 219, 225 (1968) ("the retailers occupational tax . . . imposes liability upon the occupation of selling at retail and not on the sale itself").

2) Composite of Selling Activities. The occupation of selling is comprised of "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 32 (citing Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943)).

3) Multijurisdictional Retailers. Some retailers are engaged in retail operations with selling activities in multiple jurisdictions within the State, or in jurisdictions located in more than one state. The selling activities that comprise these businesses "are as varied as the methods which men select to carry on retail business". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Consequently, "it is…not possible to prescribe by definition which of the many activities must take place in [a jurisdiction] to constitute it an occupation conducted in [that jurisdiction]….[I]t is necessary to determine each case according to the facts which reveal the

method by which the business was conducted". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943); see also Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 36.

4) Statutory Intent. It is the intent of Home Rule Municipal Retailers' Occupation Tax that retailers will incur local retailers' occupation tax in a jurisdiction in Illinois if they "enjoyed the greater part of governmental [services and] protection" in that jurisdiction. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)). By allowing the Regional Transportation Authority to impose tax on retailers who conduct business in the Metropolitian Region, the Regional Transportation Authority Act links the retailer's tax liability to where it principally enjoys the benefits of government services. Svithiod Singing Club v. McKibbin, 381 Ill. 194, 199 (1942).

5) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(4), the seller incurs Regional Transportation Authority Retailers' Occupation Tax in a particular jurisdiction within the Metropolitan Region if its predominant and most important Selling Activities take place in that jurisdiction. Isolated or limited business activities within a jurisdiction do not constitute engaging in the business of selling in that jurisdiction when other more significant Selling Activities occur outside the jurisdiction, and the business predominantly takes advantage of government services provided by other jurisdictions. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 322-23 (1943); Harney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraphs 30-35.

6) Substance over Form. The Department "may look through the form of a putatively [multijurisdictional] transaction to its substance" to determine where "enough of the business of selling took place" and, thus, where the seller is subject to local retailers' occupation tax. Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); Fed. Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 67 (1968); Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31. For example, the Department will not look to the location of a party that is owned by or has common ownership with supplier or a purchaser if that

party does not, in substance, conduct the selling activities related to the sales.

7) Same Standard Applies to Intrastate and Interstate Retailers. For purposes of determining where a retailer is engaged in the business of selling, it does not matter whether the retailer is engaged in selling activities in taxing jurisdictions in multiple states, or in multiple jurisdictions in this State. The legal standard is the same. The retailer is engaged in the business of selling in the taxing jurisdiction where its predominant and most important selling activities take place. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 30 ("the location of the business of selling inside or outside the [S]tate controls…"). If a retailer engages in some selling activities in a taxing jurisdiction in this State, but that retailer's predominant selling activities are outside the State, the retailer's obligation to collect and remit taxes on Illinois sales is governed by the Illinois Use Tax Act [35 ILCS 105/2] (defining "retailer maintaining a place of business in the State"); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31 ("some combination of activities within the [S]tate are insufficient for the retail occupation tax to apply") (citing Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951)).

8) Because it is not practicable for retailers to divide retailers' occupation tax among competing jurisdictions, a retailer subject to the retailers' occupation tax is engaged in the business of selling in only one location in Illinois for each sale.

c) Application of Composite of Selling Activities Test to Retailers Conducting Selling Activities in Multiple Taxing Jurisdictions
Every retailer maintaining a place of business in this State shall determine the taxing jurisdictions in which it is engaged in the business of selling with respect to each of its sales by applying the standards set forth in this subsection (c), except when a retailer is engaged in particular selling activities identified by statute that specifies the taxing jurisdiction where retailers engaged in those activities shall remit retailers' occupation tax. These retailers shall remit retailers' occupation tax as directed by statute, notwithstanding anything in this Part to the contrary.

1) Primary Selling Activities. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among

personnel located in multiple jurisdictions shall consider the following selling activities to determine where they are engaged in the business of selling with respect to each sale. A retailer is engaged in the business of selling in only one location for each sale, but may be engaged in the business of selling in different locations for different sales:

A) Location of sales personal exercising discretion and authority to solicit customers on behalf of a seller and to bind the seller to the sale;

B) Location where the seller takes action that binds it to the sale, which may be acceptance of purchase orders, submission of offers subject to unilateral acceptance by the buyer, or other actions that bind the seller to that sale;

C) The location where payment is tendered and received, or from which invoices are issued with respect to each sale;

D) Location of inventory if tangible personal property that is sold is in the retailer's inventory at the time of its sale or delivery; and

E) The location of the retailer's headquarters, which is the principal place from which the business of selling tangible personal property is directed or managed. In general, this is the place at which the offices of the principal executives are located. When executive authority is located in multiple jurisdictions, the place of daily operational decision making is the headquarters.

2) A retailer engaging in three or more primary selling activities in one location in the State for a particular sale shall remit the retailers' occupation tax imposed by the taxing bodies with authority to impose retailers' occupation tax on those engaged in the business of selling in that location for that sale. A retailer engaging in three or more primary selling activities for a particular sale outside the State shall collect and remit tax to the State to the extent required by the Illinois Use Tax Act [35 ILCS 105] for that sale, except as provided in subsection (d).

3) Application of Primary Selling Activities to Common Selling Operations. Retailers engaged in selling operations with a single location where the

primary selling activities predominate constitute the vast majority of retailers in the State. Subections (c)(3)(A) through (c)(3)(C) apply the primary selling activities to certain common selling operations and identify the location where the Department will presume the seller is engaged in the business of selling with respect to each sale.

A) Over the Counter Sales. If a purchaser is present at a place of business owned or leased by a retailer and there enters into an agreement with the retailer's sales personnel to purchase tangible personal property, and makes payment for that property at the same place of business, then the retailer's occupation tax for that sale is incurred at the retailer's place of business where the sale occurred regardless of whether the purchaser takes immediate possession of the tangible personal property, or the retailer delivers or arranges for the property to be delivered to the purchaser.

B) Sales through Vending Machines. A retailer is engaged in the business of selling food, beverages or other tangible personal property through a vending machine at the location where the vending machine is located when the sale is made if:

i) the vending machine is a device operated by coin, currency, credit card, token, coupon or similar device that dispenses food, beverage or other tangible personal property;

ii) the food, beverage or other tangible personal property is contained within the vending machine and dispensed from the vending machine; and

iii) the purchaser takes possession of the purchased food, beverage or other tangible personal property immediately.

C) Sales from Vehicles Carrying Uncommitted Stock of Goods. The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously completed sales, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries actually are made. The vehicle carrying the stock of goods for sale is regarded as a portable place of business.

4) Secondary Selling Activities. If the primary selling activities listed in subsection (c)(1) occur in multiple jurisdictions, but no individual jurisdiction has more than two primary selling activities, the following additional selling activities shall be considered to determine the jurisdiction in which the retailer is engaged in the business of selling.

A) Location where marketing and solicitation occur;

B) Location where the seller engages in activities necessary to procure goods for sale;

C) Location of the retailer's officers, executives or employees with authority to set prices or determine other terms of sale if determinations are made in a location different than that identified in subsection (c)(1)(A);

D) Location where purchase orders or other contractual documents are received when purchase orders are accepted, processed or fulfilled in a location or locations different from where they are received;

E) Location where title passes; and

F) Location where the retailer displays goods to prospective customers, such as a showroom.

5) Except as provided in subsection (d), a retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) is engaged in business of selling in the jurisdiction where its inventory is located under subsection (c)(1)(D), or where its headquarters is located under subsection (c)(1)(E), whichever jurisdiction is the location where more selling activities occur, considering both primary and secondary selling activities.

6) A retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) or (c)(5) is presumed to be engaged in the business of selling at the location of its headquarters absent clear and convincing evidence to the contrary.

d) Presumption Applying to Certain Selling Operations

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1) For certain classes of retailers with unique, complicated or widely dispersed selling activities, determining appropriate tax situs in every situation presents substantial administrative difficulties for both retailers and tax enforcement personnel. Subsections (d)(2) through (d)(5) provide administrative "short cuts" that balance the administrative difficulties presented by certain selling operations against the need for accurate tax assessment.

2) In-State Inventory/Out of State Selling Activity. If a retailer's selling activities take place in taxing jurisdictions outside this State, except that the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), then delivered in Illinois to the purchaser, the jurisdiction where the property is located at the time of the sale or when it is subsequently produced by the retailer will determine where the retailer is engaged in business with respect to that sale. Chemed Corp., Inc. v. Department of Revenue, 186 Ill. App. 3d 402 (4th Dist. 1989).

3) Sales over the Internet. When a customer places an order for the purchase of tangible personal property through a consumer-based retailer website available without limitation on the world wide web and the retailer ships the property to the customer in this State, the Department will presume that the retailer's predominant selling activities take place outside of this State. Therefore, such a sale will be subject to the Illinois Use Tax Act unless there is clear and convincing evidence the retailer's predominant and most important selling activities take place in this State. Clear and convincing evidence sufficient to overcome the presumption provided for in this subsection (d)(3) includes, but is not limited to, the following circumstances:

A) the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), in which case the retailer is engaged in the business of selling in the jurisdiction where the property is located at the time of the sale with respect to that sale;

B) the customer takes possession of the tangible personal property at a place of business owned or leased by the retailer in the State, in which case the retailer is engaged in the businss of selling in the jurisidiction where the customer takes possession of the property with respect to that sale.

4) Leases with an Option to Purchase. A lease with a dollar or other nominal option to purchase is considered to be a conditional sale subject to retailers' occupation tax. (See 86 Ill. Adm. Code 130.2010(a).) Persons selling tangible personal property to a nominal lessee or bailee for use or consumption under a conditional sales agreement are presumed to be engaged in the business of selling at the physical location of the property at the time the parties enter into the conditional sales agreement.

5) Sales of Coal or Other Minerals. A retail sale by a producer of coal or other mineral mined in Illinois is a sale at retail in the jurisdiction where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this subsection (d)(5), "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.

A) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.

B) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the jurisdiction and transports it over its own line to an out-of-state destination.

C) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the

user, and local retailers' occupation tax on that sale will go to the jurisdiction where the retailer is engaged in the business of selling, as provided in this subsection (d)(5).

~~a) Mere Solicitation of Orders not Doing Business~~

~~1) For a seller to incur Regional Transportation Authority Retailers' Occupation Tax liability in the metropolitan region, the sale must be made in the course of such seller's engaging in the retail business within the metropolitan region. In other words, enough of the selling activity must occur within the metropolitan region to justify concluding that the seller is engaged in business within the metropolitan region with respect to that sale. The same principles are applicable as to determining in which county of the metropolitan region a sale is made.~~

~~2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to a county as the taxing jurisdiction as much as to the State as the taxing jurisdiction.~~

~~b) Seller's Acceptance of Order~~

~~1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the metropolitan region or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (f) and (g) of this Section, or if a purchase order which is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the metropolitan region or by someone working out of such place of business, the seller incurs Regional Transportation Authority~~

~~Retailers' Occupation Tax liability in the metropolitan region if the sale is at retail and the purchaser receives the physical possession of the property in Illinois.~~

~~2)~~ ~~The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.~~

~~3)~~ ~~If a purchase order is accepted outside this State, but the tangible personal property which is sold is in an inventory of the retailer located within the metropolitan region at the time of its sale (or is subsequently produced in the region), then delivered in Illinois to the purchaser, the seller will be considered to be engaged in business in the metropolitan region for Regional Transportation Authority Retailers' Occupation Tax purposes with respect to such sale. The county in the region where the property is located at the time of sale (or subsequent production in a county in the metropolitan region) is determinative of the applicable Regional Transportation Authority Retailers' Occupation Tax rate.~~

~~e)~~ ~~Some Considerations Which Are Not Controlling~~

~~1)~~ ~~Delivery of the property within the metropolitan region to the purchaser is not necessary for the seller to incur Regional Transportation Authority Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intercity commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the metropolitan region for the seller to be regarded as being engaged in the business of selling within the metropolitan region with respect to that sale.~~

~~2)~~ ~~The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether or not the seller incurs Regional Transportation Authority Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the metropolitan region" in Section 4.03(e) of the Regional Transportation Authority Act [70 ILCS~~

~~3615/4.03(e)] refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made. (See Standard Oil Company v. Department of Finance, et al., 383 Ill. 136 (1934), for a similar problem under the Illinois Retailers' Occupation Tax Act.)~~

~~d) Place of Business where Long Term or Blanket Contracts are Involved~~
~~Under a long term blanket or master contract which (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Regional Transportation Authority Retailers' Occupation Tax purposes with respect to such orders.~~

~~e) Sales Through Vending Machines~~
~~The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when such sales are made.~~

~~f) Sales from Vehicles Carrying Uncommitted Stock of Goods~~
~~The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which such sales and deliveries happen to be made – the vehicle carrying such stock of goods for sale being regarded as a portable place of business.~~

~~g) Sales of Coal or other Minerals~~

~~1) For the purpose of determining whether the Regional Transportation Authority Retailers' Occupation Tax is applicable for a retail sale by a producer of coal or other mineral mined in Illinois, the sale is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth.~~

~~2) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or~~

~~other mineral is extracted from the mouth of the mine.~~

~~3)~~ ~~A mineral mined in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax-exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the metropolitan region and transports it over its own line to an out-of-State destination.~~

~~4)~~ ~~A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user and the Regional Transportation Authority Retailers' Occupation Tax on that sale will be applicable if the retailer is located in the metropolitan region.~~

(Source: Amended at 38 Ill. Reg. 14322, effective June 25, 2014)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Metro East Mass Transit District Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 370

3) Section Number: 370.115 — Adopted Action: Amendment

4) Statutory Authority: 70 ILCS 3610/5.01

5) Effective Date of Rule: June 25, 2014

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 rule, 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 the *Illinois Register*: 38 Ill. Reg. 6588, March 21, 2014

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Various changes were made in response to comments received, as well as additional changes agreed upon with JCAR which were technical and grammatical.

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 an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking provides guidance for retailers to determine what local taxes they incur based on the location where they are "engaged in the business of selling tangible personal property." The Department's prior regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680
fax: 312/814-4344

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 370
METRO EAST MASS TRANSIT DISTRICT
RETAILERS' OCCUPATION TAX

Section
370.101 Nature of a Metro East Mass Transit District Retailers' Occupation Tax
370.105 Registration and Returns
370.110 Claims to Recover Erroneously Paid Tax
370.115 Jurisdictional Questions
370.120 Incorporation of Retailers' Occupation Tax Regulations by Reference
370.125 Penalties, Interest and Procedures
370.130 Effective Date

AUTHORITY: Authorized by and implementing Section 5.01 of the Local Mass Transit District Act [70 ILCS 3610].

SOURCE: Adopted at 5 Ill. Reg. 5899, effective May 28, 1981; codified at 6 Ill. Reg. 9696; amended at 15 Ill. Reg. 5805, effective April 5, 1991; amended at 24 Ill. Reg. 17820, effective November 28, 2000; emergency amendment at 38 Ill. Reg. 4086, effective January 22, 2014, for a maximum of 150 days; emergency expired June 20, 2014; amended at 38 Ill. Reg. 14337, effective June 25, 2014.

Section 370.115 Jurisdictional Questions

a) Definitions

When used in this Part, "Metro-East Transit District" means one or more local mass transit districts created pursuant to the Local Mass Transit District Act, composed only of Madison, St. Clair or Monroe Counties, or any combination thereof, or any territory annexed to this district.

When used in this Part, "Selling Activities" refers to those activities that comprise "an occupation, the business of which is to sell tangible personal property at retail". "Selling Activities" includes "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase

price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943).

b) Retailer's Selling Activities Determine Taxing Jurisdiction

1) Occupation of Selling. The Local Mass Transit District Act [70 ILCS 3610/5.01] authorizes the Board of Trustees of any Metro East Mass Transit District to impose a tax on those engaged in the business of selling tangible personal property at retail within the District. Because the statute imposes a tax on the retail business of selling, and not on specific sales, the jurisdiction in which the sale takes place is not necessarily the jurisdiction where the local retailers' occupation tax is owed. Rather, it is the jurisdiction where the seller is engaged in the business of selling that can impose the tax. Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951) ("In short, the tax is imposed on the "occupation" of the retailer and not upon the "sales" as such.") (citing Mahon v. Nudelman, 377 Ill. 331 (1941) and Standard Oil Co. v. Dep't of Finance, 383 Ill. 136 (1943)); see also Young v. Hulman, 39 Ill. 2d 219, 225 (1968) ("the retailers occupational tax...imposes liability upon the occupation of selling at retail and not on the sale itself").

2) Composite of Selling Activities. The occupation of selling is comprised of "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 32 (citing Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943)).

3) Multijurisdictional Retailers. Some retailers are engaged in retail operations with selling activities in multiple jurisdictions within the State, or in jurisdictions located in more than one state. The selling activities that comprise these businesses "are as varied as the methods which men select to carry on retail business". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Consequently, "it is…not possible to prescribe by definition which of the many activities must take place in [a jurisdiction] to constitute it an occupation conducted in [that jurisdiction].... [I]t is necessary to determine each case according to the facts which reveal the

method by which the business was conducted". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943); see also Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 36.

4) Statutory Intent. It is the intent of the Metro-East Mass Transit District Retailers' Occupation Tax that retailers will incur local retailers' occupation tax in a jurisdiction in Illinois if they "enjoyed the greater part of governmental [services and] protection" in that jurisdiction. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)). By allowing a Metro-East Mass Transit District to impose tax on retailers who conduct business in that Metro-East Mass Transit District, the Local Mass Transit District Act links the retailer's tax liability to where it principally enjoys the benefits of government services. Svithiod Singing Club v. McKibbin, 381 Ill. 194, 199 (1942).

5) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(4), a seller incurs Metro East Mass Transit District Retailers' Occupation Tax if its predominant and most important selling activities take place in the District. Isolated or limited business activities within a jurisdiction do not constitute engaging in the business of selling in that jurisdiction when other more significant selling activities occur outside the jurisdiction, and the business predominantly takes advantage of government services provided by other jurisdictions. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 322-23 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraphs 30 through 35.

6) Substance over Form. The Department "may look through the form of a putatively [multijurisdictional] transaction to its substance" to determine where "enough of the business of selling took place" and, thus, where the seller is subject to local retailers' occupation tax. Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); Fed. Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 67 (1968); Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); Hartney Fuel Oil Co. v. Hamer 2013 IL 115130, paragraph 31. For example, the Department will not look to the location of a party that is owned by or has common ownership with a supplier or a purchaser if that party does not, in substance, conduct the selling activities related to the sales.

7) Same Standard Applies to Intrastate and Interstate Retailers. For purposes of determining where a retailer is engaged in the business of selling, it does not matter whether the retailer is engaged in selling activities in taxing jurisdictions in multiple states, or in multiple jurisdictions in this State. The legal standard is the same. The retailer is engaged in the business of selling in the taxing jurisdiction where its predominant and most important selling activities take place. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 30 ("the location of the business of selling inside or outside the [S]tate controls…"). If a retailer engages in some selling activities in a taxing jurisdiction in this State, but that retailer's predominant selling activities are outside the State, the retailer's obligation to collect and remit taxes on Illinois sales is governed by the Illinois Use Tax Act [35 ILCS 105/2] (defining "retailer maintaining a place of business in the State"); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31 ("some combination of activities within the [S]tate are insufficient for the retail occupation tax to apply") (citing Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951)).

8) Because it is not practicable for retailers to divide retailers' occupation tax among competing jursidictions, a retailer subject to the retailers' occupation tax is engaged in the business of selling in only one location in Illinois for each sale.

c) Application of Composite of Selling Activities Test to Retailers Conducting Selling Activities in Multiple Taxing Jurisdictions. Every retailer maintaining a place of business in this State shall determine the taxing jurisdictions in which it is engaged in the business of selling with respect to each of its sales by applying the standards set forth in this subsection (c), except when a retailer is engaged in particular selling activities identified by a statute that specifies the taxing jurisdiction where retailers engaged in those activities shall remit retailers' occupation tax. These retailers shall remit retailers' occupation tax as directed by statute, notwithstanding anything in this Part to the contrary.

1) Primary Selling Activities. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions shall consider the following selling activities to determine where they are engaged in the business of

selling with respect to each sale. A retailer is engaged in the business of selling in only one location for each sale, but may be engaged in the business of selling in different locations for different sales:

A) Location of sales personnel exercising discretion and authority to solicit customers on behalf of a seller and to bind the seller to the sale;

B) Location where the seller takes action that binds it to the sale, which may be acceptance of purchase orders, submission of offers subject to unilateral acceptance by the buyer, or other actions that bind the seller to that sale;

C) The location where payment is tendered and received, or from which invoices are issued with respect to each sale;

D) Location of inventory if tangible personal property that is sold is in the retailer's inventory at the time of its sale or delivery; and

E) The location of the retailer's headquarters, which is the principal place from which the business of selling tangible personal property is directed or managed. In general, this is the place at which the offices of the principal executives are located. When executive authority is located in multiple jurisdictions, the place of daily operational decision making is the headquarters.

2) A retailer engaging in three or more primary selling activities in one location in the State for a particular sale shall remit the retailers' occupation tax imposed by the taxing bodies with authority to impose retailers' occupation tax on those engaged in the business of selling in that location for that sale. A retailer engaging in three or more primary selling activities for a particular sale outside the State shall collect and remit tax to the State to the extent required by the Illinois Use Tax Act [35 ILCS 105] for that sale, except as provided in subsection (d).

3) Application of Primary Selling Activities to Common Selling Operations. Retailers engaged in selling operations with a single location where the primary selling activities predominate constitute the vast majority of retailers in the State. Subsections (c)(3)(A) through (c)(3)(C) apply the

primary selling activities to certain common selling operations and identify the location where the Department will presume the seller is engaged in the business of selling with respect to each sale.

A) Over the Counter Sales. If a purchaser is present at a place of business owned or leased by a retailer and there enters into an agreement with the retailer's sales personnel to purchase tangible personal property, and makes payment for that property at the same place of business, then the retailers' occupation tax for that sale is incurred at the retailer's place of business where the sale occurred regardless of whether the purchaser takes immediate possession of the tangible personal property, or the retailer delivers or arranges for the property to be delivered to the purchaser.

B) Sales through Vending Machines. A retailer is engaged in the business of selling food, beverages or other tangible personal property through a vending machine at the location where the vending machine is located when the sale is made if:

i) the vending machine is a device operated by coin, currency, credit card, token, coupon or similar device that dispenses food, beverage or other tangible personal property;

ii) the food, beverage or other tangible personal property is contained within the vending machine and dispensed from the vending machine; and

iii) the purchaser takes possession of the purchased food, beverage or other tangible personal property immediately.

C) Sales from Vehicles Carrying Uncommitted Stock of Goods. The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously completed sales, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries actually are made. The vehicle carrying the stock of goods for sale is regarded as a portable place of business.

4) Secondary Selling Activities. If the primary selling activities listed in subsection (c)(1) occur in multiple jurisdictions, but no individual jurisdiction has more than two primary selling activities, the following additional selling activities shall be considered to determine the jursidiction in which the retailer is engaged in the business of selling.

A) Location where marketing and solicitation occur;

B) Location where the seller engages in activities necessary to procure goods for sale;

C) Location of the retailer's officers, executives or employees with authority to set prices or determine other terms of sale if determinations are made in a location different than that identified in subsection (c)(1)(A);

D) Location where purchase orders or other contractual documents are received when purchase orders are accepted, processed or fulfilled in a location or locations different from where they are received;

E) Location where title passes; and

F) Location where the retailer displays goods to prospective customers, such as a showroom.

5) Except as provided in subsection (d), a retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) is engaged in the business of selling in the jurisdiction where its inventory is located under subsection (c)(1)(D), or where its headquarters is located under subsection (c)(1)(E), whichever jurisdiction is the location where more selling activities occur, considering both primary and secondary selling activities.

6) A retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) or (c)(5) is presumed to be engaged in the business of selling at the location of its headquarters absent clear and convincing evidence to the contrary.

d) Presumptions Applying to Certain Selling Operations

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) For certain classes of retailers with unique, complicated or widely dispersed selling activities, determining appropriate tax situs in every situation presents substantial administrative difficulties for both retailers and tax enforcement personnel. Subsections (d)(2) through (d)(5) provide administrative "short cuts" that balance the administrative difficulties presented by certain selling operations against the need for accurate tax assessment.

2) In-State Inventory/Out of State Selling Activity. If a retailer's selling activities take place in taxing jurisdictions outside this State, except that the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), then delivered in Illinois to the purchaser, the jurisdiction where the property is located at the time of the sale or when it is subsequently produced by the retailer will determine where the retailer is engaged in business with respect to that sale. Chemed Corp., Inc. v. Department of Revenue, 186 Ill. App. 3d 402 (4th Dist. 1989).

3) Sales over the Internet. When a customer places an order for the purchase of tangible personal property through a consumer-based retailer website available without limitation on the world wide web and the retailer ships the property to the customer in this State, the Department will presume that the retailer's predominant selling activities take place outside of this State. Therefore, such a sale will be subject to the Illinois Use Tax Act, unless there is clear and convincing evidence the retailer's predominant and most important selling activities take place in this State. Clear and convincing evidence sufficient to overcome the presumption provided for in this subsection (d)(3) includes, but is not limited to, the following circumstances:

A) the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), in which case the retailer is engaged in the business of selling in the jurisdiction where the property is located at the time of the sale with respect to that sale;

B) the customer takes possession of the tangible personal property at a place of business owned or leased by the retailer in the State, in which case the retailer is engaged in the business of selling in the jurisdiction where the customer takes possession of the property with respect to that sale.

4) Leases with an Option to Purchase. A lease with a dollar or other nominal option to purchase is considered to be a conditional sale subject to retailers' occupation tax. (See 86 Ill. Adm. Code 130.2010(a).) Persons selling tangible personal property to a nominal lessee or bailee for use or consumption under a conditional sales agreement are presumed to be engaged in the business of selling at the physical location of the property at the time the parties enter into the conditional sales agreement.

5) Sales of Coal or Other Minerals. A retail sale by a producer of coal or other mineral mined in Illinois is a sale at retail in the jurisdiction where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this subsection (d)(5), "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.

A) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.

B) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the jurisdiction and transports it over its own line to an out-of-state destination.

C) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the

user, and local retailers' occupation tax on that sale will go to the jurisdiction where the retailer is engaged in the business of selling, as provided in this subsection (d)(5).

2) ~~Over-the-counter Sales. When a person makes an over-the-counter sale of tangible personal property in a jurisdiction and the purchaser takes possession of the property immediately; or the seller ships the property to the purchaser from the location where the sale was made, then the seller is engaged in the business of selling with respect to that sale in the district where the over-the-counter sale occurred.~~

3) ~~In-state Inventory/Out-of-state Selling Activity. If a retailer's selling activity takes place outside this State, but the tangible personal property that is sold is in an inventory of the retailer located within the jurisdiction in Illinois at the time of its sale (or is subsequently produced in the jurisdiction), then delivered in Illinois to the purchaser, the jurisdiction where the property is located at the time of the sale or when it is subsequently produced will determine where the seller is engaged in business with respect to that sale. Chemed Corp., Inc. v. Department of Revenue, 186 Ill. App. 3d 402 (4th Dist. 1989).~~

4) ~~Sales Through Vending Machines. The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when the sales are made.~~

5) ~~Sales From Vehicles Carrying Uncommitted Stock of Goods. The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously completed sales, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries happen to be made – the vehicle carrying the stock of goods for sale being regarded as a portable place of business.~~

6) ~~Sales of Coal or Other Minerals. A retail sale by a producer of coal or other mineral mined in Illinois is a sale at retail in the jurisdiction where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.~~

~~A) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.~~

~~a) Mere Solicitation of Orders not Doing Business~~

~~1) For a seller to incur Metro East Mass Transit District Retailers' Occupation Tax liability in the district, the sale must be made in the course of such seller's engaging in the retail business within the district. In other words, enough of the selling activity must occur within the district to justify concluding that the seller is engaged in business within the district with respect to that sale.~~

~~2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to a county as the taxing jurisdiction as much as to the State as the taxing jurisdiction.~~

~~b) Seller's Acceptance of Order~~

~~1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the district or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (f) and (g) of this Section, or if a purchase order which is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the district or by someone working out of such place of business, the seller incurs Metro East Mass Transit District Retailers' Occupation Tax liability in the district if the sale is at retail and the purchaser receives~~

~~the physical possession of the property in Illinois.~~

~~2)~~ ~~The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.~~

~~3)~~ ~~If a purchase order is accepted outside this State, but the tangible personal property which is sold is in an inventory of the retailer located within the district at the time of its sale (or is subsequently produced in the region) then delivered in Illinois to the purchaser, the seller will be considered to be engaged in business in the district for Metro East Mass Transit District Retailers' Occupation Tax purposes with respect to such sale.~~

~~c)~~ ~~Some Considerations Which are not Controlling~~

~~1)~~ ~~Delivery of the property within the district to the purchaser is not necessary for the seller to incur Metro East Mass Transit District Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intercity commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the district for the seller to be regarded as being engaged in the business of selling within the district with respect to that sale.~~

~~2)~~ ~~The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether or not the seller incurs Metro East Mass Transit District Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the district" in Section 5.01(b) of the Local Mass Transit District Act refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made. (See Standard Oil Company v. Department of Finance, et al., 383 Ill. 136 (1934), for a similar problem under the Illinois Retailers' Occupation Tax Act.)~~

~~d)~~ ~~Place of Business where Long Term or Blanket Contracts are Involved~~
~~Under a long term blanket or master contract which (though definite as to price~~

~~and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Metro East Mass Transit District Retailers' Occupation Tax purposes with respect to such orders.~~

~~e) Sales Through Vending Machines~~
~~The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when such sales are made.~~

~~f) Sales From Vehicles Carrying Uncommitted Stock of Goods~~
~~The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which such sales and deliveries happen to be made – the vehicle carrying such stock of goods for sale being regarded as a portable place of business.~~

~~g) Sales of Coal or Other Minerals~~

~~1) For the purpose of determining whether the Metro East Mass Transit District Retailers' Occupation Tax is applicable for a retail sale by a producer of coal or other mineral mined in Illinois, the sale is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.~~

~~2) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.~~

~~3) A mineral mined in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax-exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the~~

~~purchasing carrier takes delivery of the property in Illinois and transports it over its own line to an out-of-State destination.~~

~~4) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Metro East Mass Transit District Retailers' Occupation Tax on the sale will be applicable if the retailer is located in the district.~~

(Source: Amended at 38 Ill. Reg. 14337, effective June 25, 2014)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Metro-East Park and Recreation District Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 395

3) Section Number: 395.115 — Adopted Action: Amendment

4) Statutory Authority: 70 ILCS 1605/30

5) Effective Date of Rule: June 25, 2014

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 rule, 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 the *Illinois Register*: 38 Ill. Reg. 6601, March 21, 2014

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Various changes were made in response to comments received, as well as additional changes agreed upon with JCAR which were technical and grammatical.

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 an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemakings: This rulemaking provides guidance for retailers to determine what local taxes they incur based on the location where they are "engaged in the business of selling tangible personal property." The Department's prior regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680
fax: 312/814-4344

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 395
METRO-EAST PARK AND RECREATION DISTRICT RETAILERS' OCCUPATION TAX

Section

395.101 Nature of the Metro-East Park and Recreation District Retailers' Occupation Tax
395.105 Registration and Returns
395.110 Claims to Recover Erroneously Paid Tax
395.115 Jurisdictional Questions
395.120 Retailers' Occupation Tax Regulations
395.125 Penalties, Interest and Procedures
395.130 Effective Date

AUTHORITY: Implementing the Metro-East Park and Recreation District Act [70 ILCS 1605] and authorized by Section 2505-795 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-795].

SOURCE: Adopted at 24 Ill. Reg. 18357, effective December 1, 2000; emergency amendment at 38 Ill. Reg. 4099, effective January 22, 2014, for a maximum of 150 days; emergency expired June 20, 2014; amended at 38 Ill. Reg. 14353, effective June 25, 2014.

Section 395.115 Jurisdictional Questions

a) Definitions

When used in this Part, "Metro-East Park and Recreation District" means that district created pursuant to the Metro-East Park and Recreation District Act, and consisting of one or more of the Counties of Madison, St. Clair, Monroe, Clinton, Macoupin and Jersey that have, by way of procedures described in Section 10 of the Act [70 ILCS 1605/101], been included in this district.

When used in this Part, "Selling Activities" refers to those activities that comprise "an occupation, the business of which is to sell tangible personal property at retail". "Selling Activities" includes "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943).

b) Retailer's Selling Activities Determine Taxing Jurisdiction

1) Occupation of Selling. The Metro-East Park and Recreation District Act [70 ILCS 1605] authorizes the Metro-East Park and Recreation District to impose a tax on those engaged in the business of selling tangible personal property at retail within the Metro-East Park and Recreation District. Because the statute imposes a tax on the retail business of selling, and not on specific sales, the jurisdiction in which the sale takes place is not necessarily the jurisdiction where the local retailers' occupation tax is owed. Rather, it is the jurisdiction where the seller is engaged in the business of selling that can impose the tax. Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951) ("In short, the tax is imposed on the "occupation" of the retailer and not upon the "sales" as such.") (citing Mahon v. Nudelman, 377 Ill. 331 (1941) and Standard Oil Co. v. Dep't of Finance, 383 Ill. 136 (1943)); see also Young v. Hulman, 39 Ill. 2d 219, 225 (1968) ("the retailers occupational tax . . . imposes liability upon the occupation of selling at retail and not on the sale itself").

2) Composite of Selling Activities. The occupation of selling is comprised of "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 32 (citing Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943)).

3) Multijurisdictional Retailers. Some retailers are engaged in retail operations with selling activities in multiple jurisdictions within the State, or in jurisdictions located in more than one state. The selling activities that comprise these businesses "are as varied as the methods which men select to carry on retail businesses". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Consequently, "it is…not possible to prescribe by definition which of the many activities must take place in [a jurisdiction] to constitute it an occupation conducted in [that jurisdiction]….[I]t is necessary to determine each case according to the facts which reveal the method by which the business was conducted". Ex-Cell-O Corp. v.

McKibbin, 383, Ill. 316, 321-22 (1943); see also Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 36.

4) Statutory Intent. It is intent of the Metro-East Park and Recreation District Occupation Tax that retailers will incur local retailers' occupation tax in a jurisdiction in Illinois if they "enjoyed the greater part of governmental [services and] protection" in that jurisdiction. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)). By allowing the Metro-East Park and Recreation District to impose tax on retailers who conduct business in the Metro-East Park and Recreation District, the Metro-East Park and Recreation District Act links the retailer's tax liability to where it principally enjoys the benefits of government services. Svithiod Singing Club v. McKibbin, 381 Ill. 194, 199 (1942).

5) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(4), a seller incurs Metro-East Park and Recreation District Retailers' Occupation Tax in a particular jurisdiction within the Metro-East Park and Recreation District if its predominant and most important selling activities take place in that jurisdiction. Isolated or limited business activities within a jurisdiction do not constitute engaging in the business of selling in that jurisdiction when other more significant selling activities occur outside the jurisdiction and the business predominantly takes advantage of government services provided by other jurisdictions. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 322-23 (1943); Harney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraphs 30-35.

6) Substance over Form. The Department "may look through the form of a putatively [multijurisdictional] transaction to its substance" to determine where "enough of the business of selling took place" and, thus, where the seller is subject to local retailers' occupation tax. Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); Fed. Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 67 (1968); Int'1-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31, For example, the Department will not look to the location of a party that is owned by or has common ownership with a supplier or a purchaser if that party does not, in substance, conduct the selling activities related to the sales.

7) Same Standard Applies to Intrastate and Interstate Retailers. For purposes of determining where a retailer is engaged in the business of selling, it does not matter whether the retailer is engaged in selling activities in taxing jurisdictions in multiple states, or in multiple jurisdictions in this State. The legal standard is the same. The retailer is engaged in the business of selling in the taxing jurisdiction where its predominant and most important selling activities take place, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 30 ("the location of the business of selling inside or outside the [S]tate controls…"). If a retailer engages in some selling activities in a taxing jurisdiction in this State, but that retailer's predominant selling activities are outside the State, the retailer's obligation to collect and remit taxes on Illinois sales is governed by the Illinois Use Tax Act [35 ILCS 105/2] (defining "retailer maintaining a place of business in the State"); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31 ("some combination of activities within the [S]tate are insufficient for the retail occupation tax to apply") (citing Automatic Voting Mach. v. Daley, 409 Ill. 438, 447 (1951)).

8) Because it is not practicable for retailers to divide retailers' occupation tax among competing jurisdictions, a retailer subject to the retailers' occupation tax is engaged in the business of selling in only one location in Illinois for each sale.

c) Application of Composite of Selling Activities Test to Retailers Conducting Selling Activities in Multiple Taxing Jurisdictions. Every retailer maintaining a place of business in this State shall determine the taxing jurisdictions in which it is engaged in the business of selling with respect to each of its sales by applying the standards set forth in this subsection (c), except when a retailer is engaged in particular selling activities identified by a statue that specifies the taxing jurisdiction where retailers engaged in those activities shall remit retailers' occupation tax. These retailers shall remit retailers' occupation tax as directed by statute, notwithstanding anything in this Part to the contrary.

1) Primary Selling Activities. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions shall consider the following selling activities to determine where they are engaged in the business of

selling with respect to each sale. A retailer is engaged in the business of selling in only one location for each sale, but may be engaged in the business of selling in different locations for different sales:

A) Location of sales personnel exercising discretion and authority to solicit customers on behalf of a seller and to bind the seller to the sale;

B) Location where the seller takes action that binds it to the sale, which may be acceptance of purchase orders, submission of offers subject to unilateral acceptance by the buyer, or other actions that bind the seller to that sale;

C) The location where payment is tendered and received, or from which invoices are issued with respect to each sale;

D) Location of inventory if tangible personal property that is sold is in the retailer's inventory at the time of its sale or delivery; and

E) The location of the retailer's headquarters, which is the principal place from which the business of selling tangible personal property is directed or managed. In general, this is the place at which the offices of the principal executives are located. When executive authority is located in multiple jurisdictions, the place of daily operational decision making is the headquarters.

2) A retailer engaging in three or more primary selling activities in one location in the State for a particular sale shall remit the Retailers' Occupation Tax imposed by the taxing bodies with authority to impose Retailers' Occupation Tax on those engaged in the business of selling in that location for that sale. A retailer engaging in three or more primary selling activities outside the State shall collect and remit tax to the State to the extent required by the Illinois Use Tax Act [35 ILCS 105] for that sale, except as provided in subsection (d).

3) Application of Primary Selling Activities to Common Selling Operations. Retailers engaged in selling operations with a single location where the primary selling activities predominate constitute the vast majority of retailers in the State. Subsections (c)(3)(A) through (c)(3)(C) apply the

primary selling activities to certain common selling operations and identify the location where the Department will presume the seller is engaged in the business of selling with respect to each sale.

A) Over the Counter Sales. If a purchaser is present at a place of business owned or leased by a retailer and there enters into an agreement with retailer's sale personnel to purchase tangible personal property, and makes payment for that property at the same place of business, then the retailer's occupation tax for that sale is incurred at the retailer's place of business where the sale occurred regardless of whether the purchaser takes immediate possession of the tangible personal property or the retailer delivers or arranges for the property to be delivered to the purchaser.

B) Sales through Vending Machines. A retailer is engaged in the business of selling food, beverages or other tangible personal property through a vending machine at the location where the vending machine is located when the sale is made if:

i) the vending machine is a device operated by coin, currency, credit card, token, coupon or similar device that dispenses food, beverage or other tangible personal property;

ii) the food, beverage or other tangible personal property is contained within the vending machine and dispensed from the vending machine; and

iii) the purchaser take possession of the purchased food, beverage or other tangible personal property immediately.

C) Sales from Vehicles Carrying Uncommitted Stock of Goods. The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously completed sales, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries actually are made. The vehicle carrying the stock of goods for sale is regarded as a portable place of business.

4) Secondary Selling Activities. If the primary selling activities listed in subsection (c)(1) occur in multiple jurisdiction, but no individual jurisdiction has more than two primary selling activities, the following additional selling activities shall be considered to determine the jurisdiction in which the retailer is engaged in the business of selling.

A) Location where marketing and solicitation occur;

B) Location where the seller engages in activities necessary to procure goods for sale;

C) Location of the retailer's officers, executives or employees with authority to set prices or determine other terms of sale if determinations are made in a location different than that identified in subsection (c)(1)(A);

D) Location where purchase orders or other contractual documents are received when purchase orders are accepted, processed or fulfilled in a location or locations different from where they are received;

E) Location where title passes; and

F) Location where the retailer displays goods to prospective customers, such as a showroom.

5) Except as provided in subsection (d), a retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) is engaged in the business of selling in the jurisdiction where its inventory is located under subsection (c)(1)(D), or where its headquarters is located under subsection (c)(1)(E), whichever jurisdiction is the location where more selling activities occur, considering both primary and secondary selling activities.

6) A retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) or (c)(5) is presumed to be engaged in the business of selling at the location of its headquarters absent clear and convincing evidence to the contrary.

d) Presumptions Applying to Certain Selling Operations

DEPARTMENT OF REVENUE

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1) For certain classes of retailers with unique, complicated or widely dispersed selling activities, determining appropriate tax situs in every situation presents substantial administrative difficulties for both retailers and tax enforcement personnel. Subsection (d)(2) through (d)(5) provide administrative "short cuts" that balance the administrative difficulties presented by certain selling operations against the need for accurate tax assessment.

2) In-State Inventory/Out of State Selling Activity. If a retailer's selling activities take place in taxing jurisdictions outside this State, except that the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), then delivered in Illinois to the purchaser, the jurisdiction where the property is located at the time of the sale or when it is subsequently produced by the retailer will determine where the retailer is engaged in business with respect to that sale. Chemed Corp., Inc. v. Department of Revenue, 186 Ill. App. 3d 402 (4th Dist. 1989).

3) Sales over the Internet. When a customer places an order for the purchase of tangible personal property through a consumer-based retailer website available without limitation on the world wide web and the retailer ships the property to the customer in this State, the Department will presume that the retailer's predominant selling activities take place outside of this State. Therefore, such a sale will be subject to the Illinois Use Tax Act unless there is clear and convincing evidence the retailer's predominant and most important selling activities take place in this State. Clear and convincing evidence sufficient to overcome the presumption provided for in this subsection (d)(3) includes, but is not limited to, the following circumstances:

A) the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), in which case the retailer is engaged in the business of selling in the jurisdiction where the property is located at the time of the sale with respect to that sale;

B) the customer takes possession of the tangible personal property at a place of business owned or leased by the retailer in the State, in which case the retailer is engaged in the business of selling in the jurisdiction where the customer takes possession of the property with respect to that sale.

4) Leases with an Option to Purchase. A lease with a dollar or other nominal option to purchase is considered to be a conditional sale subject to retailers' occupation tax. (See 86 Ill. Adm. Code 130.2010(a).) Persons selling tangible personal property to a nominal lessee or bailee for use or consumption under a conditional sales agreement are presumed to be engaged in the business of selling at the physical location of the property at the time the parties enter into the conditional sales agreement.

5) Sales of Coal or Other Minerals. A retail sale by a producer of coal or other mineral mined in Illinois is a sale at retail in the jurisdiction where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this subsection (d)(5), "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.

A) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.

B) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the jurisdiction and transports it over its own line to an out-of-state destination.

C) A sale by a mineral producer to a wholesaler or retailer for a resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the

user, and local retailers' occupation tax on that sale will go to the jurisdiction where the retailer is engaged in the business of selling, as provided in this subsection (d)(5).

~~a) District Defined~~
~~When used in this Part, "district" means the Metro-East Park and Recreation District created under the Metro-East Park and Recreation District Act.~~

~~b) Mere Solicitation of Orders Not Doing Business~~

~~1) For a seller to incur Metro-East Park and Recreation District Retailers' Occupation Tax liability in the district, the sale must be made in the course of the seller's engaging in the retail business within the district. In other words, enough of the selling activity must occur within the district to justify concluding that the seller is engaged in business within the district with respect to that sale.~~

~~2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where the orders were subject to acceptance outside the taxing jurisdiction and title passed outside the jurisdiction, with the goods being shipped from outside the jurisdiction to the purchaser in the jurisdiction, did not constitute engaging in the business of selling within the jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to the district as the taxing jurisdiction as much as to the State as the taxing jurisdiction.~~

~~c) Seller's Acceptance of Order~~

~~1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the district or by someone who is working out of that place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (g) and (h) of this Section, or if a purchase order that is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business~~

~~within the district or by someone working out of that place of business, the seller incurs Metro-East Park and Recreation District Retailers' Occupation Tax liability in that district if the sale is at retail and the purchaser receives the physical possession of the property in Illinois. The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives the purchase order from the purchaser in the absence of clear proof to the contrary.~~

~~2)~~ ~~If a purchase order is accepted outside this State, but the tangible personal property that is sold is in an inventory of the retailer located within the district at the time of its sale (or is subsequently produced in the district), then delivered in Illinois to the purchaser, the place where the property is located at the time of the sale (or subsequent production in the district) will determine where the seller is engaged in business for Metro-East Park and Recreation District Retailers' Occupation Tax purposes with respect to the sale.~~

~~d)~~ ~~Some Considerations That Are Not Controlling~~

~~1)~~ ~~Delivery of the property within the district to the purchaser is not necessary for the seller to incur Metro-East Park and Recreation District Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intercity commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the district for the seller to be regarded as being engaged in the business of selling within the district with respect to that sale.~~

~~2)~~ ~~The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether the seller incurs Metro-East Park and Recreation District Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the District" in Section 30(a) of the Metro-East Park and Recreation District Act refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made. (See Standard Oil Company vs. Department of Finance et al., 383 Ill. 136 (1934), for a similar problem~~

~~under the Illinois Retailers' Occupation Tax Act.)~~

~~e) Place of Business Where Long Term or Blanket Contracts Are Involved~~
~~Under a long term blanket or master contract that (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Metro-East Park and Recreation District Retailers' Occupation Tax purposes with respect to the orders.~~

~~f) Sales Through Vending Machines~~
~~The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when the sales are made.~~

~~g) Sales from Vehicles Carrying Uncommitted Stock of Goods~~
~~The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries happen to be made – the vehicle carrying the stock of goods for sale being regarded as a portable place of business.~~

~~h) Sales of Coal or Other Minerals~~
~~For the purpose of determining the tax that is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.~~

~~1) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.~~

~~2) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than~~

~~common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in Illinois and transports it to an out-of-State destination.~~

~~3)~~ ~~A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Metro-East Park and Recreation District Retailers' Occupation Tax on that sale will go to the jurisdiction where the retailer is located.~~

(Source: Amended at 38 Ill. Reg. 14353, effective June 25, 2014)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: County Water Commission Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 630

3) Section Number: 630.120 — Adopted Action: Amendment

4) Statutory Authority: 70 ILCS 3720/4

5) Effective Date of Rule: June 25, 2014

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 rule, 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 the *Illinois Register*: 38 Ill. Reg. 6614, March 21, 2014

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Various changes were made in response to comments received, as well as additional changes agreed upon with JCAR which were technical and grammatical.

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 an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking provides guidance for retailers to determine what local taxes they incur based on the location where they are "engaged in the business of selling tangible personal property." The Department's prior regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130.

DEPARTMENT OF REVENUE

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680
fax: 312/814-4344

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 630
COUNTY WATER COMMISSION RETAILERS' OCCUPATION TAX

Section
630.101 Nature and Rate of the County Water Commission Retailers' Occupation Tax
630.105 Exemptions from the County Water Commission Retailers' Occupation Tax
630.110 Registration and Returns
630.115 Claims to Recover Erroneously Paid Tax
630.120 Jurisdictional Questions
630.125 Incorporation of Retailers' Occupation Tax Regulations by Reference
630.130 Penalties, Interest and Procedures
630.135 Effective Date

AUTHORITY: Implementing Section 4(b) of the Water Commission Act of 1985 [70 ILCS 3720] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted at 13 Ill. Reg. 9362, effective June 6, 1989; amended at 15 Ill. Reg. 5762, effective April 5, 1991; amended at 24 Ill. Reg. 17808, effective November 28, 2000; emergency amendment at 38 Ill. Reg. 4112, effective January 22, 2014, for a maximum of 150 days; emergency expired June 20, 2014; amended at 38 Ill. Reg. 14368, effective June 25, 2014.

Section 630.120 Jurisdictional Questions

a) Definitions

When used in this Part, "Home County" means any county in which the municipalities thereof have in the aggregate, within their corporate limits, more than 50% of the population of that county.

When used in this Part, "County Water Commission" means any water commission constituted pursuant to Division 135 of the Illinois Municipal Code [65 ILCS 5] or established by operation of law under Public Act 83-1123, as amended, that includes municipalities within a Home County, when the Home County is contiguous to a county that has a population in excess of 1,000,000 inhabitants.

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When used in this Part, the "Territory" of a County Water Commission includes:

all of the territory of the Home County of that County Water Commission except that territory located within the corporate limits of excluded units as defined in Section 2 of the Water Commission Act of 1985 [70 ILCS 3720/2]; and

all of the territory located outside that Home County but included within the corporate limits of an included unit as defined in Section 2 of the Water Commission Act of 1985 [70 ILCS 3720/2].

When used in this Part, "Selling Activities" refers to those activities that comprise "an occupation, the business of which is to sell tangible personal property at retail". "Selling Activities" includes "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v.McKibbin, 383 Ill. 316, 321 (1943).

b) Retailer's Selling Activities Determine Taxing Jurisdiction

1) Occupation of Selling. The Water Commission Act of 1985 [70 ILCS 3720] authorizes the board of commissioners of any county water commission to impose a tax on those engaged in the business of selling tangible personal property at retail within the territory of the commission. Because the statute imposes a tax on the retail business of selling, and not on specific sales, the jurisdiction in which the sale takes place is not necessarily the jurisdiction where the local retailers' occupation tax is owed. Rather, it is the jurisdiction where the seller is engaged in the business of selling that can impose the tax. Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951) ("In short, the tax is imposed on the "occupation" of the retailer and not upon the "sales" as such.") (citing Mahon v. Nudelman, 377 Ill. 331 (1941) and Standard Oil Co. v. Dep't of Finance, 383 Ill. 136 (1943)); see also Young v. Hulman, 39 Ill. 2d 219, 225 (1968) ("the retailers occupational tax . . . imposes liability upon the occupation of selling at retail and not on the sale itself").

2) Composite of Selling Activities. The occupation of selling is comprised of "the composite of many activities extending from the preparation for, and

the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 32 (citing Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943)).

3) Multijurisdictional Retailers. Some retailers are engaged in retail operations with selling activities in multiple jurisdictions within the State, or in jurisdictions located in more than one state. The selling activities that comprise these businesses "are as varied as the methods which men select to carry on retail business". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Consequently, "it is…not possible to prescribe by definition which of the many activities must take place in [a jurisdiction] to constitute it an occupation conducted in [that jurisdiction]…. [I]t is necessary to determine each case according to the facts which reveal the methods by which the business was conducted". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943); see also Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 36.

4) Statutory Intent. It is the intent of the County Water Commission Retailers' Occupation Tax that retailers will incur local retailers' occupation tax in a jurisdiction in Illinois if they "enjoyed the greater part of governmental [services and] protection" in that jurisdiction. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)). By allowing a County Water Commission to impose tax on retailers who conduct business in the territory of that County Water Commission, the Water Commission Act of 1985 links the retailer's tax liability to where it principally enjoys the benefits of government services. Svithiod Singing Club v. McKibbin, 381 Ill. 194, 199 (1942).

5) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(4), a seller incurs County Water Commission Retailers' Occupation Tax if its predominant and most important selling activities take place in the territory of the County Water Commission. Isolated or limited business activities within a jurisdiction do not constitute engaging in the business of selling in that jurisdiction when

other more significant selling activities occur outside the jurisdiction, and the business predominantly takes advantage of government services provided by other jurisdictions. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 322-23 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraphs 30 through 35.

6) Substance over Form. The Department "may look through the form of a putatively [multijurisdictional] transaction to its substance" to determine where "enough of the business of selling took place" and, thus, where the seller is subject to local retailers' occupation tax. Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); Fed. Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 67 (1968); Int'1-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31. For example, the Department will not look to the location of a party that is owned by or has common ownership with a supplier or a purchaser if that party does not, in substance, conduct the selling activities related to the sales.

7) Same Standard Applies to Intrastate and Interstate Retailers. For purposes of determining where a retailer is engaged in the business of selling, it does not matter whether the retailer is engaged in selling activities in taxing jurisdictions in multiple states, or in multiple jurisdictions in this State. The legal standard is the same. The retailer is engaged in the business of selling in the taxing jurisdiction where its predominant and most important selling activities take place. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 30 ("the location of the business of selling inside or outside the [S]tate controls…"). If a retailer engages in some selling activities in a taxing jurisdiction in this State, but that retailer's predominant selling activities are outside the State, the retailer's obligation to collect and remit taxes on Illinois sales is governed by the Illinois Use Tax Act [35 ILCS 105/2] (defining "retailer maintaining a place of business in the State"); Hartney Fuel Oil Co. v. Hamer, 2013 IL, 115130, paragraph 31 ("some combination of activities within the [S]tate are insufficient for the retail occupation tax to apply") (citing Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951)).

8) Because it is not practicable for retailers to divide retailers' occupation tax among competing jurisdictions, a retailer subject to the retailers' occupation tax is engaged in the business of selling in only one location in Illinois for each sale.

c) Application of Composite of Selling Activities Test to Retailers Conducting Selling Activities in Multiple Taxing Jurisdictions
Every retailer maintaining a place of business in this State shall determine the taxing jurisdictions in which it is engaged in the business of selling with respect to each of its sales by applying the standards set forth in this subsection (c), except when a retailer is engaged in particular selling activities identified by a statute that specifies the taxing jurisdiction where retailers engaged in those activities shall remit retailers' occupation tax. These retailers shall remit retailers' occupation tax as directed by statute, notwithstanding anything in this Part to the contrary.

1) Primary Selling Activities. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions shall consider the following selling activities to determine where they are engaged in the business of selling with respect to each sale. A retailer is engaged in the business of selling in only one location for each sale, but may be engaged in the business of selling in different locations for different sales:

A) Location of sales personnel exercising discretion and authority to solicit customers on behalf of a seller and to bind the seller to the sale;

B) Location where the seller takes action that binds it to the sale, which may be acceptance of purchase orders, submission of offers subject to unilateral acceptance by the buyer, or other actions that bind the seller to that sale;

C) The location where payment is tendered and received, or from which invoices are issued with respect to each sale;

D) Location of inventory if tangible personal property that is sold is in the retailer's inventory at the time of its sale or delivery; and

E) The location of the retailer's headquarters, which is the principal place from which the business of selling tangible personal property is directed or managed. In general, this is the place at which the offices of the principal executives are located. When executive authority is located in multiple jurisdictions, the place of daily operational decision making is the headquarters.

2) A retailer engaging in three or more primary selling activities in one location in the State for a particular sale shall remit the retailers' occupation tax imposed by the taxing bodies with authority to impose retailers' occupation tax on those engaged in the business of selling in that location for that sale. A retailer engaging in three or more primary selling activities for a particular sale outside the State shall collect and remit tax to the State to the extent required by the Illinois Use Tax Act [35 ILCS 105] for that sale, except as provided in subsection (d).

3) Application of primary selling activities to Common Selling Operations. Retailers engaged in selling operations with a single location where the primary selling activities predominate constitute the vast majority of retailers in the State. Subsections (c)(3)(A) through (c)(3)(C) apply the primary selling activities to certain common selling operations and identify the location where the Department will presume the seller is engaged in the business of selling with respect to each sale.

A) Over the Counter Sales. If a purchaser is present at a place of business owned or leased by a retailer and there enters into an agreement with the retailer's sales personnel to purchase tangible personal property, and makes payment for that property at the same place of business, then the retailer's occupation tax for that sale is incurred at the retailer's place of business where the sale occurred regardless of whether the purchaser takes immediate possession of the tangible personal property, or the retailer delivers or arranges for the property to be delivered to the purchaser.

B) Sales through Vending Machines. A retailer is engaged in the business of selling food, beverages or other tangible personal property through a vending machine at the location where the vending machine is located when the sale is made if:

i) the vending machine is a device operated by coin, currency, credit card, token, coupon or similar device that dispenses food, beverage or other tangible personal property;

ii) the food, beverage or other tangible personal property is contained within the vending machine and dispensed from the vending machine; and

iii) the purchaser takes possession of the purchased food, beverage or other tangible personal property immediately.

C) Sales from Vehicles Carrying Uncommitted Stock of Goods. The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously completed sales, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries actually are made. The vehicle carrying the stock of goods for sale is regarded as a portable place of business.

4) Secondary Selling Activities. If the primary selling activities listed in subsection (c)(1) occur in multiple jurisdictions, but no individual jurisdiction has more than two primary selling activities, the following additional selling activities shall be considered to determine the jurisdiction in which the retailer is engaged in the business of selling.

A) Location where marketing and solicitation occur;

B) Location where the seller engages in activities necessary to procure goods for sales;

C) Location of the retailer's officers, executives or employees with authority to set prices or determine other terms of sale if determinations are made in a location different than that identified in subsection (c)(1)(A);

D) Location where purchase orders or other contractual documents are received when purchase orders are accepted, processed or fulfilled in a location or locations different from where they are received;

E) Location where title passes; and

F) Location where the retailer displays goods to prospective customers, such as a showroom.

5) Except as provided in subsection (d), a retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) is engaged in the business of selling in the jurisdiction where its inventory is located under subsection (c)(1)(D), or where its headquarters is located under subsection (c)(1)(E), whichever jurisdiction is the location where more selling activities occur, considering both primary and secondary selling activities.

6) A retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) or (c)(5) is presumed to be engaged in the business of selling at the location of its headquarters absent clear and convincing evidence to the contrary.

d) Presumption Applying to Certain Selling Operations

1) For certain classes of retailers with unique, complicated or widely dispersed selling activities, determining appropriate tax situs in every situation presents substantial administrative difficulties for both retailers and tax enforcement personnel. Subsections (d)(2) through (d)(5) provide administrative "short cuts" that balance the administrative difficulties presented by certain selling operations against the need for accurate tax assessment.

2) In-State Inventory/Out of State Selling Activities. If a retailer's selling activities take place in taxing jurisdictions outside this State, except that the tangible personal property that is sold in an inventory in the possession for the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), then delivered in Illinois to the purchaser, the jurisdiction where the property is located at the time of the sale or when it is subsequently produced by the retailer will determine where the retailer is engaged in business with respect to that sale. Chemed Corp., Inc. v. Department of Revenue, 186 Ill. App. 3d. 402 (4th Dist. 1989).

3) Sales over the Internet. When a customer places an order for the purchase of tangible personal property through a consumer-based retailer website available without limitation on the world wide web and the retailer ships the property to the customer in this State, the Department will presume that the retailer's predominant selling activities take place outside of this State. Therefore, such a sale will be subject to the Illinois Use Tax Act unless there is clear and convincing evidence the retailer's predominant and most important selling activities take place in this State. Clear and convincing evidence sufficient to overcome the presumption provided for in this subsection (d)(3) includes, but is not limited to, the following circumstances:

A) the tangible personal property that is sold is in an inventory in the possession of the retailer located with a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), in which case the retailer is engaged in the business of selling in the jurisdiction where the property is located at the time of the sale with respect to that sale;

B) the customer takes possession of the tangible personal property at a place of business owned or leased by the retailer in the State, in which case the retailer is engaged in the business of selling in the jurisdiction where the customer takes possession of the property with respect to that sale.

4) Leases with an Option to Purchase. A lease with a dollar or other nominal option to purchase is considered to be a conditional sale subject to retailers' occupation tax. (See 86 Ill. Adm. Code 130.2010(a).) Persons selling tangible personal property to a nominal lessee or bailee for use or consumption under a conditional sales agreement are presumed to be engaged in the business of selling at the physical location of the property at the time the parties enter into the conditional sales agreement.

5) Sales of Coal or Other Minerals. A retail sale by a producer of coal or other mineral mined in Illinois is a sale at retail in the jurisdiction where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this subsection (d)(5), "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.

A) A retailer sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.

B) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). The exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the jurisdiction and transports it over its own line to an out-of-state destination.

C) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and local retailers' occupation tax on that sale will go to the jurisdiction where the retailer is engaged in the business of selling, as provided in this subsection (d)(5).

~~a) Mere Solicitation of Orders not Doing Business~~

~~1) For a seller to incur County Water Commission Retailers' Occupation Tax liability in the territory of the Commission, the sale must be made in the course of such seller's engaging in the retail business within such territory. In other words, enough of the selling activity must occur within such territory to justify concluding that the seller is engaged in business within such territory with respect to that sale.~~

~~2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion was reached independently of any question of interstate~~

~~commerce and so would apply to a county or territory of the Commission as the taxing jurisdiction as much as to the State as the taxing jurisdiction.~~

~~b) Seller's Acceptance of Order~~

~~1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the territory of the County Water Commission (Commission) which imposes the County Water Commission Retailers' Occupation Tax or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (f) and (g) of this Section, or if a purchase order which is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within such territory or by someone working out of such place of business, the seller incurs County Water Commission Retailers' Occupation Tax liability in such territory if the sale is at retail and the purchaser receives the physical possession of the property in Illinois.~~

~~2) The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.~~

~~3) Regardless of the place at which the purchase order is accepted, where tangible personal property is located within such territory at the time of its sale (or is subsequently produced in the territory) then delivered in Illinois to the purchaser, and no municipality or county outside such territory where the tangible personal property is located in this State would receive or would have the power to impose a County Water Commission Retailers' Occupation Tax with respect to such sale, the seller will be considered to be engaged in business in such territory for County Water Commission Retailers' Occupation Tax purposes with respect to such sale.~~

~~c) Some Considerations Which are not Controlling~~

~~1) Delivery of the property within the territory to the purchaser is not~~

~~necessary for the seller to incur County Water Commission Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intercity commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the territory for the seller to be regarded as being engaged in the business of selling within the territory with respect to that sale.~~

~~2)~~ ~~The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether or not the seller incurs County Water Commission Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the territory" in Section 4 of the Water Commission Act of 1985 refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made.~~

~~d)~~ ~~Place of Business Where Long Term or Blanket Contracts are Involved~~
~~Under a long term blanket or master contract which (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for County Water Commission Retailers' Occupation Tax purposes with respect to such orders. (See Standard Oil Company v. Department of Finance, et al., 383 Ill. 136 (1934), for a similar problem under the Retailer's Occupation Tax Act.)~~

~~e)~~ ~~Sales Through Vending Machines~~
~~The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when such sales are made.~~

~~f)~~ ~~Sales From Vehicles Carrying Uncommitted Stock of Goods~~
~~The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which such sales and deliveries happen to be made – the vehicle carrying~~

~~such stock of goods for sale being regarded as a portable place of business.~~

~~g)~~ ~~Sales of Coal or Other Minerals~~

~~1)~~ ~~For the purpose of determining whether the County Water Commission Retailers' Occupation Tax is applicable for a retail sale by a producer of coal or other mineral mined in Illinois, the sale is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.~~

~~2)~~ ~~A retail sale is a sale to a user, such as a railroad, public utility or other industrial company for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.~~

~~3)~~ ~~A mineral mined in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the territory and transports it over its own line to an out-of-State destination.~~

~~4)~~ ~~A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (retail sale) is the final sale to the user, and the County Water Commission Retailers' Occupation Tax on the sale will be applicable if the retailer is located in such territory that imposes a County Water Commission Retailers' Occupation Tax.~~

(Source: Amended at 38 Ill. Reg. 14368, effective June 25, 2014)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Special County Retailers' Occupation Tax for Public Safety

2) Code Citation: 86 Ill. Adm. Code 670

3) Section Number: 670.115 Adopted Action: Amendment

4) Statutory Authority: 55 ILCS 5/5-1006.5

5) Effective Date of Rule: June 25, 2014

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 rule, 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 the *Illinois Register*: 38 Ill. Reg. 6627, March 21, 2014

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Various changes were made in response to comments received, as well as additional changes agreed upon with JCAR which were technical and grammatical.

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 an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking provides guidance for retailers to determine what local taxes they incur based on the location where they are "engaged in the business of selling tangible personal property." The Department's prior regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680
fax: 312/814-4344

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 670
SPECIAL COUNTY RETAILERS' OCCUPATION TAX FOR PUBLIC SAFETY

Section

670.101 Nature of the Special County Retailers' Occupation Tax For Public Safety
670.105 Registration and Returns
670.110 Claims to Recover Erroneously Paid Tax
670.115 Jurisdictional Questions
670.120 Incorporation of Retailers' Occupation Tax Regulations by Reference
670.125 Penalties, Interest and Procedures
670.130 Effective Date

AUTHORITY: Implementing Section 5-1006.5 of the Special County Occupation Tax For Public Safety, Public Facilities, or Transportation Law of the Counties Code [55 ILCS 5/5-1006.5] and authorized by Section 2505-95 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-95].

SOURCE: Adopted at 20 Ill. Reg. 13065, effective September 24, 1996; amended at 22 Ill. Reg. 14926, effective August 3, 1998; amended at 24 Ill. Reg. 8140, effective May 26, 2000; amended at 24 Ill. Reg. 17844, effective November 28, 2000; emergency amendment at 38 Ill. Reg. 4125, effective January 22, 2014, for a maximum of 150 days; emergency expired June 20, 2014; amended at 38 Ill. Reg. 14383, effective June 25, 2014.

Section 670.115 Jurisdictional Questions

a) Definitions

When used in this Part, "County" includes all territory located within the county, including all territory within cities, villages or incorporated towns, including an incorporated town that has superseded a civil township.

When used in this Part, "Selling Activities" refers to those activities that comprise "an occupation, the business of which to sell tangible personal property at retail". "Selling Activities" includes "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation

of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943).

b) Retailer's Selling Activities Determine Taxing Jurisdiction

1) Occupation of Selling. The Special County Retailers' Occupation Tax For Public Safety, Public Facilities, or Transportation Law [55 ILCS 5/5-1006.5] authorizes counties to impose a Special County Retailers' Occupation Tax for Public Safety, Public Facilities, or Transportation on those engaged in the business of selling tangible personal property at retail within the county. Because the statute imposes a tax on the retail business of selling, and not on specific sales, the jurisdiction in which the sale takes place is not necessarily the jurisdiction where the local retailers' occupation tax is owed. Rather, it is the jurisdiction where the seller is engaged in the business of selling that can impose the tax. Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951) ("In short, the tax is imposed on the "occupation" of the retailer and not upon the "sales" as such.") (citing Mahon v. Nudelman, 377 Ill. 331 (1941) and Standard Oil Co. v. Dep't of Finance, 383 Ill. 136 (1943)); see also Young v. Hulman, 39 Ill. 2d 219, 225 (1968) ("the retailers occupational tax...imposes liability upon the occupation of selling at retail and not on the sale itself").

2) Composite of Selling Activities. The occupation of selling is comprised of "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 32 (citing Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943)).

3) Multijurisdictional Retailers. Some retailers are engaged in retail operations with selling activities in multiple jurisdictions within the State, or in jurisdictions located in more than one state. The selling activities that comprise these business "are as varied as the methods which men select to carry on retail businesses". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Consequently, "it is...not possible to prescribe by definition which of the many activities must take place in [a jurisdiction] to

constitute it an occupation conducted in [that jurisdiction].... [I]t is necessary to determine each case according to the facts which reveal the method by which the business was conducted". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943); see also Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 36.

4) Statutory Intent. It is the intent of the Special County Retailers' Occupation Tax that retailers will incur local retailers' occupation tax in a jurisdiction in Illinois if they "enjoyed the greater part of governmental [services and] protection" in that jurisdiction. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)). By allowing the county to impose tax on retailers who conduct business in the county, the Special County Retailers' Occupation Tax For Public Safety, Public Facilities, or Transportation Law links the retailer's tax liability to where it principally enjoys the benefits of government services. Svithiod Singing Club v. McKibbin, 381 Ill. 194, 199 (1942).

5) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(4) of this Section, a seller incurs Special County Retailer's Occupation Tax if its predominant and most important selling activities take place in the county. Isolated or limited business activities within a jurisdiction do not constitute engaging in the business of selling in that jurisdiction when other more significant selling activities occur outside the jurisdiction, and the business predominantly takes advantage of government services provided by other jurisdictions. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 322-23 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraphs 30 through 35.

6) Substance over Form. The Department "may look through the form of a putatively [multijurisdictional] transaction to its substance" to determine where "enough of the business of selling took place" and, thus, where the seller is subject to local retailers' occupation tax. Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); Fed. Bryant Mach. Co. v. Dep't of Revenue 41 Ill. 2d 64, 67 (1968); Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31. For example, the Department will not look to the location of a party that is owned by or has

common ownership with a supplier or a purchaser if that party does not, in substance, conduct the selling activities related to the sales.

7) Same Standard Applies to Intrastate and Interstate Retailers. For purposes of determining where a retailer is engaged in the business of selling, it does not matter whether the retailer is engaged in selling activities in taxing jurisdictions in multiple states, or in multiple jurisdictions in this State. The legal standard is the same. The retailer is engaged in the business of selling in the taxing jurisdiction where its predominant and most important selling activities take place. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 30 ("the location of the business of selling inside or outside the [S]tate controls…"). If a retailer engages in some selling activities in a taxing jurisdiction in this State, but that retailer's predominant selling activities are outside the State, the retailer's obligation to collect and remit taxes on Illinois sales is governed by the Illinois Use Tax Act [35 ILCS 105/2] (defining "retailer maintaining a place of business in the State"); Hartney Fuel Co. v. Hamer, 2013 IL 115130, paragraph 31 ("some combination of activities within the [S]tate are insufficient for the retail occupation tax to apply") (citing Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951)).

8) Because it is not practicable for retailers to divide retailers' occupation tax among competing jurisdictions, a retailer subject to the Special County Retailers' Occupation Tax is engaged in the business of selling in only one location in Illinois for each sale.

c) Application of Composite of Selling Activities Test to Retailers Conducting Selling Activities in Multiple Taxing Jurisdictions
Every retailer maintaining a place of business in this State shall determine the taxing jurisdictions in which it is engaged in the business of selling with respect to each of its sales by applying the standards set forth in this subsection (c), except when a retailer is engaged in particular selling activities identified by a statute that specifies the taxing jurisdiction where retailers engaged in those activities shall remit retailers' occupation tax. These retailers shall remit retailers' occupation tax as directed by statute, notwithstanding anything in this Part to the contrary.

1) Primary Selling Activities. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among

personnel located in multiple jurisdictions shall consider the following selling activities to determine where they are engaged in the business of selling with respect to each sale. A retailer is engaged in the business of selling in only one location for each sale, but may be engaged in the business of selling in different locations for different sales:

A) Location of sales personnel exercising discretion and authority to solicit customers on behalf of a seller and to bind the seller to the sale;

B) Location where the seller takes action that binds it to the sale, which may be acceptance of purchase orders, submission of offers subject to unilateral acceptance by the buyer, or other actions that bind the seller to that sale;

C) The location where payment is tendered and received, or from which invoices are issued with respect to each sale;

D) Location of inventory if tangible personal property that is sold is in the retailer's inventory at the time of its sale or delivery; and

E) The location of the retailer's headquarters, which is the principal place from which the business of selling tangible personal property is directed or managed. In general, this is the place at which the offices of the principal executives are located. When executive authority is located in multiple jurisdictions, the place of daily operational decision making is the headquarters.

2) A retailer engaging in three or more primary selling activities in one location in the State for a particular sale shall remit the retailers' occupation tax imposed by the taxing bodies with authority to impose retailers' occupation tax on those engaged in the business of selling in that location for that sale. A retailer engaging in three or more primary selling activities for a particular sale outside the State shall collect and remit tax to the State to the extent required by the Illinois Use Tax Act [35 ILCS 105] for that sale, except as provided in subsection (d).

3) Application of Primary Selling Activities to Common Selling Operations. Retailers engaged in selling operations with a single location where the

primary selling activities predominate constitute the vast majority of retailers in the State. Subsections (c)(3)(A) through (c)(3)(C) apply the primary selling activities to certain common selling operations and identify the location where the Department will presume the seller is engaged in the business of selling with respect to each sale.

A) Over the Counter Sales. If a purchaser is present at a place of business owned or leased by a retailer and there enters into an agreement with the retailer's sales personnel to purchase tangible personal property, and makes payment for that property at the same place of business, then the retailer's occupation tax for that sale is incurred at the retailer's place of business where the sale occurred regardless of whether the purchaser takes immediate possession of the tangible personal property, or the retailer delivers or arranges for the property to be delivered to the purchaser.

B) Sales through Vending Machines. A retailer is engaged in the business of selling food, beverages or other tangible personal property through a vending machine at the location where the vending machine is located when the sale is made if:

i) the vending machine is a device operated by coin, currency, credit card, token, coupon or similar device that dispenses food, beverage or other tangible personal property;

ii) the food, beverage or other tangible personal property is contained within the vending machine and dispensed from the vending machine; and

iii) the purchaser takes possession of the purchased food, beverage or other tangible personal property immediately.

C) Sales from Vehicles Carrying Uncommitted Stock of Goods. The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously completed sales, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries actually are made. The vehicle carrying the stock of goods for sale is regarded as a portable place of business.

4) Secondary Selling Activities. If the primary selling activities listed in subsection (c)(1) occur in multiple jurisdictions, but no individual jurisdiction has more than two primary selling activities, the following additional selling activities shall be considered to determine the jurisdiction in which the retailer is engaged in the business of selling.

A) Location where marketing and solicitation occur;

B) Location where the seller engages in activities necessary to procure goods for sale;

C) Location of the retailer's officers, executives or employees with authority to set prices or determine other terms of sale if determinations are made in a location different than that identified in subsection (c)(1)(A);

D) Location where purchase orders or other contractual documents are received when purchase orders are accepted, processed or fulfilled in a location or locations different from where they are received;

E) Location where title passes; and

F) Location where the retailer displays goods to prospective customers, such as a showroom.

5) Except as provided in subsection (d), a retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) is engaged in the business of selling in the jurisdiction where its inventory is located under subsection (c)(1)(D), or where its headquarters is located under subsection (c)(1)(E), whichever jurisdiction is the location where more selling activities occur, considering both primary and secondary selling activities.

6) A retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) or (c)(5) is presumed to be engaged in the business of selling at the location of its headquarters absent clear and convincing evidence to the contrary.

d) Presumptions Applying to Certain Selling Operations

1) For certain classes of retailers with unique, complicated or widely dispersed selling activities, determining appropriate tax situs in every situation presents substantial administrative difficulties for both retailers and tax enforcement personnel. Subsections (d)(2) through (d)(5) provide administrative "short cuts" that balance the administrative difficulties presented by certain selling operations against the need for accurate tax assessment.

2) In-State Inventory/Out of State Selling Activity. If a retailer's selling activities take place in taxing jurisdictions outside this State, except that the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), then delivered in Illinois to the purchaser, the jurisdiction where the property is located at the time of the sale or when it is subsequently produced by the retailer will determine where the retailer is engaged in business with respect to that sale. Chemed Corp., Inc. v. Department of Revenue, 186 Ill. App. 3d 402 (4th Dist. 1989).

3) Sales over the Internet. When a customer places an order for the purchase of tangible personal property through a consumer-based retailer website available without limitation on the world wide web and the retailer ships the property to the customer in this State, the Department will presume that the retailer's predominant selling activities take place outside of this State. Therefore, such a sale will be subject to the Illinois Use Tax Act unless there is clear and convincing evidence the retailer's predominant and most important selling activities take place in this State. Clear and convincing evidence sufficient to overcome the presumption provided for in this subsection (d)(3) includes, but is not limited to, the following circumstances:

A) the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), in which case the retailer is engaged in the business of selling in the jurisdiction where the property is located at the time of the sale with respect to that sale;

B) the customer takes possession of the tangible personal property at a place of business owned or leased by the retailer in the State, in which case the retailer is engaged in the business of selling in the jurisdiction where the customer takes possession of the property with respect to that sale.

4) Leases with an Option to Purchase. A lease with a dollar or other nominal option to purchase is considered to be a conditional sale subject to retailers' occupation tax. (See 86 Ill. Adm. Code 130.2010(a).) Persons selling tangible personal property to a nominal lessee or bailee for use or consumption under a conditional sales agreement are presumed to be engaged in the business of selling at the physical location of the property at the time the parties enter into the conditional sales agreement.

5) Sales of Coal or Other Minerals. A retail sale by a producer of coal or other mineral mined in Illinois is a sale at retail in the jurisdiction where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this subsection (d)(5), "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.

A) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.

B) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the jurisdiction and transports it over its own line to an out-of-state destination.

C) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be

taxable. The taxable sale (the retail sale) is the final sale to the user, and local retailers' occupation tax on that sale will go to the jurisdiction where the retailer is engaged in the business of selling, as provided in this subsection (d)(5).

~~a) County Defined~~

~~When used in this Part, "county" includes all territory located within the county, including all territory within cities, villages or incorporated towns, including an incorporated town which has superseded a civil township.~~

~~b) Mere Solicitation of Orders not Doing Business~~

~~1) For a seller to incur Special County Retailers' Occupation Tax For Public Safety liability in a given county, the sale must be made in the course of such seller's engaging in the retail business within such county. In other words, enough of the selling activity must occur within the county to justify concluding that the seller is engaged in business within the county with respect to that sale.~~

~~2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to a county as the taxing jurisdiction as much as to the State as the taxing jurisdiction.~~

~~c) Seller's Acceptance of Order~~

~~1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the county or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (g) and (h) of this Section, or~~

~~if a purchase order which is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the county or by someone working out of such place of business, the seller incurs Special County Retailers' Occupation Tax For Public Safety liability in that county if the sale is at retail and the purchaser receives the physical possession of the property in Illinois. The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.~~

~~2)~~ ~~If a purchase order is accepted outside this State, but the tangible personal property which is sold is in an inventory of the retailer located within a county at the time of its sale (or is subsequently produced in the county), then delivered in Illinois to the purchaser, the place where the property is located at the time of the sale (or subsequent production in the county) will determine where the seller is engaged in business for Special County Retailers' Occupation Tax For Public Safety purposes with respect to such sale.~~

~~d)~~ ~~Some Considerations that are not Controlling~~

~~1)~~ ~~Delivery of the property within the county to the purchaser is not necessary for the seller to incur Special County Retailers' Occupation Tax For Public Safety liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intercounty commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the county for the seller to be regarded as being engaged in the business of selling within such county with respect to that sale.~~

~~2)~~ ~~The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether or not the seller incurs Special County Retailers' Occupation Tax For Public Safety liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the county" in the Special County Retailers' Occupation Tax For Public Safety Law refers only to the location of the occupation of selling that is being taxed and not to the~~

~~place where sales may be made. (See Standard Oil Company v. Department of Finance, et al., 383 Ill. 136 (1934), for a similar problem under the Illinois Retailers' Occupation Tax Act.)~~

~~e)~~ ~~Place of Business Where Long Term or Blanket Contracts are Involved~~
~~Under a long term blanket or master contract which (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Special County Retailers' Occupation Tax For Public Safety purposes with respect to such orders.~~

~~f)~~ ~~Sales Through Vending Machines~~
~~The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when such sales are made.~~

~~g)~~ ~~Sales from Vehicles Carrying Uncommitted Stock of Goods~~
~~The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which such sales and deliveries happen to be made -- the vehicle carrying such stock of goods for sale being regarded as a portable place of business.~~

~~h)~~ ~~Sales of Coal or Other Minerals~~
~~For the purpose of determining the local governmental unit whose tax is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.~~

~~1)~~ ~~A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.~~

~~2)~~ ~~A mineral produced in Illinois, but shipped out of Illinois by the seller for~~

~~use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the county and transports it over its own line to an out-of-State destination.~~

~~3)~~ ~~A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Special County Retailers' Occupation Tax For Public Safety on that sale will go to the county where the retailer is located.~~

(Source: Amended at 38 Ill. Reg. 14383, effective June 25, 2014)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Salem Civic Center Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 690

3) Section Number: 690.115 — Adopted Action: Amendment

4) Statutory Authority: 70 ILCS 200/245-12

5) Effective Date of Rule: June 25, 2014

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 rule, 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 the *Illinois Register*: 38 Ill. Reg. 6640, March 21, 2014

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Various changes were made in response to comments received, as well as additional changes agreed upon with JCAR which were technical and grammatical.

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 an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking provides guidance for retailers to determine what local taxes they incur based on the location where they are "engaged in the business of selling tangible personal property." The Department's prior regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680
fax: 312/814-4344

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 690
SALEM CIVIC CENTER RETAILERS' OCCUPATION TAX

Section
690.101 Nature of the Salem Civic Center Retailers' Occupation Tax
690.105 Registration and Returns
690.110 Claims to Recover Erroneously Paid Tax
690.115 Jurisdictional Questions
690.120 Incorporation of Retailers' Occupation Tax Regulations by Reference
690.125 Penalties, Interest and Procedures
690.130 Effective Date

AUTHORITY: Implementing Section 245-12 of the Salem Civic Center Law of 1997 [70 ILCS 200/245-12] and authorized by Section 2505-95 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-95].

SOURCE: Adopted at 21 Ill. Reg. 2390, effective February 3, 1997; amended at 25 Ill. Reg. 8260, effective June 22, 2001; emergency amendment at 38 Ill. Reg. 4138, effective January 22, 2014, for a maximum of 150 days; emergency expired June 20, 2014; amended at 38 Ill. Reg. 14398, effective June 25, 2014.

Section 690.115 Jurisdictional Questions

a) Definitions

When used in this Part, "Metropolitan Area" means all territory in the State of Illinois lying within the corporate boundaries of the City of Salem in Marion County.

When used in this Part, "Selling Activities" refers to those activities that comprise "an occupation, the business of which is to sell tangible personal property at retail". "Selling Activities" includes "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O-Corp. v. McKibbin, 383 Ill. 316, 321 (1943).

b) Retailer's Selling Activities Determine Taxing Jurisdiction

1) Occupation of Selling. The Salem Civic Center Use and Occupation Tax Law [70 ILCS 200/245-12] authorizes the Salem Civic Center Authority to impose a Salem Civic Center Retailers' Occupation Tax on those engaged in the business of selling tangible personal property at retail within the metropolitan area. Because the statute imposes a tax on the retail business of selling, and not on specific sales, the jurisdiction in which the sale takes place is not necessarily the jurisdiction where the local retailers' occupation tax is owed. Rather, it is the jurisdiction where the seller is engaged in the business of selling that can impose the tax. Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951) ("In short, the tax is imposed on the "occupation" of the retailer and not upon the "sales" as such.") (citing Mahon v. Nudelman, 377 Ill. 331 (1941) and Standard Oil Co. v. Dep't of Finance, 383 Ill. 136 (1943)); see also Young v. Hulman, 39 Ill. 2d 219, 225 (1968) ("the retailers occupational tax . . . imposes liability upon the occupation of selling at retail and not on the sale itself").

2) Composite of Selling Activities. The occupation of selling is comprised of "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 32 (citing Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943)).

3) Multijurisdictional Retailers. Some retailers are engaged in retail operations with selling activities in multiple jurisdictions within the State, or in jurisdictions located in more than one state. The selling activities that comprise these businesses "are as varied as the methods which men select to carry on retail business". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Consequently, "it is...not possible to prescribe by definition which of the many activities must take place in [a jurisdiction] to constitute it an occupation conducted in [that jurisdiction].... [I]t is necessary to determine each case according to the facts which reveal the method by which the business was conducted". Ex-Cell-O Co. v.

McKibbin, 383 Ill. 316, 321-22 (1943); see also Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 36.

4) Statutory Intent. It is the intent of the Salem Civic Center Retailers' Occupation Tax that retailers will incur local retailers' occupation tax in a jurisdiction in Illinois if they "enjoyed the greater part of governmental [services and] protection" in that jurisdiction. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)). By allowing the Salem Civic Center Authority to impose tax on retailers who conduct business in the Metropolitan Area, the Salem Civic Center Law of 1997 [70 ILCS 200/Art. 245] links the retailer's tax liability to where it principally enjoys the benefits of government services. Svithiod Singing Club v. McKibbin, 381 Ill. 194, 199 (1942).

5) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(4), a seller incurs Salem Civic Center Retailers' Occupation Tax in a particular jurisdiction within the Metropolitan Area if its predominant and most important selling activities take place in that jurisdiction. Isolated or limited business activities within a jurisdiction do not constitute engaging in the business of selling in that jurisdiction when other more significant selling activities occur outside the jurisdiction, and the business predominantly takes advantage of government services provided by other jurisdictions. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 322-23 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraphs 30 through 35.

6) Substance over Form. The Department "may look through the form of a putatively [multijurisdictional] transaction to its substance" to determine where "enough of the business of selling took place" and, thus, where the seller is subject to local retailers' occupation tax. Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); Fed. Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 67 (1968); Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31. For example, the Department will not look to the location of a party that is owned by or has common ownership with a supplier or a purchaser if that party does not, in substance, conduct the selling activities related to the sales.

7) Same Standard Applies to Intrastate and Interstate Retailers. For purposes of determining where a retailer is engaged in the business of selling, it does not matter whether the retailer is engaged in selling activities in taxing jurisdictions in multiple states, or in multiple jurisdictions in this State. The legal standard is the same. The retailer is engaged in the business of selling in the taxing jurisdiction where its predominant and most important selling activities take place. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 30 ("the location of the business of selling inside or outside the [S]tate controls..."). If a retailer engages in some selling activities in a taxing jurisdiction in this State, but that retailer's predominant selling activities are outside the State, the retailer's obligation to collect and remit taxes on Illinois sales is governed by the Illinois Use Tax Act [35 ILCS 105/2] (defining "retailer maintaining a place of business in the State"); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31 ("some combination of activities within the [S]tate are insufficient for the retail occupation tax to apply") (citing Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951)).

8) Because it is not practicable for retailers to divide retailers' occupation tax among competing jurisdictions, a retailer subject to the retailers' occupation tax is engaged in the business of selling in only one location in Illinois for each sale.

c) Application of Composite of Selling Activities Test to Retailers Conducting Selling Activities in Multiple Taxing Jurisdictions
Every retailer maintaining a place of business in this State shall determine the taxing jurisdictions in which it is engaged in the business of selling with respect to each of its sales by applying the standards set forth in this subsection (c), except when a retailer is engaged in particular selling activities identified by a statute that specifies the taxing jurisdiction where retailers engaged in those activities shall remit retailers' occupation tax. These retailers shall remit retailers' occupation tax as directed by statute, notwithstanding anything in this Part to the contrary.

1) Primary Selling Activities. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions shall consider the following selling activities to determine where they are engaged in the business of

selling with respect to each sale. A retailer is engaged in the business of selling in only one location for each sale, but may be engaged in the business of selling in different locations for different sales:

A) Location of sales personnel exercising discretion and authority to solicit customers on behalf of a seller and to bind the seller to the sale;

B) Location where the seller takes action that binds it to the sale, which may be acceptance of purchase orders, submission of offers subject to unilateral acceptance by the buyer, or other actions that bind the seller to that sale;

C) The location where payment is tendered and received, or from which invoices are issued with respect to each sale;

D) Location of inventory if tangible personal property that is sold is in the retailer's inventory at the time of its sale or delivery; and

E) The location of the retailer's headquarters, which is the principal place from which the business of selling tangible personal property is directed or managed. In general, this is the place at which the offices of the principal executives are located. When executive authority is located in multiple jurisdictions, the place of daily operational decision making is the headquarters.

2) A retailer engaging in three or more primary selling activities in one location in the State for particular sale shall remit the retailers' occupation tax imposed by the taxing bodies with authority to impose retailers' occupation tax on those engaged in the business of selling in that location for that sale. A retailer engaging in three or more primary selling activities for a particular sale outside the State shall collect and remit tax to the State to the extent required by the Illinois Use Tax Act [35 ILCS 105] for that sale, except as provided in subsection (d).

3) Application of Primary Selling Activities to Common Selling Operations. Retailers engaged in selling operations with a single location where the primary selling activities predominate constitute the vast majority of retailers in the State. Subsections (c)(3)(A) through (c)(3)(C) apply the

primary selling activities to certain common selling operations and identify the location where the Department will presume the seller is engaged in the business of selling with respect to each sale.

A) Over the Counter Sales. If a purchaser is present at a place of business owned or leased by a retailer and there enters into an agreement with the retailers' sales personnel to purchase tangible personal property, and makes payment for that property at the same place of business, then the retailers' occupation tax for that sale is incurred at the retailer's place of business where the sale occurred regardless of whether the purchaser takes immediate possession of the tangible personal property, or the retailer delivers or arranges for the property to be delivered to the purchaser.

B) Sales through Vending Machines. A retailer is engaged in the business of selling food, beverages or other tangible personal property through a vending machine at the location where the vending machine is located when the sale is made if:

i) the vending machine is a device operated by coin, currency, credit card, token, coupon or similar device that dispenses food, beverage or other tangible personal property;

ii) the food, beverage or other tangible personal property is contained within the vending machine and dispensed from the vending machine; and

iii) the purchaser takes possession of the purchased food, beverage or other tangible personal property immediately.

C) Sales from Vehicles Carrying Uncommitted Stock of Goods. The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously completed sales, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries actually are made. The vehicle carrying the stock of goods for sale is regarded as a portable place of business.

4) Secondary Selling Activities. If the primary selling activities listed in subsection (c)(1) occur in multiple jurisdictions, but no individual jurisdiction has more than two primary selling activities, the following additional selling activities shall be considered to determine the jurisdiction in which the retailer is engaged in the business of selling.

A) Location where marketing and solicitation occur;

B) Location where the seller engages in activities necessary to procure goods for sale;

C) Location of the retailer's officers, executives or employees with authority to set prices or determine other terms of sale if determinations are made in a location different than that identified in subsection (c)(1)(A);

D) Location where purchase orders or other contractual documents are received when purchase orders are accepted, processed or fulfilled in a location or locations different from where they are received;

E) Location where title passes; and

F) Location where the retailer displays goods to prospective customers, such as a showroom.

5) Except as provided in subsection (d), a retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) is engaged in the business of selling in the jurisdiction where its inventory is located under subsection (c)(1)(D), or where its headquarters is located under subsection (c)(1)(E), whichever jurisdiction is the location where more selling activities occur, considering both primary and secondary selling activities.

6) A retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) or (c)(5), is presumed to be engaged in the business of selling at the location of its headquarters absent clear and convincing evidence to the contrary.

d) Presumptions Applying to Certain Selling Operations

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) For certain classes of retailers with unique, complicated or widely dispersed selling activities, determining appropriate tax situs in every situation presents substantial administrative difficulties for both retailers and tax enforcement personnel. Subsections (d)(2) through (d)(5) provide administrative "short cuts" that balance the administrative difficulties presented by certain selling operations against the need for accurate tax assessment.

2) In-State Inventory/Out of State Selling Activity. If a retailer's selling activity takes place in taxing jurisdictions outside this State, except that the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), then delivered in Illinois to the purchaser, the jurisdiction where the property is located at the time of the sale or when it is subsequently produced by the retailer will determine where the retailer is engaged in business with respect to that sale. Chemed Corp., Inc. v. Department of Revenue, 186 Ill. App. 3d 402 (4th Dist. 1989).

3) Sale over the Internet. When a customer places an order for the purchase of tangible personal property through a consumer-based retailer website available without limitation on the world wide web and the retailer ships the property to the customer in this State, the Department will presume that the retailer's predominant selling activities take place outside of this State. Therefore, such a sale will be subject to the Illinois Use Tax Act unless there is clear and convincing evidence the retailer's predominant and most important selling activities take place in this State. Clear and convincing evidence sufficient to overcome the presumption provided for in this subsection (d)(3) includes but is not limited to, the following circumstances:

A) the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), in which case the retailer is engaged in the business of selling in the jurisdiction where the property is located at the time of the sale with respect to that sale;

B) the customer takes possession of the tangible personal property at a place of business owned or leased by the retailer in the State, in which case the retailer is engaged in the business of selling in the jurisdiction where the customer takes possession of the property with respect to that sale.

4) Leases with an Option to Purchase. A lease with a dollar or other nominal option to purchase is considered to be a conditional sale subject to retailers' occupation tax. (See 86 Ill. Adm. Code 130.2010(a)). Persons selling tangible personal property to a nominal lessee or bailee for use or consumption under a conditional sales agreement are presumed to be engaged in the business of selling at the physical location of the property at the time the parties enter into the conditional sales agreement.

5) Sales of Coal or Other Minerals. A retail sale by a producer of coal or other mineral mined in Illinois is a sale at retail in the jurisdiction where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this subsection (d)(5), "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.

A) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.

B) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the jurisdiction and transports it over its own line to an out-of-state destination.

C) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the

user, and local retailers' occupation tax on that sale will go to the jurisdiction where the retailer is engaged in the business of selling, as provided in this subsection (d)(5).

~~a) Metropolitan Area Defined~~
~~When used in this Part, "metropolitan area" means all territory in the State of Illinois lying within the corporate boundaries of the City of Salem in Marion County.~~

~~b) Mere Solicitation of Orders not Doing Business~~

~~1) For a seller to incur Salem Civic Center Retailers' Occupation Tax liability in a given metropolitan area, the sale must be made in the course of such seller's engaging in the retail business within such metropolitan area. In other words, enough of the selling activity must occur within the metropolitan area to justify concluding that the seller is engaged in business within the metropolitan area with respect to that sale.~~

~~2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to the metropolitan area as the taxing jurisdiction as much as to the State as the taxing jurisdiction.~~

~~c) Seller's Acceptance of Order~~

~~1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the metropolitan area or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (g) and (h) of this Section, or if a purchase order which is an acceptance of the seller's~~

~~complete and unconditional offer to sell is received by the seller's place of business within the metropolitan area or by someone working out of such place of business, the seller incurs Salem Civic Center Retailers' Occupation Tax liability in that metropolitan area if the sale is at retail and the purchaser receives the physical possession of the property in Illinois. The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.~~

~~2)~~ ~~If a purchase order is accepted outside this State, but the tangible personal property which is sold is in an inventory of the retailer located within the metropolitan area at the time of its sale (or is subsequently produced in the metropolitan area), then delivered in Illinois to the purchaser, the place where the property is located at the time of the sale (or subsequent production in the metropolitan area) will determine where the seller is engaged in business for Salem Civic Center Retailers' Occupation Tax purposes with respect to such sale.~~

~~d)~~ ~~Some Considerations that are not Controlling~~

~~1)~~ ~~Delivery of the property within the metropolitan area to the purchaser is not necessary for the seller to incur Salem Civic Center Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intermetropolitan area commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the metropolitan area for the seller to be regarded as being engaged in the business of selling within such metropolitan area with respect to that sale.~~

~~2)~~ ~~The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether or not the seller incurs Salem Civic Center Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the metropolitan area" in the Salem Civic Center Use and Occupation Tax Law refers only to the location of the occupation of selling that is being taxed and not to the place where~~

~~sales may be made. (See Standard Oil Company vs. Department of Finance et al., 383 Ill. 136 (1943), for a similar problem under the Illinois Retailers' Occupation Tax Act.)~~

~~e) Place of Business Where Long Term or Blanket Contracts are Involved~~
~~Under a long term blanket or master contract which (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Salem Civic Center Retailers' Occupation Tax purposes with respect to such orders.~~

~~f) Sales Through Vending Machines~~
~~The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when such sales are made.~~

~~g) Sales from Vehicles Carrying Uncommitted Stock of Goods~~
~~The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which such sales and deliveries happen to be made - the vehicle carrying such stock of goods for sale being regarded as a portable place of business.~~

~~h) Sales of Coal or Other Minerals~~
~~For the purpose of determining the tax that is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.~~

~~1) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.~~

~~2) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce).~~

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

~~This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the metropolitan area and transports it over its own line to an out-of-State destination.~~

~~3)~~ ~~A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Salem Civic Center Retailers' Occupation Tax on that sale will go to the metropolitan area where the retailer is located.~~

(Source: Amended at 38 Ill. Reg. 14398, effective June 25, 2014)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Non-Home Rule Municipal Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 693

3) Section Number: 693.115 — Adopted Action: Amendment

4) Statutory Authority: 65 ILCS 5/8-11-1.3

5) Effective Date of Rule: June 25, 2014

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 rule, 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 the *Illinois Register*: 38 Ill. Reg. 6653, March 21, 2014

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Various changes were made in response to comments received, as well as additional changes agreed upon with JCAR which were technical and grammatical.

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 an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking provides guidance for retailers to determine what local taxes they incur based on the location where they are "engaged in the business of selling tangible personal property." The Department's prior regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680
fax: 312/814-4344

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 693
NON-HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX

Section
693.101 Nature of the Non-Home Rule Municipal Retailers' Occupation Tax
693.105 Registration and Returns
693.110 Claims to Recover Erroneously Paid Tax
693.115 Jurisdictional Questions
693.120 Retailers' Occupation Tax Regulations
693.125 Penalties, Interest and Procedures
693.130 Ordinance Filing Deadlines; When Tax Rate Change Applies

AUTHORITY: Implementing the Non-Home Rule Municipal Retailers' Occupation Tax Act [65 ILCS 5/8-11-1.3] and authorized by Section 2505-15 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-15].

SOURCE: Adopted at 24 Ill. Reg. 17831, effective November 28, 2000; amended at 32 Ill. Reg. 2829, effective February 8, 2008; emergency amendment at 38 Ill. Reg. 4151, effective January 22, 2014, for a maximum of 150 days; emergency expired June 20, 2014; amended at 38 Ill. Reg. 14413, effective June 25, 2014.

Section 693.115 Jurisdictional Questions

a) Definitions

When used in this Part, "municipal" and "municipality" mean a city, village or incorporated town, including an incorporated town that has superseded a civil township.

When used in this Part, "Selling Activities" refers to those activities that comprise "an occupation, the business of which is to sell tangible personal property at retail". "Selling Activities" includes "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O-Corp. v. McKibbin, 383 Ill. 316, 321 (1943).

b) Retailer's Selling Activities Determine Taxing Jurisdiction

1) Occupation of Selling. The Non-Home Rule Municipal Retailers' Occupation Tax Act [65 ILCS 5/8-11-1.3] authorizes non-home rule municipalities to impose a tax on those engaged in the business of selling tangible personal property at retail within the municipality. Because the statute imposes a tax on the retail business of selling, and not on specific sales, the jurisdiction in which the sale takes place is not necessarily the jurisdiction where the local retailers' occupation tax is owed. Rather, it is the jurisdiction where the seller is engaged in the business of selling that can impose the tax. Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951) ("In short, the tax is imposed on the "occupation" of the retailer and not upon the "sales" as such.") (citing Mahon v. Nudelman, 377 Ill. 331 (1941) and Standard Oil Co. v. Dep't of Finance, 383 Ill. 136 (1943)); see also Young v. Hulman, 39 Ill. 2d 219, 225 (1968) ("the retailers occupational tax...imposes liability upon the occupation of selling at retail and not on the sale itself").

2) Composite of Selling Activities. The occupation of selling is comprised of "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 32 (citing Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943)).

3) Multijurisdictional Retailers. Some retailers are engaged in retail operations with selling activities in multiple jurisdictions within the State, or in jurisdictions located in more than one state. The selling activities that comprise these businesses "are as varied as the methods which men select to carry on retail business". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Consequently, "it is...not possible to prescribe by definition which of the many activities must take place in [a jurisdiction] to constitute it an occupation conducted in [that jurisdiction].... [I]t is necessary to determine each case according to the facts which reveal the method by which the business was conducted". Ex-Cell-O Corp. v.

McKinnin, 383 Ill. 316, 321-22 (1943); see also Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 36.

4) Statutory Intent. It is the intent of the Non-Home Rule Municipal Retailers' Occupation Tax that retailers will incur local retailers' occupation tax in a jurisdiction in Illinois if they "enjoyed the greater part of governmental [services and] protection" in that jurisdiction. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)). By allowing the municipality to impose tax on retailers who conduct business in the municipality, the Non-Home Rule Municipal Retailers' Occupation Tax Act links the retailer's tax liability to where it principally enjoys the benefits of government services. Svithiod Singing Club v. McKibbin, 381 Ill. 194, 199 (1942).

5) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(4), a seller incurs Non-Home Rule Municipal Retailers' Occupation Tax in the municipality if its predominant and most important selling activities take place in the municipality. Isolated or limited business activities within a jurisdiction do not constitute engaging in the business of selling in that jurisdiction when other more significant selling activities occur outside the jurisdiction, and the business predominantly takes advantage of government services provided by other jurisdictions. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 322-23 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraphs 30 through 35.

6) Substance over Form. The Department "may look through the form of a putatively [multijurisdictional] transaction to its substance" to determine where "enough of the business of selling took place" and, thus, where the seller is subject to local retailers' occupation tax. Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); Fed. Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 67 (1968); Int'l-Stanley Corp. v. Dep't of Revenue, 4 Ill. App 3d 397, 406 (1st Dist. 1976); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31. For example, the Department will not look to the location of a party that is owned by or has common ownership with a supplier or a purchaser if that party does not, in substance, conduct the selling activities related to the sales.

7) Same Standard Applies to Intrastate and Interstate Retailers. For purposes of determining where a retailer is engaged in the business of selling, it does not matter whether the retailer is engaged in selling activities in taxing jurisdictions in multiple states, or in multiple jurisdictions in this State. The legal standard is the same. The retailer is engaged in the business of selling in the taxing jurisdiction where its predominant and most important selling activities take place. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Hartney Fuel Oil Co. v. Hamer 2013 IL 115130, paragraph 30 ("the location of the business of selling inside or outside the [S]tate controls..."). If a retailer engages in some selling activities in a taxing jurisdiction in this State, but that retailer's predominant selling activities are outside the State, the retailer's obligation to collect and remit taxes on Illinois sales is governed by the Illinois Use Tax Act [35 ILCS 105/2] (defining "retailer maintaining a place of business in the State"); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31 ("some combination of activities within the [S]tate are insufficient for the retail occupation tax to apply") (citing Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951)).

8) Because it is not practicable for retailers to divide retailers' occupation tax among competing jurisdictions, a retailer subject to the retailers' occupation tax is engaged in the business of selling in only one location in Illinois for each sale.

c) Application of Composite of Selling Activities Test to Retailers Conducting Selling Activities in Multiple Taxing Jurisdictions. Every retailer maintaining a place of business in this State shall determine the taxing jurisdictions in which it is engaged in the business of selling with respect to each of its sales by applying the standards set forth in this subsection (c), except when a retailer is engaged in particular selling activities identified by a statute that specifies the taxing jurisdiction where retailers engaged in those activities shall remit retailers' occupation tax. These retailers shall remit retailers' occupation tax as directed by statute, notwithstanding anything in this Part to the contrary.

1) Primary Selling Activities. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions shall consider the following selling activities to determine where they are engaged in the business of selling with respect to each sale. A retailer is engaged in the business of

selling in only one location for each sale, but may be engaged in the business of selling in different locations for different sales:

A) Location of sales personnel exercising discretion and authority to solicit customers on behalf of a seller and to bind the seller to the sale;

B) Location where the seller takes action that binds it to the sale, which may be acceptance of purchase orders, submission of offers subject to unilateral acceptance by the buyer, or other actions that bind the seller to that sale;

C) The location where payment is tendered and received, or from which invoices are issued with respect to each sale;

D) Location of inventory if tangible personal property that is sold is in the retailer's inventory at the time of its sale or delivery; and

E) The location of the retailer's headquarters, which is the principal place from which the business of selling tangible personal property is directed or managed. In general, this is the place at which the offices of the principal executives are located. When executive authority is located in multiple jurisdictions, the place of daily operational decision making is the headquarters.

2) A retailer engaging in three or more primary selling activities in one location in the State for a particular sale shall remit the retailers' occupation tax imposed by the taxing bodies with authority to impose retailers' occupation tax on those engaged in the business of selling in that location for that sale. A retailer engaging in three or more primary selling activities for a particular sale outside the State shall collect and remit tax to the State to the extent required by the Illinois Use Tax Act [35 ILCS 105] for that sale, except as provided in subsection (d).

3) Application of primary selling activities to Common Selling Operations. Retailers engaged in selling operations with a single location where the primary selling activities predominate constitute the vast majority of retailers in the State. Subsections (c)(3)(A) through (c)(3)(C) apply the primary selling activities to certain common selling operations and

identify the location where the Department will presume the seller is engaged in the business of selling with respect to each sale.

A) Over the Counter Sales. If a purchaser is present at a place of business owned or leased by a retailer and there enters into an agreement with the retailer's sales personnel to purchase tangible personal property, and makes payment for that property at the same place of business, then the retailer's occupation tax for that sale is incurred at the retailer's place of business where the sale occurred regardless of whether the purchaser takes immediate possession of the tangible personal property, or the retailer delivers or arranges for the property to be delivered to the purchaser.

B) Sales through Vending Machines. A retailer is engaged in the business of selling food, beverages or other tangible personal property through a vending machine at the location where the vending machine is located when the sale is made if:

i) the vending machine is a device operated by coin, currency, credit card, token, coupon or similar device that dispenses food, beverage or other tangible personal property;

ii) the food, beverage or other tangible personal property is contained within the vending machine and dispensed from the vending machine; and

iii) the purchaser takes possession of the purchased food, beverage or other tangible personal property immediately.

C) Sales from Vehicles Carrying Uncommitted Stock of Goods. The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously completed sales, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries actually are made. The vehicle carrying the stock of goods for sale is regarded as a portable place of business.

4) Secondary Selling Activities. If the primary selling activities listed in subsection (c)(1) occur in multiple jurisdictions, but no individual

jurisdiction has more than two primary selling activities, the following additional selling activities shall be considered to determine the jurisdiction in which the retailer is engaged in the business of selling.

A) Location where marketing and solicitation occur;

B) Location where the seller engages in activities necessary to procure goods for sale;

C) Location of the retailer's officers, executives or employees with authority to set prices or determine other terms of sale is determinations are made in a location different than that identified in subsection (c)(1)(A);

D) Location where purchase orders or other contractual documents are received when purchase orders are accepted, processed or fulfilled in a location or locations different from where they are received;

E) Location where title passes; and

F) Location where the retailer displays goods to prospective customers, such as a showroom.

5) Except as provided in subsection (d), a retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) is engaged in the business of selling in the jurisdiction where its inventory is located under subsection (c)(1)(D), or where its headquarters is located under subsection (c)(1)(E), whichever jurisdiction is the location where more selling activities occur, considering both primary and secondary selling activities.

6) A retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) or (c)(5) is presumed to be engaged in the business of selling at the location of its headquarters absent clear and convincing evidence to the contrary.

d) Presumptions Applying to Certain Selling Operations

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) For certain classes of retailers with unique, complicated or widely dispersed selling activities, determining appropriate tax situs in every situation presents substantial administrative difficulties for both retailers and tax enforcement personnel. Subsections (d)(2) through (d)(5) provide administrative "short cuts" that balance the administrative difficulties presented by certain selling operations against the need for accurate tax assessment.

2) In-State Inventory/Out of State Selling Activity. If a retailer's selling activities take place in taxing jurisdictions outside this State, except that the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), then delivered in Illinois to the purchaser, the jurisdiction where the property is located at the time of the sale or when it is subsequently produced by the retailer will determine where the retailer is engaged in business with respect to that sale. Chemed Corp., Inc. v. Department of Revenue, 186 Ill. App. 3d 402 (4th Dist. 1989).

3) Sales over the Internet. When a customer places an order for the purchase of tangible personal property through a consumer-based retailer website available without limitation on the world wide web and the retailer ships the property to the customer in this State, the Department will presume that the retailer's predominant selling activities take place outside of this State. Therefore, such a sale will be subject to the Illinois Use Tax Act unless there is clear and convincing evidence the retailer's predominant and most important selling activities that take place in this State. Clear and convincing evidence sufficient to overcome the presumption provided for in this subsection (d)(3) includes, but is not limited to, the following circumstances:

A) the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), in which case the retailer is engaged in the business of selling in the jurisdiction where the property is located at the time of the sale with respect to that sale;

B) the customer take possession of the tangible personal property at a place of business owned or leased by the retailer in the State, in which case the retailer is engaged in business of selling in the jurisdiction where the customer takes possession of the property with respect to that sale.

4) Leases with an Option to Purchase. A lease with a dollar or other nominal option to purchase is considered to be a conditional sale subject to retailers' occupation tax. (See 86 Ill. Adm. Code 130.210(a).) Persons selling tangible personal property to a nominal leassee or bailee for use or consumption under a conditional sales agreement are presumed to be engaged in the business of selling at the physical location of the property at the time the parties enter into the conditional sales agreement.

5) Sales of Coal or Other Minerals. A retail sale by a producer of coal or other mineral mined in Illinois is a sale at retail in the jurisdiction where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this subsection (d)(5), "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.

A) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.

B) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the jurisdiction and transports it over its own line to an out-of-state destination.

C) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the

user, and local retailers' occupation tax on that sale will go to the jurisdiction where the retailer is engaged in the business of selling, as provided in this subsection (d)(5).

~~a) Municipal and Municipality Defined~~
~~When used in this Part, "municipal" and "municipality" mean a city, village, or incorporated town, including an incorporated town that has superseded a civil township.~~

~~b) Mere Solicitation of Orders Not Doing Business~~

~~1) For a seller to incur Non-Home Rule Municipal Retailers' Occupation Tax liability in a given municipality, the sale must be made in the course of the seller's engaging in the retail business within that municipality. In other words, enough of the selling activity must occur within the municipality to justify concluding that the seller is engaged in business within the municipality with respect to that sale.~~

~~2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where the orders were subject to acceptance outside the taxing jurisdiction and title passed outside the jurisdiction, with the goods being shipped from outside the jurisdiction to the purchaser in the jurisdiction, did not constitute engaging in the business of selling within the jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to the municipality as the taxing jurisdiction as much as to the State as the taxing jurisdiction.~~

~~c) Seller's Acceptance of Order~~

~~1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the municipality or by someone who is working out of that place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (g) and (h) of this Section, or if a purchase order that is an acceptance of the seller's complete and~~

~~unconditional offer to sell is received by the seller's place of business within the municipality or by someone working out of that place of business, the seller incurs Non-Home Rule Municipal Retailers' Occupation Tax liability in that municipality if the sale is at retail and the purchaser receives the physical possession of the property in Illinois. The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives the purchase order from the purchaser in the absence of clear proof to the contrary.~~

~~2)~~ ~~If a purchase order is accepted outside this State, but the tangible personal property that is sold is in an inventory of the retailer located within the municipality at the time of its sale (or is subsequently produced in the municipality), then delivered in Illinois to the purchaser, the place where the property is located at the time of the sale (or subsequent production in the municipality) will determine where the seller is engaged in business for Non-Home Rule Municipal Retailers' Occupation Tax purposes with respect to the sale.~~

~~d)~~ ~~Some Considerations That Are Not Controlling~~

~~1)~~ ~~Delivery of the property within the municipality to the purchaser is not necessary for the seller to incur Non-Home Rule Municipal Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intermunicipality commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the municipality for the seller to be regarded as being engaged in the business of selling within the municipality with respect to that sale.~~

~~2)~~ ~~The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether the seller incurs Non-Home Rule Municipal Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in such municipality" in the Non-Home Rule Municipal Retailers' Occupation Tax Act refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made. (See Standard Oil Company vs. Department of~~

~~Finance et al., 383 Ill. 136 (1934), for a similar problem under the Illinois Retailers' Occupation Tax Act.)~~

~~e)~~ ~~Place of Business Where Long Term or Blanket Contracts Are Involved~~
~~Under a long term blanket or master contract that (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Non-Home Rule Municipal Retailers' Occupation Tax purposes with respect to the orders.~~

~~f)~~ ~~Sales Through Vending Machines~~

~~The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when the sales are made.~~

~~g)~~ ~~Sales from Vehicles Carrying Uncommitted Stock of Goods~~
~~The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries happen to be made -- the vehicle carrying the stock of goods for sale being regarded as a portable place of business.~~

~~h)~~ ~~Sales of Coal or Other Minerals For the purpose of determining the tax that is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.~~

~~1)~~ ~~A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.~~

~~2)~~ ~~A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the~~

~~purchasing carrier takes delivery of the property in the municipality and transports it to an out-of-State destination.~~

~~3)~~ ~~A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Non-Home Rule Municipal Retailers' Occupation Tax on that sale will go to the municipality where the retailer is located.~~

(Source: Amended at 38 Ill. Reg. 14413, effective June 25, 2014)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: County Motor Fuel Tax

2) Code Citation: 86 Ill. Adm. Code 695

3) Section Number: 695.115 — Adopted Action: Amendment

4) Statutory Authority: 55 ILCS 5/5-1035.1

5) Effective Date of Rule: June 25, 2014

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 rule, 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 the *Illinois Register*: 38 Ill. Reg. 6666, March 21, 2014

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Various changes were made in response to comments received, as well as additional changes agreed upon with JCAR which were technical and grammatical.

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 an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking provides guidance for retailers to determine what local taxes they incur based on the location where they are "engaged in the business of selling tangible personal property." The Department's prior regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680
fax: 312/814-4344 (fax)

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 695
COUNTY MOTOR FUEL TAX

Section

695.101 Nature of the County Motor Fuel Tax
695.105 Registration and Returns
695.110 Claims to Recover Erroneously Paid Tax
695.115 Jurisdictional Questions
695.120 Incorporation of Retailers' Occupation Tax Regulations by Reference
695.125 Penalties, Interest and Procedures
695.130 Effective Date

AUTHORITY: Implementing the County Motor Fuel Tax Law [55 ILCS 5/5-1035.1] and authorized by Section 2505-95 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-95].

SOURCE: Adopted at 25 Ill. Reg. 4922, effective March 23, 2001; emergency amendment at 38 Ill. Reg. 4164, effective January 22, 2014, for a maximum of 150 days; emergency expired June 20, 2014; amended at 38 Ill. Reg. 14428, effective June 25, 2014.

Section 695.115 Jurisdictional Questions

a) Definitions

When used in this Part, "County" means any one of the counties of DuPage, Kane or McHenry authorized under the County Motor Fuel Tax Law [55 ILCS 5/5-1035.1] to impose a County Motor Fuel Tax.

When used in this Part, "Selling Activities" refers to those activities that comprise "an occupation, the business of which is to sell tangible personal property at retail". "Selling Activities" includes "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943).

b) Retailer's Selling Activities Determine Taxing Jurisdiction

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Occupation of Selling. The County Motor Fuel Tax Law authorizes the county boards of the counties of DuPage, Kane and McHenry to impose a tax on those engaged in the county in the business of selling motor fuel at retail within the county. Because the statute imposes a tax on the retail business of selling, and not on specific sales, the jurisdiction in which the sale takes place is not necessarily the jurisdiction where the County Motor Fuel Tax is owed. Rather, it is the jurisdiction where the seller is engaged in the business of selling that can impose the tax. Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951) ("In short, the tax is imposed on the "occupation" of the retailer and not upon the "sales" as such.") (citing Mahon v. Nudelman, 377 Ill. 331 (1941) and Standard Oil Co. v. Dep't of Finance, 383 Ill. 136 (1943)); see also Young v. Hulman, 39 Ill. 2d 219, 225 (1968) ("the retailers occupational tax . . . imposes liability upon the occupation of selling at retail and not on the sale itself").

2) Composite of Selling Activities. The occupation of selling is comprised of "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 32 (citing Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943)).

3) Multijurisdictional Retailers. Some retailers are engaged in retail operations with selling activities in multiple jurisdictions within the State, or in jurisdictions located in more than one state. The selling activities that comprise these businesses "are as varied as the methods which men select to carry on retail business". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Consequently, "it is… not possible to prescribe by definition which of the many activities must take place in [a jurisdiction] to constitute it an occupation conducted in [that jurisdiction]… [I]t is necessary to determine each case according to the facts which reveal the method by which the business was conducted". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943); see also Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 36.

4) Statutory Intent. It is the intent of the County Motor Fuel Tax that retailers will incur County Motor Fuel Tax in a jurisdiction in Illinois if they "enjoyed the greater part of governmental [services and] protection" in that jurisdiction. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)). By allowing the Counties of DuPage, Kane and McHenry to impose tax on retailers who conduct business in the county, the County Motor Fuel Tax Law links the retailer's tax liability to where it principally enjoys the benefits of government services. Svithiod Singing Club v. McKibbin, 381 Ill. 194, 199 (1942).

5) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(4), a seller incurs County Motor Fuel Tax in the county if its predominant and most important selling activities take place in the county. Isolated or limited business activities within a jurisdiction do not constitute engaging in the business of selling in that jurisdiction when other more significant selling activities occur outside the jurisdiction, and the business predominantly takes advantage of government services provided by other jurisdictions. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 322-23 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraphs 30 through 35.

6) Substance over Form. The Department "may look through the form of a putatively [multijurisdictional] transaction to its substance" to determine where "enough of the business of selling took place" and, thus, where the seller is subject to local retailers' occupation tax. Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); Fed. Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 67 (1968); Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31. For example, the Department will not look to the location of a party that is owned by or has common ownership with a supplier or a purchaser if that party does not, in substance, conduct the selling activities related to the sales.

7) Same Standard Applies to Intrastate and Interstate Retailers. For purposes of determining where a retailer is engaged in the business of selling, it does not matter whether the retailer is engaged in selling activities in taxing jurisdictions in multiple states, or in multiple jurisdictions in this

State. The legal standard is the same. The retailer is engaged in the business of selling in the taxing jurisdiction where its predominant and most important selling activities take place. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 30 ("the location of the business of selling inside or outside the [S]tate controls…"). If a retailer engages in some selling activities in a taxing jurisdiction in this State, but that retailer's predominant selling activities are outside the State, the retailer's obligation to collect and remit taxes on Illinois sales is governed by the Illinois Use Tax Act [35 ILCS 105/2] (defining "retailer maintaining a place of business in the State"); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31 ("some combination of activities within the [S]tate are insufficient for the retail occupation tax to apply") (citing Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951)).

8) Because it is not practicable for retailers to divide County Motor Fuel Tax among competing jurisdictions, a retailer subject to the County Motor Fuel Tax is engaged in the business of selling in only one location in Illinois for each sale.

c) Application of Composite of Selling Activities Test to Retailers Conducting Selling Activities in Multiple Taxing Jurisdictions. Every retailer maintaining a place of business in this State shall determine the taxing jurisdictions in which it is engaged in the business of selling with respect to each of its sales by applying the standards set forth in this subsection (c), except when a retailer is engaged in particular selling activities identified by a statute that specifies the taxing jurisdiction where retailers engaged in those activities shall remit County Motor Fuel Tax. These retailers shall remit retailers' occupation tax as directed by statute, notwithstanding anything in this Part to the contrary.

1) Primary Selling Activities. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions shall consider the following selling activities to determine where they are engaged in the business of selling with respect to each sale. A retailer is engaged in the business of selling in only one location for each sale, but may be engaged in the business of selling in different locations for different sales:

A) Location of sales personnel exercising discretion and authority to solicit customers on behalf of a seller and to bind the seller to the sale;

B) Location where the seller takes action that binds it to the sale, which may be acceptance of purchase orders, submission of offers subject to unilateral acceptance by the buyer, or other actions that bind the seller to the sale;

C) The location where payment is tendered and received, or from which invoices are issued with respect to each sale;

D) Location of inventory if tangible personal property that is sold is in the retailer's inventory at the time of its sale or delivery, and

E) The location of the retailer's headquarters, which is the principal place from which the business of selling tangible personal property is directed or managed. In general, this is the place at which the offices of the principal executives are located. When executive authority is located in multiple jurisdictions, the place of daily operational decision making is the headquarters.

2) A retailer engaging in three or more primary selling activities in one location in the State for a particular sale shall remit the County Motor Fuel Tax imposed by the taxing bodies with authority to impose County Motor Fuel Tax on those engaged in the business of selling in that location for that sale. A retailer engaging in three or more primary selling activities for a particular sale outside the State shall collect and remit tax to the State to the extent required by the Illinois Use Tax Act [35 ILCS 105] for that sale, except as provided in subsection (d).

3) Application of Primary Selling Activities to Common Selling Operations. Retailers engaged in selling operations with a single location where the primary selling activities predominate constitute the vast majority of retailers in the State. Subsections (c)(3)(A) through (c)(3)(C) apply the primary selling activities to certain common selling operations and identify the location where the Department will presume the seller is engaged in the business of selling with respect to each sale.

A) Over the Counter Sales. If a purchaser is present at a place of business owned or leased by a retailer and there enters into an agreement with the retailer's sales personnel to purchase tangible personal property, and makes payment for that property at the same place of business, then the County Motor Fuel Tax for that sale is incurred at the retailer's place of business where the sale occurred regardless of whether the purchaser takes immediate possession of the tangible personal property, or the retailer delivers or arranges for the property to be delivered to the purchaser.

B) Sales through Vending Machines. A retailer is engaged in the business of selling food, beverages or other tangible personal property through a vending machine at the location where the vending machine is located when the sale is made if:

i) the vending machine is a device operated by coin, currency, credit card, token, coupon or similar device that dispenses food, beverage or other tangible personal property;

ii) the food, beverage or other tangible personal property is contained within the vending machine and dispensed from the vending machine; and

iii) the purchaser takes possession of the purchased food, beverage or other tangible personal property immediately.

C) Sales from Vehicles Carrying Uncommitted Stock of Goods. The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously completed sales, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries actually are made. The vehicle carrying the stock of goods for sale is regarded as a portable place of business.

4) Secondary Selling Activities. If the primary selling activities listed in subsection (c)(1) occur in multiple jurisdictions, but no individual jurisdiction has more than two primary selling activities, the following additional selling activities shall be considered to determine the jurisdiction in which the retailer is engaged in the business of selling.

A) Location where marketing and solicitation occur;

B) Location where the seller engages in activities necessary to procure goods for sale;

C) Location of the retailer's officers, executives or employees with authority to set prices or determine other terms of sale if determinations are made in a location different than that identified in subsection (c)(1)(A);

D) Location where purchase orders or other contractual documents are received when purchase orders are accepted, processed, or fulfilled in a location or locations different from where they are received;

E) Location where title passes; and

F) Location where the retailer displays goods to prospective customers, such as a showroom.

5) Except as provided in subsection (d), a retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) is engaged in the business of selling in the jurisdiction where its inventory is located under subsection (c)(1)(D), or where its headquarters is located under subsection (c)(1)(E), whichever jurisdiction is the location where more selling activities occur, considering both primary and secondary selling activities.

6) A retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) or (c)(5) is presumed to be engaged in the business of selling at the location of its headquarters absent clear and convincing evidence to the contrary.

d) Presumptions Applying to Certain Selling Operations

1) For certain classes of retailers with unique, complicated or widely dispersed selling activities, determining appropriate tax situs in every situation presents substantial administrative difficulties for both retailers and tax enforcement personnel. Subsections (d)(2) through (d)(5) provide

administrative "short cuts" that balance the administrative difficulties presented by certain selling operations against the need for accurate tax assessment.

2) In-State Inventory/Out of State Selling Activity. If a retailer's selling activities take place in taxing jurisdictions outside this State, except that the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), then delivered in Illinois to the purchaser, the jurisdiction where the property is located at the time of the sale or when it is subsequently produced by the retailer will determine where the retailer is engaged in business with respect to that sale. Chemed Corp., Inc. v. Department of Revenue, 186 Ill. App. 3d 402 (4th Dist. 1989).

~~a) County Defined~~
~~When used in this Part, "county" means any one of the counties of DuPage, Kane or McHenry authorized under the County Motor Fuel Tax Law [55 ILCS 5/5-1035.1] to impose a County Motor Fuel Tax.~~

~~b) Mere Solicitation of Orders Not Doing Business~~

~~1) For a seller to incur County Motor Fuel Tax liability in a given county, the sale must be made in the course of such seller's engaging in the retail business within such county. In other words, enough of the selling activity must occur within the county to justify concluding that the seller is engaged in business within the county with respect to that sale.~~

~~2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to the county as the taxing jurisdiction as much as to the State as the taxing jurisdiction.~~

~~c) Seller's Acceptance of Order~~

~~1)~~ ~~Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the county or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (g) and (h) of this Section, or if a purchase order that is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the county or by someone working out of such place of business, the seller incurs County Motor Fuel Tax liability in that county if the sale is at retail and the purchaser receives the physical possession of the motor fuel in Illinois. The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.~~

~~2)~~ ~~If a purchase order is accepted outside the county, but the motor fuel that is sold is in an inventory of the retailer located within the county at the time of its sale (or is subsequently produced in the county), then delivered in Illinois to the purchaser, the place where the motor fuel is located at the time of the sale (or subsequent production in the county) will determine where the seller is engaged in business for County Motor Fuel Tax purposes with respect to such sale.~~

~~d)~~ ~~Some Considerations that are Not Controlling~~

~~1)~~ ~~Delivery of the motor fuel within the county to the purchaser is not necessary for the seller to incur County Motor Fuel Tax liability. It is sufficient that the purchaser receives the physical possession of the motor fuel somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intercounty commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the county for the seller to be regarded as being engaged in the business of selling within such county with respect to that sale.~~

~~2) The point at which the motor fuel will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether the seller incurs County Motor Fuel Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the county" in the County Motor Fuel Tax Law refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made. (See Standard Oil Company vs. Department of Finance et al., 383 Ill. 136 (1943), for a similar problem under the Illinois Retailers' Occupation Tax Act.)~~

~~e) Place of Business Where Long Term or Blanket Contracts are Involved~~
~~Under a long term blanket or master contract that (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for County Motor Fuel Tax purposes with respect to such orders.~~

~~f) Sales from Vehicles Carrying Uncommitted Stock of Goods~~
~~The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which motor fuel is being carried for sale is the place at which such sales and deliveries happen to be made -- the vehicle carrying such motor fuel.~~

(Source: Amended at 38 Ill. Reg. 14428, effective June 25, 2014)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: State Employees Group Insurance Program Retiree Premium Contributions

2) Code Citation: 80 Ill. Adm. Code 2200

3) Section Numbers: 2200.520 — Emergency Action: Amendment

4) Statutory Authority: Authorized by the State Employees Group Insurance Act of 1971 [5 ILCS 375]

5) Effective Date of Rules: July 1, 2014

6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: This rulemaking will expire upon the expiration of the 150-day period, or upon adoption of the permanent rule, whichever comes first.

7) Date Filed with the Index Department: June 27, 2014

8) A copy of the emergency rulemaking, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: This amendment to Section 2200.520 will alter the health insurance premium contributions to be paid by retired employees, annuitants, and survivors. Section 15(a) of the State Employees Group Insurance Act of 1971 ("Act") [5 ILCS 375/15(a)] mandates that the Department of Central Management Services file emergency rules to amend premium contributions for the program of health benefits. The Act states "To facilitate the maintenance of the program of group health benefits provided to annuitants, survivors, and retired employees under this Act, rules adopted by the Director to alter the contributions to be paid by the State, annuitants, survivors, retired employees, or any combination of those entities, for that program of group health benefits, shall be adopted as emergency rules in accordance with Section 5-45 of the Illinois Administrative Procedure Act."

10) A Complete Description of the Subjects and Issues Involved: Section 2200.520 is being amended to alter the percentage of annuity to be paid by retired employees, annuitants, and survivors. The proposed amendment will increase the percentage of annuity as follows: (1) for retired employees, annuitants, and survivors with primary coverage under the State program, the percentage of annuity will increase from 2% of the total annual

annuity to 4% of the total annual annuity; (2) for retired employees, annuitants, and survivors with primary coverage under Medicare (or who would have primary coverage under Medicare except for his/her inability to contribute to the Medicare system while actively working), the percentage of annuity will increase from 1% of the total annual annuity to 2% of the total annual annuity.

The proposed amendments are in accordance with Section 10(a-8.5) of the Act, which provides that the Director of CMS shall annually determine the amount of contributions toward the program of health benefits.

11) Are there any proposed amendment to this Part pending? No

12) Statement of Statewide Policy Objectives: This rulemaking will not create a State mandate for units of local government.

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

Tyson Rothermich
Department of Central Management Services
801 South 7th Street, Floor 6-M
Springfield IL 62703

217/557-0600
fax: 217/557-8331
tyson.rothermich@illinois.gov

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE F: EMPLOYEE BENEFITS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 2200
STATE EMPLOYEES GROUP INSURANCE PROGRAM
RETIREE PREMIUM CONTRIBUTIONS

SUBPART A: PURPOSE AND DEFINITIONS

Section
2200.110 Governing Authority
2200.120 Purpose
2200.130 Definitions
2200.140 Records and Certifications
2200.150 Severability

SUBPART B: RESPONSIBILITIES OF THE DEPARTMENT

Section
2200.210 CMS Responsibility
2200.220 Determining Benefits
2200.230 Provision for Benefits
2200.240 Health Insurance Portability and Accountability Act (HIPAA)
2200.250 Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA)

SUBPART C: RESPONSIBILITIES OF THE APPROPRIATE RETIREMENT SYSTEM

Section
2200.310 Annuity
2200.320 Enrollments and Terminations
2200.330 Premium Collection and Payment

SUBPART D: VALUE OF ANNUITY

Section
2200.410 Calculation

SUBPART E: PREMIUMS

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENT

Section
2200.510 Calculation
2200.520 Percentage of Annuity
EMERGENCY
2200.530 Percentage of Cost
2200.540 Dependent Premiums
2200.550 Optional Coverage Premiums
2200.560 Exempt from Premiums

AUTHORITY: Implementing and authorized by the State Employees Group Insurance Act of 1971 [5 ILCS 375].

SOURCE: Adopted by emergency rulemaking at 37 Ill. Reg. 10725, effective June 28, 2013, for a maximum of 150 days; adopted at 37 Ill. Reg. 18244, effective October 31, 2013; emergency amendment at 38 Ill. Reg. 14440, effective July 1, 2014, for a maximum of 150 days.

SUBPART E: PREMIUMS

Section 2200.520 Percentage of Annuity
EMERGENCY

CMS shall calculate the premiums due under this Part as follows:

a) For each Retired Employee, Annuitant or Survivor with primary coverage under the State program, the premium shall be equal to 4~~2~~% of the total annual annuity received by the Retired Employee, Annuitant or Survivor from any and all of the five State Retirement Systems;

b) For each Retired Employee, Annuitant or Survivor with primary coverage under the federal Medicare health insurance program (Title XVIII of the Social Security Act, as added by Public Law 89-97), the premium shall be equal to 2~~1~~% of the total annual annuity received by the Retired Employee, Annuitant or Survivor from any and all of the five State Retirement Systems;

c) For each Retired Employee, Annuitant or Survivor age 65 or older whose primary coverage would otherwise be coverage under the federal Medicare health insurance program, except for his or her inability to contribute to Medicare while actively working, the premium shall be equal to 2~~1~~% of the total annual annuity

received by the Retired Employee, Annuitant or Survivor from any and all of the five State Retirement Systems.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. 14440, effective , July 1, 2014, for a maximum of 150 days)

STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: School Food Service

2) Code Citation: 23 Ill. Adm. Code 305

3)

Section Numbers:	Emergency Action:
305.5	Amend
305.15	Amend

4) Statutory Authority: 105 ILCS 125 and the Richard B. Russell National School Lunch Act (42 USC 1751 et seq.) and Child Nutrition Act of 1966 (42 USC 1771 et seq.)

5) Effective Date of Rules: June 25, 2014

6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: This rule will be in force until replaced by regular rulemaking or until the end of the 150-day period, whichever occurs sooner.

7) Date Filed with the Index Department: June 25, 2014

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Reason for Emergency: The proposed amendments are being presented as emergency amendments, since the public interest and welfare is best served by having the rules in place by July 1, 2014, when the federal Smart Snack standards must be implemented by schools participating in the National School Lunch Program and the School Breakfast Program. The agency was unable to move forward more expeditiously with a rulemaking while staff were awaiting a response to a proposed policy submitted to the U.S. Department of Agriculture in January 2014 regarding the sale of food and beverages not meeting the Smart Snack standards to students on the school campus during the school day. Given that USDA's rejection of the State Board's initial proposal did not occur until late April, ordinary rulemaking will not be in place by the start of the school year. Many participating schools and their student and parent organizations rely heavily on food sales through fundraisers and vending machines. These revenues are used to increase the quality of educational opportunities through the enhancement of school programs and activities. A good number of these fundraisers occur at the beginning of the school year in the fall. Until rules are promulgated, participating schools and their organizations would be unable to plan and sponsor any fundraisers, potentially resulting in a significant loss of revenue.

STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY AMENDMENTS

10) A Complete Description of the Subjects and Issues Involved: During its January 2014 meeting, the State Board of Education discussed options available to the agency to comply with federal regulations implementing the Richard B. Russell National School Lunch Act (42 USC 1751 et seq.) and Child Nutrition Act of 1966 (42 USC 1771 et seq.), as amended by the Healthy, Hunger-Free Kids Act of 2010 (P.L. 111-296). Those regulations, promulgated by the USDA, require that starting July 1, 2014, all schools participating in the National School Lunch Program and School Breakfast Program comply with federally established nutrition standards for food and beverages sold on the school campus during the school day.

Referred to as the "Smart Snack" rules, these nutrition standards also apply to any food and beverages sold through school-sponsored fundraisers. Under the federal regulations, participating schools either may sell foods and beverages that meet the standards to students on the school campus during the school day or may sell food and beverages not meeting the standards to students "during non-school hours, (on) weekends or (through) off-campus fundraising events, such as concessions during sporting events and school plays".

The federal regulations further authorize participating schools to sponsor fundraisers that offer food or beverages not meeting the standards (i.e., "exempted fundraising days") if their respective state education agency (SEA) has set a limit that ensures these types of fundraisers are "infrequent". While USDA did not define "infrequent" in its rules, it did state that any established limit should be such that it would not "impair the effectiveness of the Smart Snack requirements". In the event that a SEA fails or declines to set a limit, then participating schools in that state are prohibited from sponsoring exempted fundraising days.

When considering a limit for exempted fundraising days earlier this year, Nutrition and Wellness Program staff conducted an initial consultation with 500 participating schools. Based on the results of that consultation and direction staff received from the State Board of Education in January, staff initially proposed that participating schools be allowed to set their own limits for exempted fundraising days via a school-board adopted policy. That initial recommendation was shared with USDA for its review and approval; however, USDA staff in late April concluded that a state "may not delegate the authority to specify exempt fundraiser frequency to local education agencies or to school food authorities".

STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY AMENDMENTS

In response to USDA's direction, staff now are proposing limits for exempted fundraising days that would phase in the impact of the Smart Snack standards over the next several school years, culminating in school year 2016-17 with a prohibition for exempted fundraising days for participating schools with grades 8 and below and a limit of nine exempted fundraising days for participating schools with grades 9 through 12.

11) Are there any proposed amendments to this Part pending? No

12) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

13) Information and questions regarding this adopted rule should be directed to:

Mark Haller, Division Administrator
Division of Nutrition and Wellness Programs
Illinois State Board of Education
100 North First Street, W-270
Springfield, Illinois 62777

217/782-2491

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

STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER i: FOOD PROGRAMS

PART 305
SCHOOL FOOD SERVICE

Section
305.5 Definitions
EMERGENCY
305.10 Illinois Free Lunch and Breakfast Programs
305.15 Sale of Competitive Food~~Foods and Beverages~~ in Participating Schools
EMERGENCY
305.20 Student Workers
305.30 Government-Donated Commodities

AUTHORITY: Implementing and authorized by the Richard B. Russell National School Lunch Act (42 USC 1751 et seq.), Child Nutrition Act of 1966 (42 USC 1771 et seq.), and the School Breakfast and Lunch Program Act [105 ILCS 125].

SOURCE: Peremptory rule adopted at 2 Ill. Reg. 45, p. 83, effective October 25, 1978; codified at 7 Ill. Reg. 14743; amended at 30 Ill. Reg. 17475, effective October 17, 2006; amended at 32 Ill. Reg. 17603, effective October 23, 2008; emergency amendment at 38 Ill. Reg. 14445, effective June 25, 2014, for a maximum of 150 days.

Section 305.5 Definitions
EMERGENCY

"Competitive food" means all food and beverages that are offered by any person, organization or entity for sale to students on the school campus during the school day, other than meals reimbursed under programs authorized by the Richard B. Russell National School Lunch Act (42 USC 1751 et seq.) and the Child Nutrition Act of 1966 (42 USC 1771 et seq.), as amended by the Healthy, Hunger-Free Kids Act of 2010 (P.L. 111-296).

"Competitive food standards" means the nutrition standards for competitive food promulgated by the U.S. Department of Agriculture. (See 7 CFR 210.11 (2013).)

"Eligible student" means a student eligible for free or reduced price meals under the School Breakfast Program authorized under the Child Nutrition Act of 1966~~(42 USC 1771 et seq.)~~ and/or the National School Lunch Program ~~(42 USC 1751 et seq.)~~ in accordance with federal regulations found at 7 CFR 245.3 (2014)~~(2008)~~.

"Exempted fundraising day" means a school day on which food and/or beverages not meeting competitive food standards may be sold to students on the school campus.

"Food service area" means any area on school premises where reimbursable meals are served and/or eaten.

"Meal period" means the period of time during which breakfast or lunch is regularly served and the time scheduled for the students to eat the meal.

"Participating school" means any public or nonpublic school that participates in the School Breakfast Program or the National School Lunch Program.

"Reimbursable meal" means a meal meeting the definition of a "federal reimbursable meal", as set forth in regulations governing the School Breakfast Program (7 CFR 220.8 (2014)~~(2008)~~) or the National School Lunch Program (7 CFR 210.10 (2014)~~(2008)~~).

"School campus" means all areas of the property under the jurisdiction of the participating school that are accessible to students during the school day.

"School day" means the period of time from the midnight before the start of the official school day until 30 minutes after the end of the official school day.

(Source: Amended by emergency rulemaking at 38 Ill. Reg. 14445, effective June 25, 2014, for a maximum of 150 days)

Section 305.15 Sale of Competitive Food~~Foods and Beverages~~ in Participating Schools EMERGENCY

a) Beginning July 1, 2014, each~~Each~~ participating school shall adhere to the competitive food standards for the sale of competitive food sold to students on the school campus of the participating school during the school day, except as

permitted under subsection (b). (See 7 CFR 210.11 (2013).)~~the following requirements for the sale of foods and beverages to students in grade 8 or below before school and during the regular school day.~~

~~1) Beverages sold to students shall include only:~~

~~A) flavored or plain whole, reduced fat (2 percent), low-fat (1 percent), or nonfat fluid milk that meets State and local standards for pasteurized fluid milk;~~

~~B) reduced fat and enriched alternative dairy beverages (i.e., rice, nut, or soy milk, or any other alternative dairy beverage approved by the U.S. Department of Agriculture (USDA));~~

~~C) fruit and vegetable drinks containing 50 percent or more fruit or vegetable juice;~~

~~D) water (non-flavored, non-sweetened, and non-carbonated);~~

~~E) fruit smoothie (yogurt or ice based) that contains less than 400 calories and no added sugars, and is made from fresh or frozen fruit or fruit drinks that contain at least 50 percent fruit juice; and~~

~~F) any beverage exempted from the USDA's list of Foods of Minimal Nutritional Value (see 7 CFR 210.11(a)(2) and 220.2(i-1) (2008)). The State Board of Education shall notify participating schools of these exemptions in January of each year; updates to the exemption list shall be provided within 10 calendar days after the State Board receives notification of any updates from USDA.~~

~~2) Food sold to students outside of food service areas or within food service areas other than during meal periods shall include only:~~

~~A) nuts, seeds, nut butters, eggs, cheese packaged for individual sale, fruits or non-fried vegetables, or low-fat yogurt products; or~~

~~B) any food item whose:~~

~~i) total calories from fat do not exceed 35 percent;~~

~~ii) total calories from saturated fat do not exceed 10 percent;~~

~~iii) total amount of sugar by weight does not exceed 35 percent; and~~

~~iv) calories do not exceed 200.~~

b) A participating school may annually have no more than the number of exempted fundraising days authorized in this subsection (b). ~~None of the requirements of subsection (a) of this Section shall apply to any food or beverage item sold to students as part of a reimbursable meal or to foods sold within food service areas during meal periods.~~

1) For school year 2014-15, the number of exempted fundraising days shall be limited to:

A) No more than nine exempted fundraising days for participating schools with grades 8 and below; and

B) No more than 36 exempted fundraising days for participating schools with grades 9 through 12.

2) For school year 2015-16, the number of exempted fundraising days shall be limited to:

A) No more than four exempted fundraising days for participating schools with grades 8 and below; and

B) No more than 18 exempted fundraising days for participating schools with grades 9 through 12.

3) For school year 2016-17 and after, exempted fundraising days shall be:

A) prohibited in participating schools with grades 8 and below; and

B) limited to no more than nine exempted fundraising days for participating schools with grades 9 through 12.

4) The provisions of this subsection (b) do not limit the number of foods and beverages that may be sold to students on an exempted fundraising day nor do they limit the number of organizations or clubs to which a participating school may grant permission to offer competitive food for sale to students on an exempted fundraising day.

c) In order to have exempted fundraising days authorized under subsection (b), a participating school shall: ~~None of the requirements of subsection (a) of this Section shall apply to any food or beverage item sold to a student who presents a written recommendation for that food or beverage item signed by a physician licensed under the Medical Practice Act of 1987 [225 ILCS 60] to practice medicine in all of its branches.~~

1) adopt a policy stating the procedures to be used to request an exempted fundraising day, and the process and criteria to review and approve or deny a request;

2) include the fundraising policy adopted under subsection (c)(1) in the participating school's local school wellness policy established in accordance with 7 CFR 210.30 (2014); and

3) maintain for no less than three years a listing of the exempted fundraising days held; these records shall be retained in accordance with the requirements of 7 CFR 210.9(b)(17) (2013).

d) ~~If a participating school serves students in both grades 8 and below and students in grades 9 and above, then the participating school shall ensure that food and beverage sales to students in grades 8 and below meet the requirements of this Section.e)~~All revenue from the sale of any food or beverage meeting the competitive food standards sold ~~in competition with the School Breakfast Program or National School Lunch Program~~ to students in the food service areas during the meal period shall accrue to the nonprofit school lunch program account.

~~f) Any participating schools in which classes of grades 5 and below are operating shall prohibit the sale to students of all confections, candy and potato chips during meal periods.~~

STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY AMENDMENTS

(Source: Amended by emergency rulemaking at 38 Ill. Reg. 14445, effective June 25, 2014, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Public Information, Rulemaking and Organization (2 Ill. Adm. Code 750)

1) Rulemaking:

A) Description: The Department anticipates rulemaking affecting the following:

Amend the authority of the Part;

Amend to reflect changes from the Illinois Revised Statutes to the Illinois Compiled Statutes; and

Amend the rules to reflect other minor administrative changes.

B) Statutory Authority: 20 ILCS 5/16

C) Scheduled meeting/hearing dates: On or before January 1, 2015

D) Date agency anticipates First Notice: Not Yet Scheduled

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Benno Weisberg, Deputy General Counsel
Bureau of Financial and Administrative Services
100 W. Randolph St., Suite 4-500
Chicago IL 60601

Telephone: 312-814/0933
Email: benno.weisberg@illinois.gov
Fax: 312/814-0911

G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues.

b) Part(s) (Heading and Code Citation): Access to Information (2 Ill. Adm. Code 751)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2014 REGULATORY AGENDA

1) Rulemaking:

A) Description: The Department anticipates rulemaking affecting the following:

Amend to reflect the latest modifications to the Freedom of Information Act.

B) Statutory Authority: 5 ILCS 140

C) Scheduled meeting/hearing dates: On or before January 1, 2015

D) Date agency anticipates First Notice: Not Yet Scheduled

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Benno Weisberg, Deputy General Counsel
Bureau of Financial and Administrative Services
100 W. Randolph St., Suite 4-500
Chicago IL 60601

Telephone: 312/814-0933
Email: benno.weisberg@illinois.gov
Fax: 312/814-0911

G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues.

c) Part(s) (Heading and Code Citation): Acquisition, Management and Disposal of Real Property (44 Ill. Adm. Code 5000)

1) Rulemaking:

A) Description: The Department anticipates rulemaking affecting the following:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2014 REGULATORY AGENDA

Amend to reflect changes required pursuant to PA 96-795 and the proposed General Services Standard Procurement Rules, as well as general review and updating.

B) Statutory Authority: 20 ILCS 5/5-675, 20 ILCS 405/405-215, 405-300, 405-305, 405-310, 405-315, and 30 ILCS 500

C) Scheduled meeting/hearing dates: On or before January 1, 2015

D) Date agency anticipates First Notice: Not Yet Scheduled

E) Effect on small businesses, small municipalities or not for profit corporations: The proposed changes are to update the rules to reflect current policy. Based on this, we believe that the affect on the above-listed entities, if any, will be minimal.

F) Agency contact person for information:

Dana O'Banion, Deputy General Counsel
Bureau of Property Management
100 W. Randolph St., Suite 4-500
Chicago IL 60601

Telephone: 312/814-0934
Email: dana.obanion@illinois.gov
Fax: 312/814-0911

G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues.

d) Part(s) (Heading and Code Citations): Classification and Pay (80 Ill. Adm. Code 301)

1) Rulemaking:

A) Description: The Department anticipates rulemaking affecting the following sections:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2014 REGULATORY AGENDA

Amend to reflect a change from the Illinois Revised Statutes to the Illinois Compiled Statutes, as well as other administrative changes; and

Amend Section 301.180 to reflect changes pursuant to PA 94-793.

B) Statutory Authority: 20 ILCS 415/1 et seq.

C) Scheduled meeting/hearing dates: On or before January 1, 2015

D) Date agency anticipates First Notice: Not Yet Scheduled

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jeff Shuck, Deputy General Counsel
Bureau of Personnel
720 Stratton Office Building
Springfield IL 62706

Telephone: 217/782-9669
Email: jeff.shuck@illinois.gov
Fax: 217/558-2697

G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues.

e) Part(s) (Heading and Code Citations): Merit and Fitness (80 Ill. Adm. Code 302)

1) Rulemaking:

A) Description: The Department anticipates rulemaking affecting the following sections:

Amend Section 302.90 to address the process for filling of multiple vacancies by simultaneous resort to more than a single method described in Rule 302.90;

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2014 REGULATORY AGENDA

Amend Sections 302.90 and 302.820 to address the process for appointing employees to term appointments, to address inconsistencies between these two sections, and to address the differences between the 4 year term appointments historically addressed by these sections and 5 year term appointments;

Amend Section 302.91 to more fully describe the procedures and requirements of the Alternative Employment Program;

Amend Section 302.150 to provide for temporary appointment of retired State employees to work no more than 75 days within a twelve-month period, and further amend Section 302.150 to provide for Provisional Appointment Pending Partial Exemption under Personnel Code Section 4d;

Amend Section 302.550 to clarify that employees who accept a voluntary reduction will be entitled to remain on the appropriate reemployment list;

Amend Section 302.690 to clarify an employee's responsibilities upon being placed on administrative leave, for disciplinary action, or charges of discharge;

Amend Section 302.790 to clarify the prohibition on discrimination and retaliation;

Amend Sections 302.800 & 302.810 to reflect changes from the Illinois Revised Statutes to the Illinois Compiled Statutes; and

B) Statutory Authority: 20 ILCS 415/8, 8b.10, 8b.18, 8b.19, 8c.6, 8e and PA 96-795

C) Scheduled meeting/hearing dates: On or before January 1, 2015

D) Date agency anticipates First Notice: Not Yet Scheduled

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2014 REGULATORY AGENDA

Jeff Shuck, Deputy General Counsel
Bureau of Personnel
720 Stratton Office Building
Springfield IL 62706

Telephone: 217/782-9669
Email: jeff.shuck@illinois.gov
Fax: 217/558-2697

G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues.

f) Part(s) (Heading and Code Citations): Conditions of Employment (80 Ill. Adm. Code 303)

1) Rulemaking:

A) Description: The Department anticipates rulemaking affecting the following sections:

Amend Sections 303.90 & 303.130 to reflect compliance with the Illinois Religious Freedom Protection and Civil Union Act;

Amend the current Rules relating to Vacation Time and Personal Time, including at least Sections 303.125 and 303.290, to clarify limitations on use and prevent misuse of such time by employees pending their retirement from State employment;

Amend Section 303.145 to clarify the limitations on temporary disability leave, establish timeframe limitations for temporary disability leave, clarify the process for agencies to require independent medical examinations of employees, and to address the relationship between temporary disability leave and the Alternative Employment Program;

Amend Section 303.170 to reflect changes to 5 ILCS 325 and to clarify the use of USERRA leave;

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2014 REGULATORY AGENDA

Amend Section 303.190 to clarify which employees receive paid time off for holidays;

Amend Section 303.270 to clarify that employees on Military Leave shall not lose accrued vacation time, and will be afforded a reasonable amount of time upon their return to use it;

Amend Section 303.295 to reflect changes from the Illinois Revised Statutes to the Illinois Compiled Statutes;

Amend Section 303.380 to change reference from 'Separation' to 'Resignation';

Amend Section 303.385 to clarify the reinstatement of vacation and sick time for an employee who returns to employment more than 30 days, but less than 5 years, after termination of previous employment;

Add a new Section to clarify the use of benefit time on or near an employee's separation date;

Add a new Section to provide for Victims' Economic Security & Safety Act Leave pursuant to 820 ILCS 180/1.

B) Statutory Authority: 20 ILCS 415/8, 8c, 8c.6, 8e and 9(14)

C) Scheduled meeting/hearing dates: On or before January 1, 2015

D) Date agency anticipates First Notice: Not Yet Scheduled

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jeff Shuck, Deputy General Counsel
Bureau of Personnel
720 Stratton Office Building
Springfield IL 62706

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2014 REGULATORY AGENDA

Telephone: 217/782-9669
Email: jeff.shuck@illinois.gov
Fax: 217/558-2697

G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues.

g) Part(s) (Heading and Code Citations): General Provisions (80 Ill. Adm. Code 304)

1) Rulemaking:

A) Description: The Department anticipates rulemaking affecting the following sections:

Amend Section 304.30 to clarify that it is the obligation of the employee to notify their employer of current address and phone number;

Amend Section 304.40 to clarify what constitutes personal history and make explicit the historic interpretation that all Rutan-related documentation is confidential & falls under the definition of examination materials; and

Amend the authority of the Part and Section 304.70 to reflect changes from the Illinois Revised Statutes to the Illinois Compiled Statutes.

B) Statutory Authority: 20 ILCS 415/8, 8e, and 9(14)

C) Scheduled meeting/hearing dates: On or before January 1, 2015

D) Date agency anticipates First Notice: Not Yet Scheduled

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jeff Shuck, Deputy General Counsel
Bureau of Personnel
720 Stratton Office Building

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2014 REGULATORY AGENDA

Springfield IL 62706

Telephone: 217/782-9669
Email: jeff.shuck@illinois.gov
Fax: 217/558-2697

G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues.

h) Part(s) (Heading and Code Citations): Pay Plan (80 Ill. Adm. Code 310)

1) Rulemaking: Proposed, Peremptory or Emergency Amendments.

A) Description: Projected amendments to the Department of Central Management Services' Pay Plan include the following revisions to the following sections:

In the Section 310.Appendix A Negotiated Rates of Pay tables, out dated rate tables are removed and the contracted rates, if bargaining unit agreements are signed before December 1, 2014, are included.

In various sections, classifications are added or removed based on the Civil-Service-Commission-approved classification establishment, revision or removal. Positions are also removed based on decisions issued by the Illinois Labor Relations Board.

In various sections, changes are to the format of the Pay Plan to reduce duplicate information and provide easier access to information contained within the Pay Plan.

B) Statutory Authority: Authorized by Sections 8, 8a and 9(7) of the Personnel Code [20 ILCS 415/8, 20 ILCS 415/8a and 20 ILCS 415/9(7)], subsection (d) of Section 1-5 of the Illinois Administrative Procedure Act [5 ILCS 100/1-5(d)] and by Sections 4, 6, 15 and 21 of the Illinois Public Labor Relations Act [5 ILCS 315/4, 5 ILCS 315/6, 5 ILCS 315/15 and 5 ILCS 315/21]

C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled. Interested persons may send specific criticisms, suggestions, and/or

comments to the Department of Central Management Services in writing during the First Notice Period of the Pay Plan amendments.

D) Date agency anticipates First Notice: Peremptory amendments based on new memoranda of understanding or other bargaining unit agreements will be filed as negotiations are completed.

Peremptory amendments based on new, revised, or abolished classifications represented by the bargaining units, and proposed amendments based on new, revised, or abolished classifications not represented by the bargaining units, will be filed as the classification actions are approved by the Civil Service Commission.

Proposed or emergency amendments to remove positions based on documents issued by the Illinois Labor Relations Board will be filed after the date the documents are issued.

Amendments to sections to add clarity will be filed as the Governor approves changes.

E) Effect on small businesses, small municipalities or not for profit corporations: These amendments to the Pay Plan pertain only to state employees subject to the Personnel Code under the Governor. They do not set out guidelines that are to be followed by local or other jurisdictional bodies within the State.

F) Agency contact person for information:

Mr. Jason Doggett, Manager
Compensation Section
Division of Technical Services and Agency Training and Development
Bureau of Personnel
Department of Central Management Services
504 William G. Stratton Building
Springfield IL 62706

Telephone: 217/782-7964
Email: CMS.PayPlan@Illinois.gov

Fax: 217/524-4570

G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues regarding state employee salary rates and policies.

i) Part(s) (Heading and Code Citations): Position Classification Plan (80 Ill. Adm. Code 320)

1) Rulemaking:

A) Description: The Department anticipates rulemaking affecting the following sections:

Amend the authority of the Part and Section 320.10 to reflect changes from the Illinois Revised Statutes to the Illinois Compiled Statutes; and

Amend Sections 320.80, 320.90 & 320.100 to reflect the current language referencing 80 Ill. Adm. Code 301.

B) Statutory Authority: 20 ILCS 415

C) Scheduled meeting/hearing dates: On or before January 1, 2015

D) Date agency anticipates First Notice: Not Yet Scheduled

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jeff Shuck, Deputy General Counsel
Bureau of Personnel
720 Stratton Office Building
Springfield IL 62706

Telephone: 217/782-9669
Email: jeff.shuck@illinois.gov
Fax: 217/558-2697

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues.

j) Part(s) (Heading and Code Citations): Back Wage Claim Administration (80 Ill. Adm. Code 331)

1) Rulemaking:

A) Description: The Department anticipates rulemaking affecting the following sections:

Amend the authority of the Part;

Amend Section 331.7 to clarify a settlement by administrative trial;

Amend Section 331.40 to adjust formatting; and

Amend Sections 331.90 & 331.100 to reflect changes from the Illinois Revised Statutes to the Illinois Compiled Statutes.

B) Statutory Authority: 20 ILCS 405/405-105

C) Scheduled meeting/hearing dates: On or before January 1, 2015

D) Date agency anticipates First Notice: Not Yet Scheduled

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Jeff Shuck, Deputy General Counsel
Bureau of Personnel
720 Stratton Office Building
Springfield IL 62706

Telephone: 217/782-9669
Email: jeff.shuck@illinois.gov

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2014 REGULATORY AGENDA

Fax: 217/558-2697

G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues.

k) Part(s) (Heading and Code Citation): State of Illinois Premium Payment Plan (80 Ill. Adm. Code 2100)

1) Rulemaking:

A) Description: The Department anticipates rulemaking affecting the following:

Amend the Authority of the Part, Sections 2100.40 & 2100.410 to reflect changes from the Illinois Revised Statutes to the Illinois Compiled Statutes; and

Amend Section 2100.240 to update a form number reference.

B) Statutory Authority: Implementing "AN ACT in relation to State employee benefits and amending Acts therein named" (PA 84-167, effective August 16, 1985), Section 125 of the Internal Revenue Code (26 U.S.C. 125) and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625]

C) Scheduled meeting/hearing dates: On or before January 1, 2015

D) Date agency anticipates First Notice: Not Yet Scheduled

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Tyson Rothermich, Deputy General Counsel
Bureau of Benefits
801 S. 7th Street, 6 Main
PO Box 19208
Springfield IL 62794-9208

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2014 REGULATORY AGENDA

Telephone: 217/557-0600

D) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues.

l) Part(s) (Heading and Code Citation): State Employees Group Insurance Program (80 Ill. Adm. Code 2210)

1) Rulemaking:

A) Description: The Department anticipates rulemaking affecting the following:

Create rules outlining the functions and requirements of the State Employees Group Insurance Program.

B) Statutory Authority: 5 ILCS 375

C) Scheduled meeting/hearing dates: On or before January 1, 2015

D) Date agency anticipates First Notice: Not Yet Scheduled

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Tyson Rothermich, Deputy General Counsel
Bureau of Benefits
801 S. 7th Street, 6 Main
PO Box 19208
Springfield IL 62794-9208

Telephone: 217/557-0600

G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues.

m) Part(s) (Heading and Code Citation): Day Care (89 Ill. Adm. Code 1300)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2014 REGULATORY AGENDA

1) Rulemaking:

A) Description: The Department anticipates rulemaking affecting the following:

Changes are necessary to the Rules relating to the implementation of the Sate Agencies Employees Child Care Services Act to comply with legislative changes pursuant to PA 96-0795 and PA 97-0895 to correctly reflect the roles of the Department of Central Management Services and the Chief Purchasing Officer – General Services. Also, technical changes made to update the references to the correct title of the procurement statute - Illinois Procurement Code, rather than the Illinois Purchasing Act.

B) Statutory Authority: 20 ILCS 405/405-305 and 405-315

C) Scheduled meeting/hearing dates: On or before January 1, 2015

D) Date agency anticipates First Notice: Not yet scheduled

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Ellen Daley, Deputy General Counsel
Procurement
100 W. Randolph St., Suite 4-500
Chicago IL 60601

Telephone: 312/814-1569
Email: ellen.daley@illinois.gov
Fax: 312/814-0911

G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues.

ILLINOIS REGISTER

CHIEF PROCUREMENT OFFICER FOR CAPITAL DEVELOPMENT BOARD

JULY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citations): Procurement Practices, (44 Ill. Adm. Code Part 8)

1) Rulemaking:

A) Description: The Chief Procurement Officer for Capital Development Board anticipates amendments to the procurement practices rules to provide for clarifications and to address legislative changes made by the 98th General Assembly.

B) Statutory Authority: 30 ILCS 500

C) Scheduled meeting/hearing dates: None have been scheduled.

D) Date agency anticipates First Notice: November 1, 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The proposals may affect small businesses that contract with the State of Illinois, especially construction contractors and architect/engineers.

F) Agency contact person for information:

Lorri Lawton
Deputy Chief Procurement Office for Capital Development Board
318 Stratton Office Building
Springfield IL 62706
Telephone: 217/558-2295

G) Related rulemakings and other pertinent information: None

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

JULY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citations): Chief Procurement Officer for General Services Standard Procurement, (44 Ill. Adm. Code 1)

1) Rulemaking:

A) Description: The Chief Procurement Officer for General Services anticipates amendment to the standard procurement rules to further implement the changes made by P.A. 96-795, P.A. 97-307, and P.A. 97-895, and to address other legislative changes made by the 98th General Assembly.

B) Statutory Authority: 30 ILCS 500

C) Scheduled meeting/hearing dates: None have been scheduled.

D) Date agency anticipates First Notice: January 2015

E) Effect on small businesses, small municipalities or not for profit corporations: The proposals may affect small businesses that contract with the State of Illinois.

F) Agency contact person for information:

Margaret L. van Dijk
Senior Policy Advisor
Chief Procurement Office for General Services
712 Stratton Office Building
Springfield, IL 62706

Telephone: 217/558-2228

G) Related rulemakings and other pertinent information: None

CHIEF PROCUREMENT OFFICER FOR HIGHER EDUCATION

JULY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citations): Chief Procurement Officer for Public Institutions of Higher Education Standard Procurement, (44 Ill. Adm. Code 4)

1) Rulemaking:

A) Description: The Chief Procurement Officer for Higher Education anticipates amendment to the standard procurement rules to further implement the changes made by P.A. 96-795, P.A. 97-307, and P.A. 97-895, as well as to address any other legislative changes made by the 98th General Assembly.

B) Statutory Authority: 30 ILCS 500

C) Scheduled meeting/hearing dates: None have been scheduled.

D) Date agency anticipates First Notice: The proposed rulemaking shall be filed during the next six months of the year.

E) Effect on small businesses, small municipalities or not for profit corporations: The proposals may affect small businesses that contract with the State of Illinois.

F) Agency contact person for information:

Shirley Webb
Deputy Chief Procurement Officer
Chief Procurement Office for Public Institutions of Higher Education
522 Stratton Office Building
401 S. Spring St.
Springfield, IL 62706

Telephone: 217/558-2247

G) Related rulemakings and other pertinent information: None

ENVIRONMENTAL PROTECTION AGENCY

JULY 2014 REGULATORY AGENDA

a) Part (Heading and Code Citation): Electronic Reporting (35 Ill. Adm. Code 163)

1) Rulemaking:

A) Description: The proposed new rule will identify information the Agency will require to be submitted electronically.

B) Statutory authority: Authorized by Section 4 of the Environmental Protection Act [415 ILCS 5/4]

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Fall or Winter 2014

E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations that will be required to submit information electronically would be subject to the proposed rule.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Annet Godiksen
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544
annet.godiksen@illinois.gov

G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citation): Licensing of Industrial Hygienists (35 Ill. Adm. Code 184)

1) Rulemaking:

ENVIRONMENTAL PROTECTION AGENCY

JULY 2014 REGULATORY AGENDA

A) Description: In response to the enactment of Public Act 98-78, the Agency plans to repeal 35 Ill. Adm. Code 184, which sets forth provisions concerning the licensure of industrial hygienists by the State.

B) Statutory authority: Authorized by Section 5 of Public Act 98-78, which repealed the Industrial Hygienists Licensure Act [225 ILCS 52]

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Fall or Winter 2014

E) Effect on small business, small municipalities or not-for-profit corporations: This rulemaking has no effect on small business, small municipalities, or not-for-profit corporations. It merely repeals the rules for a program that was repealed by Public Act 98-78.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

James Stivers
Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544
james.stivers@illinois.gov

G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation): Collection of Out-of-Service Mercury Thermostats (35 Ill. Adm. Code 190)

1) Rulemaking:

A) Description: This rule will establish the annual collection goals for calendar years 2015 through 2020 for mercury thermostat collection

programs established by thermostat manufacturers pursuant to the Mercury Thermostat Collection Act.

B) Statutory authority: Implementing and authorized by Section 25(c) of the Mercury Thermostat Collection Act [415 ILCS 98/25(c)]

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Fall or Winter 2014

E) Effect on small business, small municipalities, or not-for-profit corporations: This rule will not have a direct effect on small businesses, small municipalities, or not-for-profit corporations, unless any such entity (1) manufactures mercury thermostats that are removed, replaced, or otherwise taken out of service in Illinois or (2) is a thermostat wholesaler, thermostat retailer, contractor, or qualified local government authority, as defined in the Mercury Thermostat Collection Act, that is participating in a mercury thermostat collection program administered by a thermostat manufacturer. Because the Mercury Thermostat Collection Act established specific collection goals for calendar years 2011 through 2014, this rule would affect applicable small businesses, small municipalities, or not-for-profit corporations only to the extent that the annual collection goals established by this rule deviates from the current collection goals.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

James Jennings
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544
james.m.jennings@illinois.gov

G) Related rulemakings and other pertinent information: None

ENVIRONMENTAL PROTECTION AGENCY

JULY 2014 REGULATORY AGENDA

d) Part (Heading and Code Citation): Clean Air Act Permit Program Procedures (35 Ill. Adm. Code 270)

1) Rulemaking:

A) Description: The proposed rule will modify the current rule to address recent amendments to the Clean Air Act Permit Program (CAAPP) fee schedule. Time limits for responding to reconsideration requests are lengthened and clarifying language will be added to the fee reconsideration section. Requirements with past obligations and compliance dates will be moved into appendices. Language will be in line with current Agency practices regarding insignificant activities, single source billing, fees and the withdrawal of a permit. Definitions will also be added. In addition, the proposed rule will make miscellaneous changes.

B) Statutory authority: Authorized by Section 39.5 of the Environmental Protection Act [415 ILCS 5/39.5]

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Fall or Winter 2014

E) Effect on small business, small municipalities or not-for-profit corporations: Any small businesses, small municipalities, or not-for-profit corporations that are subject to CAAPP fees would be subject to the proposed rule.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Annet Godiksen
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544

annet.godiksen@illinois.gov

G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Procedures for Issuing Loans from the Water Pollution Control Program (35 Ill. Adm. Code 365)

1) Rulemaking:

A) Description: The Agency plans to propose amendments updating existing regulations pertaining to issuing loans from the Water Pollution Control Loan Program in order to be consistent with statutory amendments to the Environmental Protection Act.

B) Statutory authority: Authorized by Section 19.1 through 19.10 of the Environmental Protection Act [415 ILCS 5/19.1 through 19.10]

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Fall or Winter 2014

E) Effect on small business, small municipalities or not-for-profit corporations: All small businesses, small municipalities, or not-for-profit corporations seeking loans under the Water Pollution Control Loan Program could be affected. Eligibility for loans to small businesses, small municipalities, or not-for-profit corporations may be expanded due to the amendment of "treatment works" under Section 19.2 of the Environmental Protection Act.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Rex L. Gradeless
Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544
rex.gradeless@illinois.gov

G) Related rulemakings and other pertinent information: This rulemaking reflects changes as a result of the Governor's/Agency's Clean Water Initiative (SB 2780). *See also* rulemaking for Procedures for Issuing Loans from the Public Water Supply Loan Program; 35 Ill. Adm. Code 662.

f) Part (Heading and Code Citation): Procedures for Issuing Loans from the Public Water Supply Loan Program (35 Ill. Adm. Code 662)

1) Rulemaking:

A) Description: The Agency plans to propose amendments updating existing regulations pertaining to issuing loans from the Public Water Supply Loan Program in order to be consistent with statutory amendments to the Environmental Protection Act.

B) Statutory authority: Authorized by Section 19.1 through 19.9 of the Environmental Protection Act [415 ILCS 5/19.1 through 19.9]

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Fall or Winter 2014

E) Effect on small business, small municipalities or not-for-profit corporations: All small businesses, small municipalities, or not-for-profit corporations seeking loans under the Water Pollution Control Loan Program could be affected. Eligibility for loans to small businesses, small municipalities, or not-for-profit corporations may be expanded due to the amendment of "treatment works" under Section 19.2 of the Environmental Protection Act.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Rex L. Gradeless

ENVIRONMENTAL PROTECTION AGENCY

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Division of Legal Counsel
Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544
rex.gradeless@illinois.gov

G) Related rulemakings and other pertinent information: This rulemaking reflects changes as a result of the Governor's/Agency's Clean Water Initiative (SB 2780). *See also* rulemaking for Procedures for Issuing Loans from the Water Pollution Control Program; 35 Ill. Adm. Code 365.

g) Part (Heading and Code Citation): Procedures for the Review of Drycleaning Solvents or Other Cleaning Agents Used as Alternatives to Perchloroethylene Drycleaning (35 Ill. Adm. Code 1550)

1) Rulemaking:

A) Description: This rule will require manufacturers of dry cleaning solvents or other cleaning agents used as alternatives to perchloroethylene drycleaning that are sold or offered for sale in Illinois to provide to the Illinois Environmental Protection Agency ("Illinois EPA" or "the Agency") sufficient information to allow the Illinois EPA to determine whether the drycleaning solvents or cleaning agents may pose negative impacts to human health or the environment.

B) Statutory authority: Implementing and authorized by Section 22.57(d) of the Environmental Protection Act [415 ILCS 5/22.57(d)]

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Fall or Winter 2014

E) Effect on small business, small municipalities or not-for-profit corporations: This Rule will not have a direct effect on small businesses, small municipalities, and not-for-profit entities, unless any such entity

manufactures drycleaning solvents or other cleaning agents used as alternatives to perchloroethylene drycleaning and sells them or offers them for sale in Illinois. The Illinois EPA will review the information submitted by the manufacturers to determine whether the alternatives to perchloroethylene drycleaning may pose a negative impact to human health or the environment. Once the evaluation is complete, and no later than July 1, 2018, the Illinois EPA will post its findings at its website. This information will have the indirect benefit of enabling small businesses performing cleaning services to evaluate the drycleaning solvents and cleaning agents they purchase based on environmental considerations.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

James Jennings
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544
james.m.jennings@illinois.gov

G) Related rulemakings and other pertinent information: None

ILLINOIS EMERGENCY MANAGEMENT AGENCY

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a) Part (Heading and Code Citation): Public Information, Rulemaking and Organization, (2 Ill. Adm. Code 1075)

1) Rulemaking: Proposed Repealer

A) Description: The Agency is proposing this rulemaking to repeal outdated regulations in light of the merger of the Illinois Emergency Management Agency and the Illinois Department of Nuclear Safety.

B) Statutory Authority: Implementing the Illinois Administrative Procedure Act (5 ILCS 100)

C) Scheduled Meeting/Hearing Dates: None Scheduled

D) Date Agency anticipates First Notice: Fall/Winter 2014

Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking will not affect small businesses, small municipalities, and not for profit corporations.

F) Agency Contact Person for information:

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citation): Freedom of Information Procedures, (2 Ill. Adm. Code 1076)

1) Rulemaking: Proposed Repealer

ILLINOIS EMERGENCY MANAGEMENT AGENCY

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A) Description: The Agency is proposing this rulemaking to repeal outdated regulations to reflect the merger of the Illinois Emergency Management Agency and the Illinois Department of Nuclear Safety.

B) Statutory Authority: Implementing and authorized by the Freedom of Information Act [5 ILCS 140] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15]

C) Scheduled Meeting/Hearing Dates: None scheduled

D) Date Agency anticipates First Notice: Fall/Winter 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking will not affect small businesses, small municipalities, and not for profit corporations.

F) Agency Contact Person for information:

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation): Public Information, Rulemaking and Organization, (2 Ill. Adm. Code 1800)

1) Rulemaking: Proposed Amendment

A) Description: The Agency is proposing this rulemaking to update this Part to reflect the merger of the Illinois Emergency Management Agency and the Illinois Department of Nuclear Safety.

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B) Statutory Authority: Implementing the Illinois Administrative Procedure Act [5 ILCS 100]

C) Scheduled Meeting/Hearing Dates: None Scheduled

D) Date Agency anticipates First Notice: Fall/Winter 2014

Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking will not affect small businesses, small municipalities, and not for profit corporations.

F) Agency Contact Person for information:

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

d) Part (Heading and Code Citation): Political Subdivision Emergency Services and Disaster Agencies, (29 Ill. Adm. Code 301)

1) Rulemaking: Proposed Amendment

A) Description: This proposed rulemaking will include requirements for addressing provisions in emergency operations plans for functional needs populations and an amendment to satisfy P.A. 094-0733. In addition, language will be amended to reflect compliance with the National Incident Management System, changes to IEMA's grant program, and changes in EOP requirements.

B) Statutory Authority: Implements the Illinois Emergency Management Agency Act [20 ILCS 3305]

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C) Scheduled Meeting/Hearing Dates: None scheduled

D) Date Agency anticipates First Notice: Fall/Winter 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking may affect small municipalities with special needs populations. Depending on the circumstances, small municipalities may have to adjust emergency operation plans to comply with this Part and the National Incident Management System.

F) Agency Contact Person for information:

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Emergency and Written Notification of an Incident or Accident Involving a Reportable Hazardous Substance, (29 Ill. Adm. Code 430)

1) Rulemaking: Proposed Amendment

A) Description: The Agency is proposing this rulemaking to update this Part to reflect the merger of the Illinois Emergency Management Agency and the Illinois Department of Nuclear Safety and to update references to Federal regulations.

B) Statutory Authority: Implementing "AN ACT to require labeling of equipment and facilities for the use, transportation, storage and manufacture of hazardous materials and to provide for a uniform response

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system to hazardous materials emergencies." Section 304 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (42 USC 11004) and authorized by the Illinois Emergency Management Agency Act [20 ILCS 3305].

C) Scheduled Meeting/Hearing Dates: None scheduled

D) Date Agency anticipates First Notice: Fall/Winter 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking will not affect small businesses, small municipalities, and not for profit corporations.

F) Agency Contact Person for information:

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Standards for Protection against Laser Radiation, (32 Ill. Adm. Code 315)

1) Rulemaking: Proposed Amendment

A) Description: The proposed amendment will update references and clarify maintenance of records for inventory.

B) Statutory Authority: Implementing and authorized by the Laser System Act of 1997 [420 ILCS 56]

C) Scheduled Meeting/Hearing Dates: None scheduled

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D) Date Agency anticipates First Notice: Fall/Winter 2014

Effect on small businesses, small municipalities or not for profit corporations: This amendment could affect those entities that possess laser systems by changing the inventory reporting to the Agency.

E) Agency Contact Person for information:

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

g) Part (Heading and Code Citation): Financial Assurance Requirements, (32 Ill. Adm. Code 326)

1) Rulemaking: Proposed Amendment

A) Description: The Illinois Emergency Management Agency is proposing to revise the Financial Assurance regulations to ensure that a suitable mechanism for financing the decommissioning of licensed facilities is in place in the event that a licensee is unable or unwilling to complete decommissioning. The Agency will also be updating requirements for decommissioning recordkeeping.

B) Statutory Authority: Radiation Protection Act of 1990 [420 ILCS 40]

C) Scheduled Meeting/Hearing Dates: None Scheduled

D) Date Agency anticipates First Notice: Fall/Winter 2014

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E) Effect on small businesses, small municipalities or not for profit corporations: This may affect those entities, such as small businesses, that are required to have financial assurance on file with the Agency.

F) Agency Contact Person for information:

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

h) Part (Heading and Code Citation): Fees for Calibration Services, (32 Ill. Adm. Code 333)

1) Rulemaking: Proposed Amendment

A) Description: The Agency is proposing this rulemaking to update this Part to reflect the merger of the Illinois Emergency Management Agency and the Illinois Department of Nuclear Safety. All references to the "Department" will be changed to "Agency." In addition, this proposed amendment will include a provision for the calibration of personal radiation detectors.

B) Statutory Authority: Implementing and authorized by Section 25(g) of the Radiation Protection Act of 1990 [420 ILCS 40/25(g)]

C) Scheduled Meeting/Hearing Dates: None scheduled

D) Date Agency anticipates First Notice: Fall/Winter 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The Agency does not usually get outside or commercial

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calibration business, so there should be little to no impact on small businesses. Municipalities do not typically own radiation detection instruments except for the personal radiation detectors issued to fire departments and law enforcement agencies under the Illinois Terrorism Task Force/Preventive Radiological and Nuclear Detection program. The cost of calibration (on a three-year cycle) for those will likely be covered by a homeland security grant. Therefore, there should be little or no impact, other than shipping costs, for small municipalities.

F) Agency Contact Person for information:

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

i) Part (Heading and Code Citation): Fees for By-Product Material Licenses, (32 Ill. Adm. Code 334)

1) Rulemaking: Proposed Amendment

A) Description: The Agency is proposing this rulemaking to update this Part to reflect the merger of the Illinois Emergency Management Agency and the Illinois Department of Nuclear Safety. All references to the "Department" will be changed to "Agency."

B) Statutory Authority: Implementing and authorized by the Uranium and Thorium Mill Tailings Control Act [420 ILCS 42]

C) Scheduled Meeting/Hearing Dates: None scheduled

D) Date Agency anticipates First Notice: Fall/Winter 2014

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Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking will not affect small businesses, small municipalities, and not for profit corporations.

F) Agency Contact Person for information:

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

j) Part (Heading and Code Citation): Certification and Operation of Radiochemistry Laboratories, (32 Ill. Adm. Code 406)

1) Rulemaking: Proposed Repealer

A) Description: The Agency is proposing this rulemaking to repeal an outdated regulation.

B) Statutory Authority: Implementing the Civil Administrative Code of Illinois [20 ILCS 5] and authorized by Sections 55.10 through 55.12 and Section 71 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.10 through 55.12, and 20 ILCS 2005/71(D)]

C) Scheduled Meeting/Hearing Dates: None scheduled

D) Date Agency anticipates First Notice: Fall/Winter 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking will not affect small businesses, small municipalities, and not for profit corporations.

ILLINOIS EMERGENCY MANAGEMENT AGENCY

JULY 2014 REGULATORY AGENDA

F) Agency Contact Person for information:

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

k) Part (Heading and Code Citation): Safe Operation of Nuclear Facility Boilers and Pressure Vessels, (32 Ill. Adm. Code 505)

1) Rulemaking: Proposed Amendment

A) Description: The proposed changes will update references and requirements and correct errors.

B) Statutory Authority: The Illinois Boiler and Pressure Vessel Safety Act [430 ILCS 75]

C) Scheduled Meeting/Hearing Dates: None scheduled

D) Date Agency anticipates First Notice: Fall 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking will not affect small businesses, small municipalities, and not for profit corporations.

F) Agency Contact Person for information:

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive

ILLINOIS EMERGENCY MANAGEMENT AGENCY

JULY 2014 REGULATORY AGENDA

Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

l) Part (Heading and Code Citation): Plan for the compensation of Local Governments under Provisions of the "Illinois Nuclear Safety Preparedness Act," (32 Ill. Adm. Code 501)

1) Rulemaking: Proposed Amendment

A) Description: The proposed changes will update the rule to current practices.

B) Statutory Authority: Implementing and authorized by Section 4 of the Illinois Nuclear Safety Preparedness Act [420 ILCS 5/4]

C) Scheduled Meeting/Hearing Dates: None scheduled

D) Date Agency anticipates First Notice: Winter 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking could affect small municipalities that receive grant money under this program.

F) Agency Contact Person for information:

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

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G) Related rulemakings and other pertinent information: None

m) Part (Heading and Code Citation): Training and Education Program, (29 Ill. Adm. Code 110)

1) Rulemaking: Proposed Repealer

A) Description: The Agency is proposing this rulemaking to repeal outdated regulations in light of the merger of the Illinois Emergency Management Agency and the Illinois Department of Nuclear Safety.

B) Statutory Authority: Implementing Section 7(c)(3) and authorized by Section 7(c)(1) of the Illinois Emergency Services and Disaster Agency Act of 1975 [Ill. Rev. Stat. 1983, ch. 127, pars. 1107 (c)(3) and 1107(c)(1)]

C) Scheduled Meeting/Hearing Dates: None Scheduled

D) Date Agency anticipates First Notice: Summer/Fall 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The Agency believes this rulemaking will not affect small businesses, small municipalities, and not for profit corporations.

F) Agency Contact Person for information:

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

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n) Part (Heading and Code Citation): Licensing of Radioactive Material, (32 Ill. Adm. Code 330)

1) Rulemaking: Proposed Amendment

A) Description: The Illinois Emergency Management Agency proposes to:

Amend the exemption for radium residuals created from the treatment of groundwater including bolstering the Agency's ability to ensure worker and public exposures to ionizing radiation are as low as reasonably achievable and that environmental diminution is avoided, clarifying disposal options for the residuals, and adding a new general licensing category;

Add new definition for entity that would be subject to bankruptcy laws;

Add new categories of exempt devices;

Clarify restrictions on sale or distribution of exempt items;

Add language confirming practices for manufacturing, evaluation, quality assurance and registration of new products.

Clarify reporting requirements for manufacturers of tritium and promethium devices;

Add criteria for decommissioning/termination of radioactive sites; and

Add reference for financial qualifications for license transfers.

B) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40]

C) Scheduled Meeting/Hearing Dates: None scheduled at this time.

D) Date Agency anticipates First Notice: Fall/Winter 2014

ILLINOIS EMERGENCY MANAGEMENT AGENCY

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E) Effect on small businesses, small municipalities or not for profit corporations: Small municipalities may be affected if they dispose of radium residuals in the treatment of groundwater. All entities may be affected if they have a radioactive material license with the Agency.

F) Agency Contact Person for information:

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

o) Part (Heading and Code Citation): Radiation Safety Requirements for Industrial Radiographic Operations, (32 Ill. Adm. Code 350)

1) Rulemaking: Proposed Amendment

A) Description: This amendment will be proposed to add a reference to publication for equipment testing. This amendment will ensure compatibility with the U.S. Nuclear Regulatory Commission.

B) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40]

C) Scheduled Meeting/Hearing Dates: None

D) Date Agency anticipates First Notice: Fall/Winter 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency Contact Person for information:

ILLINOIS EMERGENCY MANAGEMENT AGENCY

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Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

p) Part (Heading and Code Citation): Radioactive Materials Transportation, (32 Ill Adm. Code 341)

1) Rulemaking: Proposed Amendment

A) Description: The Agency proposes to add a new reference to the updated Federal transportation rule. This change will primarily include notifying tribal officials along transportation routes and updating quantities allowed for radioisotopes in packaging.

B) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40]

C) Scheduled Meeting/Hearing Dates: None

D) Date Agency anticipates First Notice: Fall/Winter 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency Contact Person for information:

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive

ILLINOIS EMERGENCY MANAGEMENT AGENCY

JULY 2014 REGULATORY AGENDA

Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

G) Related rulemakings and other pertinent information: None

q) Part (Heading and Code Citation): Licensing Requirements for Source material Milling Facilities, (32 Ill. Adm. Code 332)

1) Rulemaking: Proposed amendment

A) Description: The Agency will propose this amendment to update decommissioning requirements; clarify license transfer requirements; update financial assurance requirements; ease restrictions on use of top covers for bulk storage; and require immediate notifications for failure in retention systems.

B) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40]

C) Scheduled Meeting/Hearing Dates: None

D) Date Agency anticipates First Notice: Fall/Winter 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency Contact Person for information:

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

Telephone: 217/524-0770
Fax: 217/524-3698

ILLINOIS EMERGENCY MANAGEMENT AGENCY

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G) Related rulemakings and other pertinent information: None

DEPARTMENT OF EMPLOYMENT SECURITY

JULY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Claims, Adjudication, Appeals And Hearings (56 Ill. Adm. Code 2720)

1) Rulemaking:

A) Description: The Department is considering revisions to the rules regarding the circumstances under which appeal hearings are to be reopened or continuances granted.

B) Statutory Authority: Sections 239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304 of the Unemployment Insurance Act [820 ILCS 405/239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The proposals could affect an employer which seeks to have an appeal hearing reopened or continued.

F) Agency contact person for information:

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
33 South State Street - 9th Floor
Chicago IL 60603

312/793-4240
Gregory.Ramel@illinois.gov

G) Related rulemaking and other pertinent information: None

b) Part(s) (Heading and Code Citation): Notices, Records, Reports (56 Ill. Adm. Code 2760)

DEPARTMENT OF EMPLOYMENT SECURITY

JULY 2014 REGULATORY AGENDA

1) Rulemaking:

A) Description: The Department is considering revisions regarding reporting requirements where an employer ceases to be subject to Section 1507.1 of the Unemployment Insurance Act mid-quarter.

The Department is considering an amendment to the way an employer that has filed for bankruptcy during a reporting period must report the pre and post bankruptcy wages for the period.

B) Statutory Authority: Sections 204, 234, 245, 300, 302, 700, 1400, 1400.2, 1401,1402, 1404, 1405, 1507, 1507.1, 1700, 1701, 1706, 1800, 1801, 2201 and 2208 of the Unemployment Insurance Act [820 ILCS 405/204, 234, 245, 300, 302, 700, 1400, 1400.2, 1401, 1402, 1404, 1405, 1507, 1507.1, 1700, 1701, 1706, 1800, 1801, 2201 and 2208]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The proposal would affect some employers subject to Section 1507.1 of the Act where a transfer occurs mid-quarter and those employers that file for bankruptcy during a reporting period.

F) Agency contact person for information:

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
33 South State Street - 9th Floor
Chicago IL 60603

312/793-4240
Gregory.Ramel@illinois.gov

G) Related rulemaking and other pertinent information: None

DEPARTMENT OF EMPLOYMENT SECURITY

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c) Part(s) (Heading and Code Citation): Payment of Unemployment Contributions, Interest and Penalties (56 Ill. Adm. Code 2765)

1) Rulemaking:

A) Description: The Department is considering an amendment to the rules to clarify those situations where it will provide a cash refund of overpaid contributions instead of an adjustment to be used against future contributions due.

B) Statutory Authority: Sections 212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600 of the Unemployment Insurance Act [820 ILCS 405/212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The proposal could have an effect on businesses that have credit balances with the Department.

F) Agency contact person for information:

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
33 South State Street - 9th Floor
Chicago IL 60603

312/793-4240
Gregory.Ramel@illinois.gov

G) Related rulemaking and other pertinent information: None

d) Part(s) (Heading and Code Citation): Claimant's Availability For Work, Ability To Work (56 Ill. Adm. Code 2865)

DEPARTMENT OF EMPLOYMENT SECURITY

JULY 2014 REGULATORY AGENDA

1) Rulemaking:

A) Description: The Department is considering amending its rules as they relate to registration with the Employment Service and a claimant's active search for work.

The Department is considering amending its rules as they relate to approval of training.

B) Statutory Authority: Sections 409, 500, 1700 and 1701of the Unemployment Insurance Act [820 ILCS 405/409, 500, 1700 and 1701]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The proposals would have no direct affect on businesses.

F) Agency contact person for information:

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
33 South State Street - 9th Floor
Chicago IL 60603

312/793-4240
Gregory.Ramel@illinois.gov

G) Related rulemaking and other pertinent information: None

e) Part(s) (Heading and Code Citation): General Provisions (56 Ill. Adm. Code 2960)

1) Rulemaking:

DEPARTMENT OF EMPLOYMENT SECURITY

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A) Description: The Department is considering amending its rules as they relate to the release of certain employment service information with consent from the subject of the information.

B) Statutory Authority: Sections 1700, 1701, 1705, and 1900 of the Illinois Unemployment Insurance Act [820 ILCS 405/1700, 1701, 1705 and 1900]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The proposal could have an effect on businesses that consent to the release of certain information about themselves.

F) Agency contact person for information:

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
33 South State Street - 9th Floor
Chicago IL 60603

312/793-4240
Gregory.Ramel@illinois.gov

G) Related rulemaking and other pertinent information: None

ILLINOIS REGISTER
EXECUTIVE ETHICS COMMISSION

JULY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citations): Organization, Information, Rulemaking and Hearings, (2 Ill. Adm. Code 1620)

1) Rulemaking:

A) Description: The amendments will incorporate the provisions of PA 96-1528 that added regional transit boards to the State Officials and Employees Ethics Act.

B) Statutory Authority: State Officials and Employees Ethics Act [5 ILCS 430]

C) Scheduled meeting/hearing dates: None have been scheduled.

D) Date agency anticipates First Notice: The Commission anticipates filing the proposed rulemaking during the next six months of this year.

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Chad Fornoff
Executive Director
Executive Ethics Commission
401 S. Spring St.
513 William Stratton Building
Springfield IL 62706

Telephone: 217/558-1393

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

JULY 2014 REGULATORY AGENDA

I. DIVISION OF FINANCIAL INSTITUTIONS

a) Part(s) (Heading and Code Citation): Illinois Credit Union Act (38 Ill. Adm. Code 190)

1) Rulemaking:

A) Description: Under the Illinois Credit Union Act, Section 9, HB 5342 is designed to permit the adoption of regulator standards that address industry concerns and to further ensure consistency and due process in the examination process for IDFPR-Division of Financial Institutions (DFI) field examiners and their supervisory staff. The requirements found in new Section 190.25 were developed to provide guidance, to enhance clarity and to establish examination procedures that will be relied upon by credit unions and DFI management, examiners and administrative personnel.

B) Statutory Authority: Illinois Credit Union Act [205 ILCS 305]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: State chartered credit unions may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

II. DIVISION OF PROFESSIONAL REGULATION

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

JULY 2014 REGULATORY AGENDA

b) Part(s) (Heading and Code Citation): Administrative Procedures for General Professional Regulation Under the Administrative Code (68 Ill Adm. Code 1130)

1) Rulemaking:

A) Description: Rules will need to be promulgated to address the provisions of Public Act 98-659, which provides IDFPR-Division of Professional Regulation (DPR) with the authority to grant volunteer licenses to licensed health care professionals. The Act defines "volunteer practice" and provides that a health care professional practicing under a volunteer license shall engage only in volunteer practice. It further provides that a volunteer license shall be granted in accordance with the requirements of the licensing Act that applies to the health care professional's given field of health care practice and that the licensure fee shall be waived.

B) Statutory Authority: Illinois Administrative Code [20 ILCS 2105]

C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.

D) Date agency anticipates First Notice: November 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Several licensed health care professionals may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

JULY 2014 REGULATORY AGENDA

c) Part(s) (Heading and Code Citation): Illinois Architecture Practice Act of 1989 (68 Ill Adm. Code 1150)

1) Rulemaking:

A) Description: Rules will need to be promulgated to address provisions of Public Act 98-288 which extends time for when certain education levels will be accepted for entry into architecture degree program. The rules will also need to be amended to address the provisions of Public Act 98-289 which provides that when specified professionals have technical submissions that are prepared utilizing a computer or other electronic means, the seal, signature, current date, and date of license expiration may be generated by the computer. They will also be amended to allow for a waiver of the "Test of English as a Foreign Language (TOEFL)" exam for individuals who have a post-graduate degree in the U.S. as well as additional technical updates to the rules.

B) Statutory Authority: Illinois Architecture Practice Act of 1989 [225 ILCS 305]

C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.

D) Date agency anticipates First Notice: October 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed architects may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

JULY 2014 REGULATORY AGENDA

d) Part(s) (Heading and Code Citation): Dietetic and Nutrition Services Practice Act (68 Ill Adm. Code 1245)

1) Rulemaking:

A) Description: Rules will need to be promulgated to address provisions in Public Act 98-148 which provide that enteral and parenteral nutrition therapy and developing and managing food service operations whose chief function is nutrition care shall only be performed by individuals licensed under the Act. Also, technical clean-up and updates may be included.

B) Statutory Authority: Dietetic and Nutrition Services Practice Act [225 ILCS 30]

C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.

D) Date agency anticipates First Notice: October 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed dietitian nutritionists may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citation): Genetic Counselor Licensing Act (68 Ill. Adm. Code 1251)

1) Rulemaking:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

JULY 2014 REGULATORY AGENDA

A) Description: Various sections may be amended to address changes as a result of the sunset reauthorization of the Act (SB 643).

B) Statutory Authority: Genetic Counselor Licensing Act [225 ILCS 135]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed genetic counselors may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

f) Part(s) (Heading and Code Citation): Environmental Health Practitioner Licensing Act (68 Ill. Adm. Code 1247)

1) Rulemaking:

A) Description: The rules will be amended to remove the passing percentage for the licensing examination found in Section 1247.30, in light of a change in the national testing entity's examination scoring standard. A new Confidentiality Section to protect licensee and applicant information will also be added. Updates and technical clean-up changes may also be made.

B) Statutory Authority: Environmental Health Practitioner Licensing Act [225 ILCS 37]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed environmental health practitioners may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citation): Illinois Professional Land Surveyor Act of 1989 (68 Ill Adm. Code 1270).

1) Rulemaking:

A) Description: The rules will need to be amended to allow for computer-based testing and to address the provisions of Public Act 98-289 which provides that when specified professionals have technical submissions that are prepared utilizing a computer or other electronic means, the seal, signature, current date, and date of license expiration may be generated by the computer.

B) Statutory Authority: Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330]

C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.

D) Date agency anticipates First Notice: October 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed professional land surveyors may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

h) Part(s) (Heading and Code Citation): Marriage and Family Therapy Licensing Act (68 Ill. Adm. Code 1283)

1) Rulemaking:

A) Description: The rules will be amended in order to make updates to reflect recent changes in education standards.

B) Statutory Authority: Marriage and Family Therapy Licensing Act [225 ILCS 55]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: August 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed marriage and family therapists may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

i) Part(s) (Heading and Code Citation): Nurse Practice Act (68 Ill Adm. Code 1300)

1) Rulemaking:

A) Description: Updates will be made to the Foreign Educated Applicant section and the Advanced Practice Nurse (APN) section(s). Other changes may be considered relating to pending legislation.

B) Statutory Authority: Nurse Practice Act [225 ILCS 65]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: December 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed practical nurses (LPNs), registered nurses (RNs) and advanced practice nurses (APNs) may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

j) Part(s) (Heading and Code Citation): Illinois Occupational Therapy Practice Act (68 Ill. Adm. Code 1315)

1) Rulemaking:

A) Description: Various sections may be amended to address changes as a result of the sunset reauthorization of the Act (Public Act 98-264).

B) Statutory Authority: Illinois Occupational Therapy Practice Act [225 ILCS 75]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed occupational therapists may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

k) Part(s) (Heading and Code Citation): Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 (68 Ill. Adm. Code 1240)

1) Rulemaking:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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A) Description: Various updates and clean-up may occur.

B) Statutory Authority: Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 [225 ILCS 447]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Private detectives, private alarm companies, private security companies, fingerprint vendors, locksmiths, and canine handlers and trainers may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

l) Part(s) (Heading and Code Citation): Professional Engineering Practice Act of 1989 (68 Ill Adm. Code 1380).

1) Rulemaking:

A) Description: The rules will need to be amended per the provisions of HB 3969 which provides that certain examinations under the Acts be defined by rule rather than 8-hour written examinations. They will also need to be amended to allow for computer-based testing and to address the provisions of Public Act 98-289 which provides that when specified professionals have technical submissions that are prepared utilizing a computer or other electronic means, the seal, signature, current date, and date of license

expiration may be generated by the computer. There will also be an allowance for a waiver of the "Test of English as a Foreign Language (TOEFL)" exam for individuals who have a post-graduate degree in the U.S.

B) Statutory Authority: Professional Engineering Practice Act of 1989 [225 ILCS 325]

C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.

D) Date agency anticipates First Notice: September 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed professional engineers may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

m) Part(s) (Heading and Code Citation): Illinois Public Accounting Act (68 Ill. Adm. Code 1420)

1) Rulemaking:

A) Description: Various sections may be amended to address changes as a result of the sunset reauthorization of the Act (Public Act 98-254). There may also need to be some adjustments to the rules due to the passage of HB 4707 which provides that any individual who is the holder of a current, valid, and not previously disciplined license (rather than a current and valid license) as a certified public accountant of any state who has

applied in writing to DPR for a Certified Public Accountant (CPA) license may perform accountancy activities until the earlier of the expiration of 6 months after filing the written application or the denial of the application by the Department.

B) Statutory Authority: Illinois Public Accounting Act [225 ILCS 450]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Certified public accountants may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

n) Part(s) (Heading and Code Citation): Ridesharing Arrangements and Consumer Protection Act (68 Ill. Adm. Code 1458) (New Part)

1) Rulemaking:

A) Description: House Bill 4075 changes the title of the Ridesharing Arrangements Act to the Ridesharing Arrangements and Consumer Protection Act. The bill provides that drivers wishing to provide transportation under a commercial ridesharing arrangement must obtain a chauffeur's license from the unit of local government in which their vehicles are registered or operated, unless no unit of local government in which their vehicles are registered or operated offer a chauffeur's license.

It provides that dispatchers must secure a commercial ridesharing dispatcher's license from DPR. Rules will need to be promulgated for this newly-designated licensure.

B) Statutory Authority: Illinois Vehicle Code [625 ILCS 5] and the Ridesharing Arrangements and Consumer Protection Act [625 ILCS 30]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: December 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Dispatchers in Illinois will now need to secure a ridesharing dispatcher's license form DPR.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

o) Part(s) (Heading and Code Citation): Illinois Roofing Industry Licensing Act (68 Ill. Adm. Code 1460)

1) Rulemaking:

A) Description: Some technical clean-up language may be needed for the Restoration section of the rules.

B) Statutory Authority: Illinois Roofing Industry Licensing Act [225 ILCS 335]

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

JULY 2014 REGULATORY AGENDA

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed roofing contractors and applicants for licensure may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

p) Part(s) (Heading and Code Citation): Structural Engineering Practice Act of 1989 (68 Ill Adm. Code 1480).

1) Rulemaking:

A) Description: The rules will need to be amended to allow for computer-based testing and to allow for a waiver of the "Test of English as a Foreign Language (TOEFL)" exam for individuals who have a post-graduate degree in the U.S.

B) Statutory Authority: Structural Engineering Practice Act of 1989 [225 ILCS 340]

C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.

D) Date agency anticipates First Notice: October 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed structural engineers may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

q) Part(s) (Heading and Code Citation): Veterinary Medicine and Surgery Practice Act of 2004 (68 Ill. Adm. Code 1500)

1) Rulemaking:

A) Description: Addition of designated scope of practice for unlicensed veterinarian assistants and technical clean-up.

B) Statutory Authority: Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: November 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed veterinarians may be affected.

F) Agency contact person for information:

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

Springfield IL 62786

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

G) Related rulemakings and other pertinent information: Veterinary Medicine and Surgery Practice Act of 2004 (68 Ill. Adm. Code 1505) may also be amended for technical clean up and the addition of designated scope of practice for certified veterinarian technicians.

r) Part(s) (Heading and Code Citation): Certified Veterinary Technicians (68 Ill. Adm. Code 1505)

1) Rulemaking:

A) Description: Addition of designated scope of practice for unlicensed veterinarian assistants and technical clean-up.

B) Statutory Authority: Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: November 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed certified veterinary technicians may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: Veterinary Medicine and Surgery Practice Act of 2004 (68 Ill. Adm. Code 1500) may also be amended for technical clean up and the addition of designated scope of practice for unlicensed veterinarian assistants.

s) Part(s) (Heading and Code Citation): Wholesale Drug Distribution Licensing Act (68 Ill. Adm. Code 1510)

1) Rulemaking:

A) Description: Various updates and clean-up provisions may occur.

B) Statutory Authority: Wholesale Drug Distribution Licensing Act [225 ILCS 120]

C) Schedule meeting/hearing date: No hearings or meetings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Licensed wholesale drug distributors and applicants for licensure may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None

III. DIVISION OF REAL ESTATE

t) Part(s) (Heading and Code Citation): Auction License Act (68 Ill. Adm. Code 1440)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

JULY 2014 REGULATORY AGENDA

1) Rulemaking:

A) Description: Technical clean-up changes and updates following Public Act 98-553 which provided that the real estate auction courses that applicants for licensure must currently complete will now be approved by IDFPR-Division of Real Estate (DRE) (They had been previously approved by the Real Estate Education Advisory Council). DRE will need to develop rules for certification.

B) Statutory Authority: Auction License Act [225 ILCS 407]

C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Those applying for licensure as an auctioneer may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: There may be technical clean-up changes to the rules for the Real Estate License Act of 2000 (68 Ill. Adm. Code 1450) in connection with the newly added real estate auction certificate.

u) Part(s) (Heading and Code Citation): Community Association Manager Licensing and Disciplinary Act (68 Ill. Adm. Code 1445)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

JULY 2014 REGULATORY AGENDA

1) Rulemaking:

A) Description: The rules may be amended to reflect Public Act 98-365's addition of new licenses, including supervising community association managers and community association management firms. Additional amendments regarding association accounts and technical clean-up will be made.

B) Statutory Authority: Community Association Manager Licensing and Disciplinary Act [225 ILCS 427]

C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Those that operate pursuant to the Community Association Manager Licensing and Disciplinary Act may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: None.

v) Part(s) (Heading and Code Citation): Real Estate Appraiser Licensing (68 Ill. Adm. Code 1455)

1) Rulemaking:

A) Description: DRE will be initiating amendments to implement several provisions of SB 3044.

B) Statutory Authority: Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458]

C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.

D) Date agency anticipates First Notice: November 2014

E) Effect on small businesses, small municipalities or not for profit corporations: When these amendments are adopted, they will have an immediate impact on real estate appraisers who are seeking a license for the first time. These amendments will also impact current licensee, but not until the next renewal.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: The amendments to this Part will make Illinois' appraiser standards AQBA compliant.

w) Part(s) (Heading and Code Citation): Real Estate License Act of 2000 (68 Ill. Adm. Code 1450)

1) Rulemaking:

A) Description: Amendments to the rules may be necessary due to provisions in Public Acts 98-553 and 98-531 including the addition of regulations for the newly created real estate auction certification. Various updates and clean-up provisions may occur.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

JULY 2014 REGULATORY AGENDA

B) Statutory Authority: Real Estate License Act of 2000 [225 ILCS 454]

C) Schedule meeting/hearing date: No meetings or hearings have been scheduled.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Those that operate pursuant to the Real Estate License Act of 2000 and/or Auction License Act may be affected.

F) Agency contact person for information:

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

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

G) Related rulemakings and other pertinent information: There may be technical clean-up changes to the Auction License Act (68 Ill. Adm. Code 1140) in connection with the newly added real estate auction certificate.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JULY 2014 REGULATORY AGENDA

a) Part: Rights and Responsibilities (89 Ill. Adm. Code 102)

1) Rulemaking:

A) Description: Proposed amendments to administrative hearings are anticipated to correct outdated information, to conform to federal managed care requirements, and to make changes to fair hearing systems resulting from the Patient Protection and Affordable Care Act (42 U.S.C. § 18001) and corresponding federal regulations (42 CFR 431, 435, and 438).

B) Statutory Authority: Authorized by 305 ILCS 5/5-4.2 of the Public Aid Code

C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield IL 62763-0002

217/782-1233

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JULY 2014 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

b) Part: Practice in Administrative Hearings (89 Ill. Adm. Code 104)

1) Rulemaking:

A) Description: Proposed amendments to administrative hearings are anticipated to correct outdated information, to conform to federal managed care requirements, and to make changes to fair hearing systems resulting from the Patient Protection and Affordable Care Act (42 U.S.C. § 18001) and corresponding federal regulations (42 CFR 431, 435, and 438).

B) Statutory Authority: Authorized by 305 ILCS 5/5-4.2 of the Public Aid Code

C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield,IL 62763-0002

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JULY 2014 REGULATORY AGENDA

217/782-1233

G) Related rulemakings and other pertinent information: None

c) Part: Covering All Kids Health Insurance Program (89 Ill. Adm. Code 123)

1) Rulemaking:

A) Description: Proposed amendments to administrative hearings are anticipated to correct outdated information, to conform to federal managed care requirements, and to make changes to fair hearing systems resulting from the Patient Protection and Affordable Care Act (42 U.S.C. § 18001) and corresponding federal regulations (42 CFR 431, 435, and 438).

B) Statutory Authority: Authorized by 305 ILCS 5/5-4.2 of the Public Aid Code

C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JULY 2014 REGULATORY AGENDA

Springfield IL 62763-0002

217/782-1233

G) Related rulemakings and other pertinent information: None

d) Part: Children's Health Insurance Program (89 Ill. Adm. Code 125)

1) Rulemaking:

A) Description: Proposed amendments to administrative hearings are anticipated to correct outdated information, to conform to federal managed care requirements, and to make changes to fair hearing systems resulting from the Patient Protection and Affordable Care Act (42 U.S.C. § 18001) and corresponding federal regulations (42 CFR 431, 435, and 438).

B) Statutory Authority: Authorized by 305 ILCS 5/5-4.2 of the Public Aid Code

C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

Jeanette Badrov
General Counsel

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JULY 2014 REGULATORY AGENDA

Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield IL 62763-0002

217/782-1233

G) Related rulemakings and other pertinent information: None

e) Part: Medical Payment (89 Ill. Adm. Code 140)

1) Rulemaking:

A) Description: Proposed amendments are anticipated to provide Medicaid coverage of comprehensive tobacco cessation services for pregnant women and children under the age of 21 without cost sharing.

B) Statutory Authority: Authorized by section 4107 of the Patient Protection and Affordable Care Act, P.L. 111-148

C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.

E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

Jeanette Badrov
General Counsel

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JULY 2014 REGULATORY AGENDA

Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield IL 62763-0002

217/782-1233

G) Related rulemakings and other pertinent information: None

f) Part: Managed Care Community Networks (89 Ill. Adm. Code 143)

1) Rulemaking:

A) Description: Proposed amendments are anticipated to exempt Cook County and the University of Illinois from some of the net worth requirements established for managed care community networks.

B) Statutory Authority: Authorized by 305 ILCS 5/12-13 of the Illinois Public Aid Code

C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the Illinois Register.

E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

Jeanette Badrov
General Counsel

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JULY 2014 REGULATORY AGENDA

Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield IL 62763-0002

217/782-1233

G) Related rulemakings and other pertinent information: None

g) Part: Specialized Health Care Delivery Systems (89 Ill. Adm. Code 146)

1) Rulemaking:

A) Description: For purposes of administrative hearings, proposed amendments are anticipated to correct outdated information and make changes for clarity.

B) Statutory Authority: Authorized by 305 ILCS 5/5-4.2 of the Public Aid Code

C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

Jeanette Badrov
General Counsel

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JULY 2014 REGULATORY AGENDA

Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield IL 62763-0002

217/782-1233

G) Related rulemakings and other pertinent information: None

h) Part: Hospital Services (89 Ill. Adm. Code 148)

1) Rulemaking:

A) Description: Proposed amendments are anticipated to make the co-payment regulations consistent with federal regulations.

B) Statutory Authority: Authorized by Section 12-13 of the Public Aid Code [305 ILCS 5/12-13]

C) Scheduled meeting/hearing dates: The Department has not established a schedule of dates for hearings, meetings or other opportunities for public participation in this rulemaking.

D) Date agency anticipates First Notice: The Department has not determined when Notices of Proposed Rulemaking will be submitted for publication in the *Illinois Register*.

E) Effect on small businesses, small municipalities or not for profit corporations: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in response to this regulatory agenda.

F) Agency contact person for information:

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JULY 2014 REGULATORY AGENDA

201 South Grand Avenue East, Third Floor
Springfield IL 62763-0002

217/782-1233

G) Related rulemakings and other pertinent information: None

ILLINOIS HISTORIC PRESERVATION AGENCY

JANUARY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citations): The Illinois Register of Historic Places (17 Ill. Adm. Code 4140)

1) Rulemaking:

A) Description: This Part proposed for repeal established the processes by which a place may be added to or removed from the Illinois Register of Historic Places. The Illinois Register of Historic Places program was repealed from the Illinois Historic Preservation Act by PA 97-785.

B) Statutory Authority: 20 ILCS 3410 and 20 ILCS 3420

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: January 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Sara Meek
Legislative Director
Illinois Historic Preservation Agency
313 S. 6th Street
Springfield IL 62701

Telephone: 217/558-8942
FAX: 217/785-7937
E-Mail: sara.meek@illinois.gov

G) Related rulemakings and other pertinent information: This rulemaking is being filed in conjunction with the rulemaking to repeal Inclusion and Removal of Places from the Illinois Register of Historic Places (17 Ill. Adm. Code 4120).

b) Part(s) (Heading and Code Citations): Inclusion and Removal of Places from the Illinois Register of Historic Places (17 Ill. Adm. Code 4120)

ILLINOIS HISTORIC PRESERVATION AGENCY

JANUARY 2014 REGULATORY AGENDA

1) Rulemaking:

A) Description: This Part proposed for repeal established the processes by which a place may be added to or removed from the Illinois Register of Historic Places. The Illinois Register of Historic Places program was repealed from the Illinois Historic Preservation Act by PA 97-785.

B) Statutory Authority: 20 ILCS 3410 and 20 ILCS 3420

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: January 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Sara Meek
Legislative Director
Illinois Historic Preservation Agency
313 S. 6th Street
Springfield IL 62701

Telephone: 217/558-8942
FAX: 217/785-7937
E-Mail: sara.meek@illinois.gov

G) Related rulemakings and other pertinent information: This rulemaking is being filed in conjunction with the rulemaking to repeal The Illinois Register of Historic Places (17 Ill. Adm. Code 4140).

c) Part(s) (Heading and Code Citations): Certification and Transfer of Local Share of Historic Preservation Fund Allocation to Local Governments (17 Ill. Adm. Code 4130)

1) Rulemaking:

ILLINOIS HISTORIC PRESERVATION AGENCY

JANUARY 2014 REGULATORY AGENDA

A) Description: The purpose of this rulemaking is to establish administrative rules to provide official guidance on the processes and procedures related to the Certified Local Government Program, which is a program that gives municipalities and counties the opportunity to participate as partners in state and federal preservation activities.

B) Statutory Authority: 20 ILCS 860

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: October 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None. While this rulemaking relates to a program that impacts municipalities, it will simply codify existing practices.

F) Agency contact person for information:

Catherine O'Connor
Illinois Historic Preservation Agency
1 Old State Capitol Plaza
Springfield IL 62701

Telephone: 217/785-5730
FAX: 217/785-7937
E-Mail: Catherine.OConnor@illinois.gov

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citations): Tax Incentives to Rehabilitate Owner-Occupied Historic Residences (17 Ill. Adm. Code 4150)

1) Rulemaking:

A) Description: The purpose of this rulemaking is to establish administrative rules to provide official guidance on the processes and procedures related to the Property Tax Assessment Freeze Program, which is a program that provides a financial incentive to homeowners interested in rehabilitating

an older home by freezing the assessed value of historic owner-occupied, principal residences.

B) Statutory Authority: 35 ILCS 200/Art. 10 Div. 4

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: October 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Carol Dyson
Illinois Historic Preservation Agency
1 Old State Capitol Plaza
Springfield IL 62701

Telephone: 217/524-0276
FAX: 217/785-7937
E-Mail: carol.dyson@illinois.gov

G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citations): Freedom of Information Act (2 Ill. Adm. Code 1580)

1) Rulemaking:

A) Description: The purpose of this rulemaking is to implement the provisions of the Freedom of Information Act (5 ILCS 140) by establishing a procedure to be followed by the public when requesting public records of the Historic Preservation Agency and the procedures to be followed by the Agency in responding to requests for information.

B) Statutory Authority: 5 ILCS 140

ILLINOIS HISTORIC PRESERVATION AGENCY

JANUARY 2014 REGULATORY AGENDA

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: November 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Garth Madison
Chief Legal Counsel
Illinois Historic Preservation Agency
313 S. 6th Street
Springfield IL 62701

Telephone: 217/785-1511
FAX: 217/785-7937
E-Mail: garth.madison@illinois.gov

G) Related rulemakings and other pertinent information: None

f) Part(s) (Heading and Code Citations): Americans With Disabilities Grievance Procedures (2 Ill. Adm. Code 525)

1) Rulemaking:

A) Description: The purpose of this rulemaking is to establish the grievance procedure required by 56 Fed. Reg. 35,718 (1991) (to be codified at 28 CFR 35.107) pursuant to Title II of the Americans With Disabilities Act of 1990 (ADA) (42 U.S.C.A. 12131 et seq. (Supp. 1991) for the purpose of resolving grievances asserted by qualified individuals with disabilities.

B) Statutory Authority: The Americans With Disabilities Act of 1990, 42 USC 12101 et seq.

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: November 2014

ILLINOIS HISTORIC PRESERVATION AGENCY

JANUARY 2014 REGULATORY AGENDA

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Garth Madison
Chief Legal Counsel
Illinois Historic Preservation Agency
313 S. 6th Street
Springfield IL 62701

Telephone: 217/785-1511
FAX: 217/785-7937
E-Mail: garth.madison@illinois.gov

G) Related rulemakings and other pertinent information: None

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

JULY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Single Family Mortgage Purchase Program 47 Ill Adm. Code 220

1) Rule Making:

A) Description: Repeal the rule as such rule is no longer being used to run an active program at the Authority and a similar program is being run by a subsequent rule.

B) Statutory Authority: Mortgage Subsidy Bond Tax Act of 1980 (26 U.S.C. 103A) and authorized by Sections 7.19 and 7.23 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.23]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Amanda Carone
Illinois Housing Development Authority
401 N. Michigan Ave., Ste. 700
Chicago IL 60611

Telephone: 312/836-5214

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citation): Single Family Mortgage Purchase Program II 47 Ill. Adm. Code 250

1) Rule Making:

A) Description: Repeal the rule as such rule is no longer being used to run an active program at the Authority and a similar program is being run by a subsequent rule.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

JULY 2014 REGULATORY AGENDA

B) Statutory Authority: Sections 7.19 and 7.23 of the Illinois Housing Development Act (Ill. Rev. Stat. 1981, ch. 67-1/2, pars. 307.19 and 307.23) [20 ILCS 3805/7.19 and 723]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Amanda Carone
Illinois Housing Development Authority
401 N. Michigan Ave., Ste. 700
Chicago IL 60611

Telephone: 312/836-5214

G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Access to Public Records of the Illinois Housing Development Authority 2 Ill. Adm. Code 1976

1) Rule Making:

A) Description: Amend various sections to conform with the updated FOIA law.

B) Statutory Authority: Section 3 of the Illinois Freedom of Information Act [5 ILCS 140/3]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2014

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

JULY 2014 REGULATORY AGENDA

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Amanda Carone
Illinois Housing Development Authority
401 N. Michigan Ave., Ste. 700
Chicago IL 60611

Telephone: 312/836-5214

G) Related rulemakings and other pertinent information: Access to Public Records of the Illinois Housing Development Authority 2 Ill. Adm. Code 1976

d) Part(s) (Heading and Code Citation): Rental Housing Support Program 47 Ill. Adm. Code 380

1) Rule Making:

A) Description: Amend various sections to conform with recently passed Legislation and other administrative changes.

B) Statutory Authority: Rental Housing Support Act [310 ILCS 105] and Illinois Housing Development Act [20 ILCS 3805/12]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Amanda Carone
Illinois Housing Development Authority
401 N. Michigan Ave., Ste. 700

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

JULY 2014 REGULATORY AGENDA

Chicago IL 60611

Telephone: 312/836-5214

G) Related rulemakings and other pertinent information: Rental Housing Support Program 47 Ill. Adm. Code 380

e) Part(s) (Heading and Code Citation): Foreclosure Prevention Program 47 Ill. Adm. Code 385

1) Rule Making:

A) Description: Amend various sections to conform with recently passed legislation.

B) Statutory Authority: Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and Section 7.30.(a) of the Illinois Housing Development Act [20 ILCS 3805/7.30.(a)]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August, 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Amanda Carone
Illinois Housing Development Authority
401 N. Michigan Ave., Ste. 700
Chicago IL 60611

Telephone: 312/836-5214

G) Related rulemakings and other pertinent information: Foreclosure Prevention Program 47 Ill. Adm. Code 385

DEPARTMENT OF HUMAN SERVICES

JULY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Office of Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies (59 Ill. Adm. Code 50)

1) Rulemaking:

A) Description: This rulemaking will add financial exploitation as a registry reportable OIG finding. HB 3830, House Amendment 001 would amend 20 ILCS 1305/1-17. This is pending in the Governor's signature.

B) Statutory Authority: Implementing and authorized by Section 1-17 of the Department of Human Services Act [20 ILCS 1305]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not have an effect on small businesses, small municipalities or not for profit corporations.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield IL 62762

217/785-9772

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citation): Standards and Licensure Requirements for Community-Integrated Living Arrangements (59 Ill. Adm. Code 115)

DEPARTMENT OF HUMAN SERVICES

JULY 2014 REGULATORY AGENDA

1) Rulemaking:

A) Description: This rulemaking is necessary to add language in response to Paul's Law regarding monitors and receiverships; modification of language about terminations/discharges; new or modified language to enhance and strengthen licensure qualifications and the application process.

B) Statutory Authority: Implementing the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135] and the Health Care Worker Background Check Act [225 ILCS 46], and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: October 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Yes, this rulemaking will affect small businesses and not for profit corporations that provide developmentally disability services in community-based residential settings.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield IL 62762

217/785-9772

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF HUMAN SERVICES

JULY 2014 REGULATORY AGENDA

c) Part(s) (Heading and Code Citation): Administration of Medication in Community Settings (59 Ill. Adm. Code 116)

1) Rulemaking:

A) Description: This rulemaking is necessary to update language to reflect current technology and practices in the field and streamline medication administration and documentation requirements.

B) Statutory Authority: Implementing and authorized by Section 15.4 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.4]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100]

D) Date agency anticipates First Notice: August 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Yes, this rulemaking will affect small businesses and not for profit corporations that provide mental health and developmentally disability services.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield IL 62762

217/785-9772

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): Electronic Prescription Monitoring Program (77 Ill. Adm. Code 2080)

DEPARTMENT OF HUMAN SERVICES

JULY 2014 REGULATORY AGENDA

1) Rulemaking:

A) Description: This rulemaking is necessary to ensure compliance with State and federal Controlled Substance Acts including, Drug Enforcement Agency changes to Scheduling of Controlled Substances that have appeared within the Federal Register, and exclusion of Veterinarians from having to report.

B) Statutory Authority: Implementing and authorized by Sections 316, 317, 318, 319, 320 and 321 of Article III of the Illinois Controlled Substances Act [720 ILCS 570/316, 317, 318, 319, 320 and 321]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100]

D) Date agency anticipates First Notice: November 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Yes, this rulemaking will affect small business. This will require Long Term Care pharmacies to expand the electronic table of medications that they are currently reporting weekly on to the Prescription Monitoring Program – Long Term Care activity.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield IL 62762

217/785-9772

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF HUMAN SERVICES

JULY 2014 REGULATORY AGENDA

e) Part(s) (Heading and Code Citation): Electronic Prescription Monitoring Program Long Term Care (77 Ill. Adm. Code 2081)

1) Rulemaking:

A) Description: This rulemaking will expand Section 318 to include all medications dispensed by Long Term Care pharmacies to residents residing in Long Term Care facilities. This will also expand the scope of Long Term Care data utilization to include antibiotic stewardship with Department of Public Health regarding Long Term Care facilities and their populations.

B) Statutory Authority: Implementing and authorized by Sections 316, 317, 318, 319, 320 and 321 of Article III of the Illinois Controlled Substances Act [720 ILCS 570/316, 317, 318, 319, 320 and 321]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100]

D) Date agency anticipates First Notice: November 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Yes, this rulemaking will affect small business. This will require Long Term Care pharmacies to expand the electronic table of medications that they are currently reporting weekly on to the Prescription Monitoring Program - Long Term Care activity.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield IL 62762

217/785-9772

DEPARTMENT OF HUMAN SERVICES

JULY 2014 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

f) Part(s) (Heading and Code Citation): General Administrative Provisions (89 Ill. Adm. Code 10)

1) Rulemaking:

A) Description: This rulemaking will revise the application for financial assistance and SNAP benefit provisions to include a restriction establishing that an authorized representative may not charge for his or her services unless specified exception criteria is met.

B) Statutory Authority: This change is contingent upon HB 5682 being signed into law.

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not have an effect on small businesses, small municipalities or not for profit corporations.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield IL 62762

217/785-9772

G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citation): Child Care (89 Ill. Adm. Code 50)

DEPARTMENT OF HUMAN SERVICES

JULY 2014 REGULATORY AGENDA

1) Rulemaking:

A) Description: This rulemaking will revise the amounts for the Maximum Monthly Income and Parent Fees for the Child Care Assistance Program.

B) Statutory Authority: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100]

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Yes, this rulemaking will affect small businesses and not for profit corporations that provide child care services.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield IL 62762

217/785-9772

G) Related rulemakings and other pertinent information: None

2) Rulemaking:

A) Description: In order for a child care center not licensed by the State of Illinois to certify that its program is exempt from licensure, this rulemaking will require the child care center to provide the burden of proof (a process that requires the Department of Human Services to secure

additional information beyond the submission of a License Exempt Day Care Center Self-Certification form).

B) Statutory Authority: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13] and 89 Ill Adm. Code 377

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Yes, this rulemaking will affect small businesses and not for profit corporations that provide child care services.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield IL 62762

217/785-9772

G) Related rulemakings and other pertinent information: None

h) Part(s) (Heading and Code Citation): Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)

1) Rulemaking:

A) Description: This rulemaking will revise the amount of excess child support exempted in the determination of eligibility and level of assistance payment for TANF families with budgeted earned income.

DEPARTMENT OF HUMAN SERVICES

JULY 2014 REGULATORY AGENDA

B) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13]

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: October 1, 2014

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not have an effect on small businesses, small municipalities or not for profit corporations.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield IL 62762

217/785-9772

G) Related rulemakings and other pertinent information: None

i) Part(s) (Heading and Code Citation): Supplemental Nutrition Assistance Program (SNAP) (89 Ill. Adm. Code 121)

1) Rulemaking:

A) Description: This rulemaking will revise the Air Conditioning/Heating Standard, the Limited Utility Standard, the Single Utility Standard and the Telephone Standard if the annual review of these standards determines that an increase or decrease in these standards is needed. This rulemaking will revise the Net Monthly Income Eligibility Standards and the Gross Monthly Income Eligibility Standards for SNAP. This rulemaking will also increase the maximum SNAP benefit amounts and the deductions from monthly income used in the determination of eligibility for SNAP.

DEPARTMENT OF HUMAN SERVICES

JULY 2014 REGULATORY AGENDA

B) Statutory Authority: Implementing and authorized by Section 7 CFR 273.9

C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100].

D) Date agency anticipates First Notice: October 2014

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not have an effect on small businesses, small municipalities or not for profit corporations.

F) Agency contact person for information:

Tracie Drew, Bureau Chief.
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield IL 62762

217/785-9772

G) Related rulemakings and other pertinent information: None

2) Rulemaking:

A) Description: If the Food and Nutrition Service approves a waiver request, this rulemaking will revise the expedited service provisions to allow for the State to postpone the eligibility interview for households qualifying for expedited service if an attempt to contact the household by phone has failed. These households will be provided one or two months of benefits (depending on their date of application) and provided an eligibility notice informing them that to continue to receive benefits, the household must appear for the scheduled postponed interview and provide necessary verifications. This change is contingent upon waiver authorization from USDA Food and Nutrition Service.

B) Statutory Authority: Implementing and authorized by 7 CFR 273.2(i)(3)(iii) and 7 CFR 273.2(1)(4)(iii)(A) and (B)

C) Schedule Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100]

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not have an effect on small businesses, small municipalities or not for profit corporations.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield IL 62762

217/785-9772

G) Related rulemakings and other pertinent information: None

j) Part(s) (Heading and Code Citation): Rules of Conduct, Discipline, Suspension and Discharge Procedures (89 Ill. Adm. Code 827)

1) Rulemaking:

A) Description: This rulemaking will reflect recent changes to Illinois State Board of Education rules. This is a School rule under the Division of Rehabilitation Services.

B) Statutory Authority: Implementing Sections 10 and 11 and authorized by Section 3(f) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/10, 11 and 3(f)]

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C) Scheduled Meeting/Hearing Date: The public will have an opportunity to comment on these rules during the First Notice Period. Hearings will be held if necessary as required by the Illinois Administrative Procedure Act [5 ILCS 100]

D) Date agency anticipates First Notice: August 2014

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not have an effect on small businesses, small municipalities or not for profit corporations.

F) Agency contact person for information:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield IL 62762

217/785-9772

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF INSURANCE

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a) Part(s) (Heading and Code Citation): Access to Public Records (2 Ill. Adm. Code 951)

1) Rulemaking:

A) Description: The Department's existing Public Records Rule is being repealed and replaced by a new Rule that will be extensively revised to reflect amendments to the Illinois Freedom of Information Act [5 ILCS 140].

B) Statutory Authority: 5 ILCS 140, 215 ILCS 5/401 and 5 ILCS 100/5-15

C) Scheduled meeting/hearing dates: None have been scheduled.

D) Date Agency anticipates First Notice: Summer 2013

E) Effect on small businesses, small municipalities or not for profit corporations: This proposal will not affect small businesses, small municipalities or not for profit organizations.

F) Agency Contact Person for information:

Susan Anders, Rules Coordinator
Illinois Department of Insurance
320 W. Washington St.
Springfield IL 62767-0001

Telephone: 217/558-0957

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citations): Request For Regulatory Action (2 Ill. Adm. Code 961)

1) Rulemaking:

A) Description: JCAR has asked DOI to look at our Title 2 and 4 rules and make revisions as appropriate. 2 IAC 961 (Request for Regulatory Action) has not been amended since 1998 and will be updated.

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B) Statutory Authority: Implementing and authorized by Section 5-145 of the Illinois Administrative Procedure Act [5 ILCS 100/5-145]

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency Contact Person for information:

Susan Anders, Rules Coordinator
Illinois Department of Insurance
320 W. Washington St.
Springfield IL 62767-0001

Telephone: 217/558-0957

G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citations): Americans with Disabilities Act Grievance Procedure (4 Ill. Adm. Code 250)

1) Rulemaking:

A) Description: JCAR has asked DOI to look at our Title 2 and 4 rules and make revisions as appropriate. 4 IAC 250 (Americans with Disabilities Act Grievance Procedure), will be amended to update a contact phone number and make other housekeeping changes.

B) Statutory Authority: Implementing Title II, Subtitle A of the Americans With Disabilities Act of 1990 (42 USC 12131-12134), as specified in Title II regulations (28 CFR 35.107), and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401]

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency Contact Person for information:

Susan Anders, Rules Coordinator
Illinois Department of Insurance
320 W. Washington St.
Springfield IL 62767-0001

Telephone: 217/558-0957

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citations): Improper Claims Practices (50 Ill. Adm. Code 919)

1) Rulemaking:

A) Description: This proposed regulatory change will add a new section under 919.90 Improper Practices or Procedures - Property and Casualty Companies. This change will be cited as 919.90(g) and makes it an improper claim practice for an insurer to rescind a policy based on misrepresentations in an application that is not signed by the insured.

B) Statutory Authority: Implementing Sections 154.5 and 154.6 of the Illinois Insurance Code [215 ILCS 5/154.5 and 154.6] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401], Section 10 of the Voluntary Health Services Plans Act [215 ILCS 165/10], Section 65 of the Dental Service Plan Act [215 ILCS 110/65] and Section 5-3 of the Health Maintenance Organization Act [215 ILCS 125/5-3]

C) Scheduled meeting/hearing dates: None scheduled

D) Date Agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: All licensed property and casualty insurers that write

automobile coverage in Illinois will be subject to this proposed administrative rule change.

F) Agency Contact Person for information:

C.J. Metcalf, P&C Compliance Analyst
Illinois Department of Insurance
320 W. Washington St.
Springfield IL 62767-0001

217/558-0853

G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citations): Construction and Filing of Accident and Health Insurance Policy Forms (50 Ill. Adm. Code 2001)

1) Rulemaking:

A) Description: Part 2001 as amended in January 2014 quotes ACA provisions with regard to Federally Qualified Health Centers (FQHCs) for qualified health plans. However, subsequent federal regulations were issued that stated that the FQHC could be paid either the Medicaid amount, or some other mutually agreed upon amount. Due to the fact that Part 2001 does not have the same language regarding "mutually agreed upon amount," issuers may be faced with the situation that some provider arrangements with FQHCs may not comport with this Part. Section 2001.12 needs to be amended so that it is consistent with the federal regulations.

Additionally, a new provision is being added in Section 2001.11 regarding the pediatric oral care benefit in connection with new policies issued outside of the Exchange. The benefit will be deemed satisfied if the health insurance issuer has obtained reasonable assurance that such benefits are provided.

B) Statutory Authority: Implementing Sections 143, 355 and 356a and Articles IX and XX of the Illinois Insurance Code [215 ILCS 5/143, 355, 356a, Arts. IX and XX] and Section 4-13 of the Health Maintenance

Organization Act [215 ILCS 125/4-13] and authorized by Section 401 of the Code [215 ILCS 5/401]

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The financial impact is difficult to determine at this time.

F) Agency Contact Person for information:

James C. Rundblom
Deputy General Counsel
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/785-8559

G) Related rulemakings and other pertinent information: None

f) Part(s) (Heading and Code Citations): Minimum Standards of Individual Accident and Health Insurance (50 Ill. Adm. Code 2007)

1) Rulemaking:

A) Description: The Department intends to amend the rule to clarify requirements for Fixed Indemnity products due to changes in Federal law and regulations (42 USC 300gg-22; 45 CFR 150.101(b)(2), 150.201F, and 148.220).

Also, for the sake of consistency, the Department plans to remove language found in 2007.60 (g) that appears to permit exclusion for suicide or attempted suicide. The allowable exclusion for suicide (sane or insane), attempted suicide or intentionally self-inflicted injury was previously removed from 2007.60 (e) (5).

B) Statutory Authority: 215 ILCS 5/355a and 5/40

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C) Scheduled meeting/hearing dates: None scheduled

D) Date Agency anticipates First Notice: Fall 2014

E) Effect on small businesses, small municipalities or not for profit corporations: The financial impact is difficult to determine at this time.

F) Agency Contact Person for information:

Cindy Colonius, Acting Deputy Director
Consumer Market Division
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/782-4572

G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citations): Required Procedures for Group Inland Marine Insurance (50 Ill. Adm. Code 2302)

1) Rulemaking:

A) Description: The rule is being updated to reflect the Department's use of the National Association of Insurance Commissioners (NAIC) electronic system for companies to submit filings, called the System for Electronic Rate and Form Filing (SERFF).

B) Statutory Authority: Implementing Section 400.1 and authorized by Section 401 of the Illinois Insurance Code (215 ILCS 5/400.1 and 401)

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Unknown

F) Agency Contact Person for information:

John Gatlin, Assistant Deputy Director
Property and Casualty Compliance Unit
Illinois Department of Insurance
320 West Washington Street, 5th Floor
Springfield IL 62767-0001

217/782-1786

G) Related rulemakings and other pertinent information: None

h) Part(s) (Heading and Code Citations): Workers' Compensation Rate and Manual Filing (50 Ill. Adm. Code 2902)

1) Rulemaking:

A) Description: The rule is being revised for clarity, to require electronic filing and delete the requirement of the Summary Sheet (RF-3)

B) Statutory Authority: Implementing Section 457 and authorized by Sections 454 and 401 of the Illinois Insurance Code 215 ILCS 5/457, 454 and 401).

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Unknown

F) Agency Contact Person for information:

John Gatlin, Assistant Deputy Director
Property and Casualty Compliance Unit
Illinois Department of Insurance
320 West Washington Street, 5th Floor
Springfield IL 62767-0001

217/782-1786

G) Related rulemakings and other pertinent information: None

i) Part(s) (Heading and Code Citations): Pre-Licensing and Continuing Education (50 Ill. Adm. Code 3119)

1) Rulemaking:

A) Description: The new back office licensing system needs time for reporting education to online licensing service. The amendments will clean up language for uniformity; clarifications for disqualifications; and clarify language to achieve appropriate Illinois courses and the requirement of online applications for education providers.

B) Statutory Authority: 215 ILCS 5/500-25, 500-30, 500-35, and 40

C) Scheduled meeting/hearing dates: None scheduled

D) Date Agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Minimal

F) Agency Contact Person for information:

Kelly S. Kruger, Assistant Deputy Director
Producer Licensing
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/785-2263

and

David Murphy, Assistant Deputy Director
Continuing Education Unit

DEPARTMENT OF INSURANCE

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Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/782-5415

G) Related rulemakings and other pertinent information: None

j) Part(s) (Heading and Code Citations): Producer Licensing and Business Entities (50 Ill. Adm. Code 3121)

1) Rulemaking:

A) Description: The proposed new rule will provide clarification in terms, fees, education reporting and renewal of insurance licenses, provide a definition of the term "resident" and require email addresses for future use.

B) Statutory Authority: 215 ILCS 5/500-145

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Unknown

F) Agency Contact Person for information:

Kelly S. Kruger, Assistant Deputy Director
Producer Licensing
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/785-2263

G) Related rulemakings and other pertinent information: None

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k) Part(s) (Heading and Code Citations): Navigator, In-Person Counselor and Certified Application Counselor Certification (50 Ill. Adm. Code 3125)

1) Rulemaking:

A) Description: The existing rule needs amended to address the need for Navigators to report certain military offenses as described in proposed rule titled "Military Offense Convictions" which may be cause for certification denial, suspension, revocation, etc.

B) Statutory Authority: 215 ILCS 121

C) Scheduled meeting/hearing dates: None scheduled

D) Date Agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Unknown

F) Agency Contact Person for information:

Mike Teer, Assistant Deputy Director
Producer Regulatory
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/782-1784

G) Related rulemakings and other pertinent information: This amended rule will need to coincide with the new proposed Part 3130 titled Military Offense Convictions. The Producer Regulatory Unit will review insurance producer, public adjuster, and/or navigator applications which report a "yes" answer regarding military offense convictions. Official transcripts and/or the Uniform Code of Military Justice may be used for guidance in determining the issuance of any Illinois producer, public adjuster or Navigator certification.

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l) Part(s) (Heading and Code Citations): Military Offense Convictions (50 Ill. Adm. Code 3130)

1) Rulemaking:

A) Description: The NAIC Uniform Application has implemented a specific question requiring applicants to report any military offense convictions. The review of the conviction documents may include non-judicial punishment decisions.

The purpose of this Part is to regulate the licensure or certification of insurance producers, public adjusters, and/or navigators. This Part applies to insurance producers, public adjusters, and/or navigators who answer "yes" to Background Question 1C of the NAIC Uniform Application regarding the conviction of a military offense.

B) Statutory Authority:

C) Scheduled meeting/hearing dates: None scheduled

D) Date Agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency Contact Person for information:

Mike Teer, Assistant Deputy Director
Producer Regulatory
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/782-1784

G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code 3125

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m) Part(s) (Heading and Code Citations): Insurance Data Reporting Requirements (50 Ill. Adm. Code 4203)

1) Rulemaking:

A) Description: Part 4203 refers to National Association of Independent Insurers (NAII), which is no longer in existence; the rule needs to be amended to refer instead to Property Casualty Insurers Association of America (PCI), which succeeded NAII. Housekeeping changes will be made to the rule as well.

B) Statutory Authority: Implementing Article XLII and authorized by Section 1204 of the Illinois Insurance Code [215 ILCS 5/Art. XLII]

C) Scheduled meeting/hearing dates: None scheduled

D) Date Agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency Contact Person for information:

Robert Rapp
Property and Casualty Complaints Unit
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/785-1680

G) Related rulemakings and other pertinent information: None

n) Part(s) (Heading and Code Citations): Managed Care Reform and Patient Rights (50 Ill. Adm. Code 5420)

1) Rulemaking:

DEPARTMENT OF INSURANCE

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A) Description: Public Act 98-0651 added nursing homes to the definition of provider in the Managed Care Reform and Patients' Rights Act. Part 5420 will be amended to reflect this.

B) Statutory Authority: 215 ILCS 134/10

C) Scheduled meeting/hearing dates: None scheduled

D) Date Agency anticipates First Notice: Summer 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency Contact Person for information:

Yvonne Clearwater
Deputy Director, Consumer Market Division
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/785-5987

G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code 5421 is also being amended to include nursing homes in the definition of provider pursuant to Public Act 98-0651.

o) Part(s) (Heading and Code Citations): Health Maintenance Organization (50 Ill. Adm. Code 5421)

1) Rulemaking:

A) Description: Public Act 98-0651 added nursing homes to the definition of provider in the HMO Act. Part 5421 will be amended to reflect this.

B) Statutory Authority: 215 ILCS 125/1-2

C) Scheduled meeting/hearing dates: None scheduled

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D) Date Agency anticipates First Notice: Summer 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency Contact Person for information:

Yvonne Clearwater
Deputy Director, Consumer Market Division
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/785-5987

G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code 5420 is also being amended to include nursing homes in the definition of provider pursuant to Public Act 98-0651.

DEPARTMENT OF NATURAL RESOURCES

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a) Part(s) (Heading and Code Citation): General Hunting and Trapping on Department-Owned or –Managed Sites (17 Ill. Adm. Code 510)

1) Rulemaking:

A) Description: This Part will be amended to be consistent with the Department's hunting regulations.

B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5] and by Section 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-515]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Virginia Yang, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citation): Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting (17 Ill. Adm. Code 530)

1) Rulemaking:

DEPARTMENT OF NATURAL RESOURCES

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A) Description: This Part will be amended to update the list of State-owned or –managed sites open for hunting and update site-specific regulations at these sites.

B) 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]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Virginia Yang, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting (17 Ill. Adm. Code 550)

1) Rulemaking:

A) Description: This Part will be amended to update the list of State-owned or –managed sites open for hunting and update site-specific regulations at these sites.

B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 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, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29]

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C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Virginia Yang, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, River Otter, Beaver and Woodchuck (Groundhog) Trapping (17 Ill. Adm. Code 570)

1) Rulemaking:

A) Description: This Part will be amended to update the list of State-owned or –managed sites open for hunting and update site-specific regulations at these sites.

B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 2.30, 2.33 and 3.5]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

DEPARTMENT OF NATURAL RESOURCES

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F) Agency contact person for information:

Virginia Yang, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citation): Duck, Goose, and Coot Hunting (17 Ill. Adm. Code 590)

1) Rulemaking:

A) Description: This Part will be amended to make statewide program changes, open and close state-owned or –managed sites, and amend procedures at these sites.

B) 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 and 3.8] and Migratory Bird Hunting (50 CFR 20)

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Virginia Yang, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

DEPARTMENT OF NATURAL RESOURCES

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G) Related rulemakings and other pertinent information: None

f) Part(s) (Heading and Code Citation): Apex Predators (17 Ill. Adm. Code 600)

1) Rulemaking:

A) Description: This new Part will be proposed to clarify protection for gray wolf, American black bear, and cougar.

B) Statutory Authority: Implementing and authorized by Sections 805-15, 805-100 and 805-105 of the Department of Natural Resources (Conservation) Law [20 ILCS 805/805-15, 805-100 and 805-105] and Sections 1.3, 1.4, 1.10, 1.20, 2.1 and 2.2(a) of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.10, 1.20, 2.1 and 2.2(a)]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citation): White-Tailed Deer Hunting by Use of Firearms (17 Ill. Adm. Code 650)

1) Rulemaking:

DEPARTMENT OF NATURAL RESOURCES

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A) Description: This Part will be amended to update the list of State-owned or –managed sites open for hunting and update site-specific regulations at these sites.

B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Virginia Yang, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information:

h) Part(s) (Heading and Code Citation): White-Tailed Deer Hunting by Use of Muzzleloading Rifles (17 Ill. Adm. Code 660)

1) Rulemaking:

A) Description: This Part will be amended to update the list of State-owned or –managed sites open for hunting and update site-specific regulations at these sites.

B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36].

C) Scheduled meeting/hearing dates: None

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D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Virginia Yung, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information:

i) Part(s) (Heading and Code Citation): White-Tailed Deer Hunting by Use of Bow and Arrow (17 Ill. Adm. Code 670)

1) Rulemaking:

A) Description: This Part will be amended to update open seasons and counties, sites and site-specific information, hunting regulations, permit requirements and harvest reporting requirements.

B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Virginia Yang, Legal Counsel

DEPARTMENT OF NATURAL RESOURCES

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One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

j) Part(s) (Heading and Code Citation): Special White-Tailed Deer Season for Disease Control (17 Ill. Adm. Code 675)

1) Rulemaking:

A) Description: This Part will be amended to update regulations pertaining to the Department's Chronic Wasting Disease Season.

B) 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]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Virginia Yang, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

k) Part(s) (Heading and Code Citation): Late-Winter Deer Hunting Season (17 Ill. Adm. Code 680)

DEPARTMENT OF NATURAL RESOURCES

JULY 2014 REGULATORY AGENDA

1) Rulemaking:

A) Description: This Part will be amended to update the list of State-owned or –managed sites open for hunting and update site-specific regulations at these sites.

B) 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]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Virginia Yang, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

l) Part(s) (Heading and Code Citation): Youth Hunting Seasons (17 Ill. Adm. Code 685)

1) Rulemaking:

A) Description: This Part will be amended to update the list of State-owned or –managed sites open for hunting and update site-specific regulations at these sites.

B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.24, 2.25, 2.26 and 3.36]

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C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Virginia Yang, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

m) Part(s) (Heading and Code Citation): Squirrel Hunting (17 Ill. Adm. Code 690)

1) Rulemaking:

A) Description: This Part will be amended to update the list of State-owned or –managed sites open for hunting and update site-specific regulations at these sites.

B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.28 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.28 and 3.5]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Virginia Yang, Legal Counsel

DEPARTMENT OF NATURAL RESOURCES

JULY 2014 REGULATORY AGENDA

One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

n) Part(s) (Heading and Code Citation): The Taking of Wild Turkeys – Spring Season (17 Ill. Adm. Code 710)

1) Rulemaking:

A) Description: This Part will be amended to update the list of State-owned or –managed sites open for hunting and update site-specific regulations at these sites.

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

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: October 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Virginia Yang, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

o) Part(s) (Heading and Code Citation): The Taking of Wild Turkeys – Fall Gun Season (17 Ill. Adm. Code 715)

DEPARTMENT OF NATURAL RESOURCES

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1) Rulemaking:

A) Description: This Part will be amended to update the list of State-owned or –managed sites open for hunting and update site-specific regulations at these sites.

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

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Virginia Yang, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

p) Part(s) (Heading and Code Citation): The Taking of Wild Turkeys – Fall Archery Season (17 Ill. Adm. Code 720)

1) Rulemaking:

A) Description: This Part will be amended to make statewide program changes, open and close State-owned or -managed sites, and amend procedures at these sites.

DEPARTMENT OF NATURAL RESOURCES

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

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Virginia Yang, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

q) Part(s) (Heading and Code Citation): Dove Hunting (17 Ill. Adm. Code 730)

1) Rulemaking:

A) Description: This Part will be amended to update the list of State-owned or –managed sites open for hunting and update site-specific regulations at these sites.

B) Statutory Authority: Implementing and authorized by Sections 1.3 and 1.4 of the Wildlife Code [520 ILCS 5/1.3 and 1.4]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

DEPARTMENT OF NATURAL RESOURCES

JULY 2014 REGULATORY AGENDA

F) Agency contact person for information:

Virginia Yang, Legal Counsel
One Natural Resources Way
Springfield, IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

r) Part(s) (Heading and Code Citation): Crow, Woodcock, Snipe, Rail and Teal Hunting (17 Ill. Adm. Code 740)

1) Rulemaking:

A) Description: This Part will be amended to update the list of State-owned or –managed sites open for hunting and update site-specific regulations at these sites.

B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5] and Migratory Bird Hunting (50 CFR 20, August 25, 1987).

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Virginia Yang, Legal Counsel
One Natural Resources Way
Springfield, IL 62702-1271

217/782-1809

DEPARTMENT OF NATURAL RESOURCES

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G) Related rulemakings and other pertinent information: None

s) Part(s) (Heading and Code Citation): Sport Fishing Regulations for the Waters of Illinois (17 Ill. Adm. Code 810)

1) Rulemaking:

A) Description: This Part will be amended to update site-specific fishing regulations.

B) Statutory Authority: Implementing and authorized by Sections 1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Nick San Diego, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

t) Part(s) (Heading and Code Citation): The Taking of Reptiles and Amphibians Under a Sport Fishing License (17 Ill. Adm. Code 880)

1) Rulemaking:

DEPARTMENT OF NATURAL RESOURCES

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A) Description: This Part will be amended to incorporate provisions of the new Herptiles-Herps Act (Senate Bill 902)

B) Statutory Authority: Implementing and authorized by Sections 5/10-30, 10-35, 10-60, 10-115, 20-5 and 20-90 of the Fish and Aquatic Life Code [515 ILCS 5/10-30, 10-35, 10-60, 10-115, 20-5 and 20-90] and the Aquaculture Development Act [20 ILCS 215]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Felicia Page, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

u) Part(s) (Heading and Code Citation): Forestry Development Cost-Share Program (17 Ill. Adm. Code 1536)

1) Rulemaking:

A) Description: This Part will be amended to expand the opportunity for landowners to successfully manage their forest land consistent with the Forest Development Act.

B) Statutory Authority: Implementing and authorized by the Illinois Forestry Development Act [525 ILCS 15]

C) Scheduled meeting/hearing dates: None

DEPARTMENT OF NATURAL RESOURCES

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D) Date agency anticipates First Notice: September 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Felicia Page, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

v) Part(s) (Heading and Code Citation): Forest Management Plan (17 Ill. Adm. Code 1537)

1) Rulemaking:

A) Description: This Part will be amended to increase the quality and due diligence of the forest management plan.

B) Statutory Authority: Implementing and authorized by the Illinois Forestry Development Act [525 ILCS 15/1]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Felicia Page, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

DEPARTMENT OF NATURAL RESOURCES

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G) Related rulemakings and other pertinent information: None

w) Part(s) (Heading and Code Citation): Open Space Lands Acquisition and Development Grant Program (17 Ill. Adm. Code 3025)

1) Rulemaking:

A) Description: This Part will be amended to incorporate regulations pertaining to new regulations on funding distribution, handling of awards, business enterprise compliance and distressed communities.

B) Statutory Authority: Implementing and authorized by the Open Space Lands Acquisition and Development Act [525 ILCS 35]

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

x) Part(s) (Heading and Code Citation): Off-Highway Vehicle Recreational Trails Grant Program (17 Ill. Adm. Code 3045)

1) Rulemaking:

DEPARTMENT OF NATURAL RESOURCES

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A) Description: This Part will be amended to incorporate regulations prohibiting the possession, sale or consumption of alcoholic beverages on OHV grant-assisted sites.

B) Statutory Authority: Implementing and authorized by Section 15 of the Recreational Trails of Illinois Act [20 ILCS 862/15]

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

y) Part(s) (Heading and Code Citation): Construction of Floodways in Rivers, Lakes and Streams (17 Ill. Adm. Code 3700)

1) Rulemaking:

A) Description: This Part will be amended to update annual escalation adjustments and the adjustment factor formula.

B) Statutory Authority: Implementing and authorized by Sections 23, 29a, 30 and 35 of the Rivers, Lakes and Streams Act [615 ILCS 5/23, 29a, 30 and 35]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 2014

DEPARTMENT OF NATURAL RESOURCES

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E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Robert Mool, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

z) Part(s) (Heading and Code Citation): Construction and Maintenance of Dams (17 Ill. Adm. Code 3702)

1) Rulemaking:

A) Description: This Part will be amended to update annual escalation adjustments and the adjustment factor formula.

B) Statutory Authority: Implementing and authorized by Sections 23 and 23a of the Rivers, Lakes and Streams Act [615 ILCS 5/23, 23a, and 35]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Robert Mool, Legal Counsel
One Natural Resources Way
Springfield, IL 62702-1271

217/782-1809

DEPARTMENT OF NATURAL RESOURCES

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G) Related rulemakings and other pertinent information: None

aa) Part(s) (Heading and Code Citation): Regulation of Public Waters (17 Ill. Adm. Code 3704)

1) Rulemaking:

A) Description: This Part will be amended to update annual escalation adjustments and the adjustment factor formula.

B) Statutory Authority: Implementing and authorized by the Rivers, Lakes and Streams Act [615 ILCS 5]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Robert Mool, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

bb) Part(s) (Heading and Code Citation): Floodway Construction in Northeastern Illinois (17 Ill. Adm. Code 3708)

1) Rulemaking:

A) Description: This Part will be amended to update annual escalation adjustments and the adjustment factor formula.

B) Statutory Authority: Implementing and authorized by Sections 18g and 35 of the Rivers, Lakes and Streams Act [615 ILCS 5/18g and 35]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Robert Mool, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

cc) Part(s) (Heading and Code Citation): Procedure for Conducting Examinations of Persons Seeking Certificates of Competency (62 Ill. Adm. Code 230)

1) Rulemaking:

A) Description: This Part is being amended to incorporate the eligibility requirements for obtaining mine electrician certification, regulations pertaining to how and when the mine electrician examination will be administered, examination and training requirements for mine electricians from other states and parameters for cancellation, revocation or suspension of mine electrician certification.

B) Statutory Authority: Implementing and authorized by Article 2 and 3 of the Coal Mining Act [225 ILCS 705/Art. 2 and 3]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Nick San Diego, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

dd) Part(s) (Heading and Code Citation): The Illinois Oil and Gas Act (62 Ill. Adm. Code 240)

1) Rulemaking:

A) Description: The Part will be amended to incorporate procedures for assessing civil penalties.

B) Statutory Authority: Implementing and authorized by the Illinois Oil and Gas Act [225 ILCS 725]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Robert Mool, Legal Counsel
One Natural Resources Way
Springfield, IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

ee) Part(s) (Heading and Code Citation): General Definitions (62 Ill. Adm. Code 1701)

1) Rulemaking:

A) Description: This Part will be amended to comply with the changes made to the Office of Surface Mining's regulations.

B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Nick San Diego, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

ff) Part(s) (Heading and Code Citation): Requirements for Permits and Permit Processing (62 Ill. Adm. Code 1773)

1) Rulemaking:

A) Description: This Part is being amended to comply with the changes made to the Office of Surface Mining's regulations.

B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]

DEPARTMENT OF NATURAL RESOURCES

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C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Nick San Diego, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

gg) Part(s) (Heading and Code Citation): Permit Applications – Minimum Requirements For Legal, Financial, Compliance, and Related Information (62 Ill. Adm. Code 1778)

1) Rulemaking:

A) Description: This Part is being amended to comply with changes made to the Office of Surface Mining's regulations.

B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Nick San Diego, Legal Counsel

DEPARTMENT OF NATURAL RESOURCES

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One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

hh) Part(s) (Heading and Code Citation): Administrative and Judicial Review (62 Ill. Adm. Code 1847)

1) Rulemaking:

A) Description: This Part is being amended to incorporate statutory changes pertaining to interim orders.

B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Nick San Diego, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

ii) Part(s) (Heading and Code Citation): General Rules Relating to Procedure and Practice (62 Ill. Adm. Code 1848)

1) Rulemaking:

DEPARTMENT OF NATURAL RESOURCES

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A) Description: This Part is being amended to incorporate statutory changes pertaining to interim orders.

B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Nick San Diego, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

OFFICE OF THE STATE FIRE MARSHAL

JULY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citations): Outdoor Stages (41 Ill. Adm. Code 107)

1) Rulemaking:

A) Description: This rulemaking would apply to outdoor stages greater than 1,500 square feet, require that such stages be designed by a professional engineer or architect, and also require a designated responsible person to be onsite whenever a venue uses a regulated stage.

B) Statutory Authority: Implementing and authorized by Section 9 of the Fire Investigation Act [425 ILCS 25/9]

C) Scheduled meeting/hearing dates: None scheduled.

D) Date agency anticipates First Notice: Fall 2014

E) Effect on small businesses, small municipalities or not for profit corporations: It is anticipated that the rules would affect small businesses, small municipalities and not-for-profit corporations as the rules would apply to any outdoor stage above 1,500 square feet, require that such stages be designed by a professional engineer or architect and also require a designated responsible person to be onsite whenever a venue uses a stage.

F) Agency contact person for information:

Ken Wood, P.E. EFO
Fire Protection Engineer
Director, Division of Technical Services
Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600
Chicago IL 60601

312/814-2962

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citations): Fire Sprinkler Contractor Licensing Rules (41 Ill. Adm. Code 109)

OFFICE OF THE STATE FIRE MARSHAL

JULY 2014 REGULATORY AGENDA

1) Rulemaking:

A) Description: This rulemaking will incorporate statutory provisions that permit only properly qualified and licensed sprinkler contractors to conduct inspections and testing of fire sprinkler systems. It will require that fire sprinkler contractors must submit copies of their sprinkler system inspection documentation to local fire departments or fire protection districts. It will require a copy of a driver's license or State identification for each certified person or responsible managing employee designated by the licensee. This rulemaking will also further define the terms "single family or multiple family residential dwellings up to and including 8 family units," as used in the Fire Sprinkler Contractor Licensing Act. Currently, the terms lack any definition, resulting in confusion as to those occupancies which require a license in order to install fire sprinklers.

B) Statutory Authority: Implementing and authorized by Section 55 of the Fire Sprinkler Contractor Licensing Act [225 ILCS 317/55]

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Unknown

E Effect on small businesses, small municipalities or not for profit corporations: Any small business that installs or repairs fire sprinkler systems.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Kevin Switzer
Manager
Division of Fire Prevention
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield, IL 62704

217/558-0639

OFFICE OF THE STATE FIRE MARSHAL

JULY 2014 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citations): Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120)

1) Rulemaking: Amendments to Boiler and Pressure Vessel Safety regulations

A) Description: This rulemaking will accomplish the following. First, it will require that CO2 detectors be placed inside every building where any portion of a pressurized CO2 vessel system is located. Second, for newly installed systems only, it will also require that the exit points of boiler ventilation piping (both intake and exhaust) be located outside of an occupancy at least 36 inches above grade to prevent CO buildup during times of high snowfall. Third, it will clarify what the inspection cycle for a historical boiler will consist of in the event that one or more required inspections in the current cycle are skipped by the owner or operator. If four or more years of successive inspections are skipped, this rulemaking would require the owner to start a new cycle of regular inspections at 2-year intervals with an initial inspection that conducts ultrasonic testing (UT) of 100% of the surface of the object using a certified UT tester.

B) Statutory Authority: Boiler and Pressure Vessel Safety Act, 430 ILCS 75/2

C) Scheduled meeting/hearing dates: None scheduled yet.

D) Date agency anticipates First Notice: Prior to December 2014

E) Effect on small businesses, small municipalities or not for profit corporations: No significant impact anticipated.

F) Agency contact person for information:

Clayton Novak
Chief Inspector
Division of Boiler and Pressure Vessel Safety
Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600

OFFICE OF THE STATE FIRE MARSHAL

JULY 2014 REGULATORY AGENDA

Chicago IL 60601

312/814-2381
217-785-1008

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citations): Policy and Procedures Manual for Fire Protection Personnel (41 Ill. Adm. Code 141)

1) Rulemaking:

A) Description: This Part will be amended for updates, clarification and consolidation. The Office of the State Fire Marshal (OSFM) intends to clarify this Part by separating the regulatory requirements for course and training facility approval, state examinations, certifications, reimbursement and fees from non-regulatory provisions which constitute an internal policy and procedure manual. Those provisions which do not constitute regulatory requirements will be repealed.

B) Statutory Authority: Implementing and authorized by Sections 8 and 11 of the Fire Protection Training Act [50 ILCS 740/8] and the Peace Officer Fire Investigation Act [20 ILCS 2910]

C) Scheduled meeting/hearing dates: None Scheduled.

D) Date agency anticipates First Notice: Summer or Fall 2014

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking may impact small municipalities that elect to participate in the Office of the State Fire Marshal's voluntary certification program and seek reimbursement for training expenditures from funds appropriated to the Office for these reimbursements. Streamlined procedural rules are expected to speed the curriculum approval time and decrease administrative burdens on participants.

F) Agency contact person for information:

Mitzi Woodson

OFFICE OF THE STATE FIRE MARSHAL

JULY 2014 REGULATORY AGENDA

Manager
Division of Personnel Standards and Education
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703

217/785-1003

G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citations): Race Track Rules for Fire Safety (41 Ill. Adm. Code 150)

1) Rulemaking:

A) Description: This rulemaking will update the agency's current rules applicable to pari-mutuel horse racing tracks. Current rules date to 1976 and cite editions of NFPA standards for which updated editions are available.

B) Statutory Authority: Implementing and authorized by Section 9 of the Fire Investigation Act [425 ILCS 25/9]

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: The rules are applicable only to facilities which are part of a race track complex where the complex is primarily utilized for the purpose of conducting a horse racing meet where pari-mutuel wagering is authorized.

F) Agency contact person for information:

Kevin Switzer
Manager
Division of Fire Prevention

OFFICE OF THE STATE FIRE MARSHAL

JULY 2014 REGULATORY AGENDA

Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62704

217/558-0639

G) Related rulemakings and other pertinent information: None

f) Part(s) (Heading and Code Citations): Storage, Transportation, Sale and Use of Gasoline and Volatile Oils: Rules and Regulations\ Relating to General Storage (41 Ill. Adm. Code 160)

1) Rulemaking:

A) Description: This rulemaking will update the agency's rules applicable to aboveground storage tanks (ASTs). This includes two primary rule Parts: 41 Ill. Adm. Code 160 and 41 Ill. Adm. Code 180 that are applicable to ASTs used for both dispensing and non-dispensing purposes. Part 160 rules primarily address the use of aboveground storage tanks (ASTs) for flammable or combustible liquids used for bulk storage (storage for other than dispensing purposes). The primary focus of the rules will be to replace the currently outdated rules with references to nationally recognized standards for ASTs.

B) Statutory Authority: Implementing and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2]

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: The rules will affect any small business, municipality or not-for-profit corporations that install or relocate an aboveground storage tank containing flammable or combustible liquids. The proposed rules are not anticipated to impose further restrictions upon ASTs that are already in-place.

OFFICE OF THE STATE FIRE MARSHAL

JULY 2014 REGULATORY AGENDA

F) Agency contact person for information:

Ken Wood, P.E. EFO
Fire Protection Engineer
Director, Division of Technical Services
Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600
Chicago IL 60601

312/814-2962

G) Related rulemakings and other pertinent information: The proposed changes to 41 Ill. Adm. Code 160 are similar to a certain extent to the proposed changes to 41 Ill. Adm. Code 180.

g) Part(s) (Heading and Code Citations): Petroleum Equipment Contractor Licensing (41 Ill. Adm. Code 172)

1) Rulemaking:

A) Description: This rulemaking will update certification and licensure rules for petroleum equipment contractors doing work on underground storage tanks.

B) Statutory Authority: Petroleum Equipment Contractor Licensing Act, 225 ILCS 729/25, 35(a)(4), and 35(b)(7)

C) Scheduled meeting/hearing dates: None scheduled yet.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Unknown but expected to be minimal.

F) Agency contact person for information:

Fred Schneller
Manager
Division of Petroleum and Chemical Safety

OFFICE OF THE STATE FIRE MARSHAL

JULY 2014 REGULATORY AGENDA

Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62603

217/557-3131

G) Related rulemakings and other pertinent information: None

h) Part(s) (Heading and Code Citations): Technical Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 Ill. Adm. Code 175); Administrative Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 Ill. Adm. Code 176)

1) Rulemaking:

A) Description: This rulemaking will update rule language to allow the electronic submission of various forms, including permit applications and electronic scheduling of permitted work and testing.

B) Statutory Authority: Gasoline Storage Act, 430 ILCS 15/2

C) Scheduled meeting/hearing dates: None scheduled yet.

D) Date agency anticipates First Notice: Fall 2014

E) Effect on small businesses, small municipalities or not for profit corporations: No impact

F) Agency contact person for information:

Fred Schneller
Manager
Division of Petroleum and Chemical Safety
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62603

217/557-3131

OFFICE OF THE STATE FIRE MARSHAL

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G) Related rulemakings and other pertinent information: None

i) Part(s) (Heading and Code Citations): Administrative Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 Ill. Adm. Code 176)

1) Rulemaking:

A) Description: This rulemaking will update and clarify the reporting requirements for site assessments that are required to be done in conjunction with decommissioning of an underground storage tank.

B) Statutory Authority: Section 2 of the Gasoline Storage Act, 430 ILCS 15/2

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: No impact.

F) Agency contact person for information:

Fred Schneller
Manager
Division of Petroleum and Chemical Safety
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62603

217/557-3131

G) Related rulemakings and other pertinent information: None

j) Part(s) (Heading and Code Citations): Storage, Transportation, Sale and Use of Gasoline and Volatile Oils (41 Ill. Adm. Code 180)

1) Rulemaking:

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A) Description: This rulemaking will update the agency's rules applicable to aboveground storage tanks (ASTs). This includes two primary rule Parts: 41 Ill. Adm. Code 160 and 41 Ill. Adm. Code 180 that are applicable to ASTs used for both dispensing and non-dispensing purposes. Part 180 rules primarily address the use of aboveground storage tanks (ASTs) for flammable or combustible liquids used to dispense fuel into vehicles or portable containers. The primary focus of the rules will be to replace the currently outdated rules with references to nationally recognized standards for ASTs.

B) Statutory Authority: Implementing and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2]

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: The rules will affect any small business, municipality or not-for-profit corporations that install or relocate an aboveground storage tank containing flammable or combustible liquids. The proposed rules are not anticipated to impose further restrictions upon ASTs that are already in-place.

F) Agency contact person for information:

Ken Wood, P.E. EFO
Fire Protection Engineer
Director, Division of Technical Services
Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600
Chicago IL 60601

312/814-2962

OFFICE OF THE STATE FIRE MARSHAL

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G) Related rulemakings and other pertinent information: The proposed changes to 41 Ill. Adm. Code 180 are similar to a certain extent to the proposed changes to 41 Ill. Adm. Code 160.

k) Part(s) (Heading and Code Citations): Storage, Transportation, Sale and Use of Liquefied Petroleum Gas (41 Ill. Adm. Code 200)

1) Rulemaking:

A) Description: This rulemaking will update the agency's rules applicable to LP-Gas tanks. The primary focus of the rules will be to update the reference to a national standard: NFPA 58 *Liquefied Petroleum Gas Code*. The rule currently references to the 2011 edition of NFPA 58 and the OSFM intends to update that reference to the latest published edition of NFPA 58 – the 2014 edition to remain current with industry practices. The statute requires that OSFM rules on this topic be in substantial conformity with the national codes published by the National Fire Protection Association (NFPA)

B) Statutory Authority: Liquefied Petroleum Gas Regulation Act [430 ILCS 5/3]

C) Scheduled meeting/hearing dates: None scheduled

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: The rules will affect any small business, municipality or not-for-profit corporations that install or relocate a LP-Gas (including propane) storage tank. The proposed rules are not anticipated to impose further restrictions upon LP-Gas tanks that are already in-place.

F) Agency contact person for information:

Ken Wood, P.E. EFO
Fire Protection Engineer
Director, Division of Technical Services
Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600

OFFICE OF THE STATE FIRE MARSHAL

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Chicago IL 60601

312/814-2962

G) Related rulemakings and other pertinent information: None

l) Part(s) (Heading and Code Citations): Appeals and Enforcement Proceedings (41 Ill. Adm. Code 210)

1) Rulemaking:

A) Description: This Part will be amended to delineate and clarify the appeal process utilized during certain OSFM administrative enforcement proceedings. Amendments will include, among other things, clarification concerning the duties of the respective parties, the initiation of contested hearings, pleadings, motions, discovery, the burden and standard of proof, the applicable rules of evidence, the consequences of failing to appear, and default procedures.

B) Statutory Authority: Implemented and authorized by Section 10-5 of the Illinois Administrative Procedures Act [5 ILCS 100/10-5]

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: None Anticipated.

F) Agency contact person for information:

Alix E. Armstead
Deputy General Counsel--Legal Division
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703

217/785-1519

OFFICE OF THE STATE FIRE MARSHAL

JULY 2014 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

m) Part(s) (Heading and Code Citations): Pyrotechnic Distributor and Operator Licensing Rules (41 Ill. Adm. Code 230)

1) Rulemaking:

A) Description: This rulemaking will update and revise Pyrotechnic Distributor and Operator Licensing Rules so that they are consistent with OSFM policy and practice.

B) Statutory Authority: Implemented and authorized by Section 30 of Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227/30]

C) Scheduled meeting/hearing dates: None scheduled yet.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: None known

F) Agency contact person for information:

Kevin Switzer
Manager
Division of Fire Prevention
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62603

217/558-0639

G) Related rulemakings and other pertinent information: None

n) Part(s) (Heading and Code Citations): Pyrotechnic and Consumer Display Permitting Rules (41 Ill. Adm. Code 235)

1) Rulemaking:

OFFICE OF THE STATE FIRE MARSHAL

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A) Description: This rulemaking will update and revise Pyrotechnic Distributor and Operator Licensing Rules so that they are consistent with OSFM policy and practice.

B) Statutory Authority: Implementing and authorized by Section 4.1 of the Fireworks Use Act [425 ILCS 35/5]

C) Scheduled meeting/hearing dates: None scheduled yet.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated

F) Agency contact person for information:

Kevin Switzer
Manager
Division of Fire Prevention
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62603

217/558-0639

G) Related rulemakings and other pertinent information: Proposed revisions to 41 Ill. Adm. Code 230's requirements for Flame Effect Licensure and Permit requirements.

o) Part(s) (Heading and Code Citations): Fire Equipment Distributor and Employee Standards (41 Ill. Adm. Code 251); and Fire Equipment Administrative Procedures (41 Ill. Adm. Code 280)

1) Rulemaking:

A) Description: This rulemaking will update the OSFM's rules applicable to fire equipment distributor and employee licensing, and consider combining the Part 251 and Part 280 rules into one document to address

procedures for administering the fire equipment contractor and employee licensing programs. Require a copy of a driver's license or State identification for each employee being licensed. Also, recognize that authority now results from an updated statute – the Fire Equipment Distributor and Employee Regulation Act of 2011 [225 ILCS 217]

B) Statutory Authority: Implementing and authorized by the Fire Equipment Distributor and Employee Regulation Act of 2011 [225 ILCS 217]

C) Scheduled meeting/hearing dates: The agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Any small business, small municipality or not for profit corporation that may be licensed by the OSFM as a fire equipment distributor or may be involved in the servicing of portable fire extinguishers and/or fixed fire suppression systems other than water-based systems.

F) Agency contact person for information:

Kevin Switzer
Manager
Division of Fire Prevention
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62704

217/558-0639

G) Related rulemakings and other pertinent information: None

p) Part(s) (Heading and Code Citations): Hazardous Materials Emergency Response Reimbursement Standards (41 Ill. Adm. Code 270)

1) Rulemaking:

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A) Description: This rulemaking will resolve audit findings which noted a discrepancy between reimbursement standards in the Hazardous Material Emergency Response Reimbursement Act [430 ILCS 55] and those contained in the Hazardous Materials Emergency Response Reimbursement Standards.

B) Statutory Authority: Implemented and authorized by Section 5(c) of the Hazardous Material Emergency Response Reimbursement Act [430 ILCS 55/5(c)]

C) Scheduled meeting/hearing dates: The Agency has not scheduled meetings or hearing on this proposal.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Kevin Schott
Senior Policy Advisor
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62704

217/558-6846

G) Related rulemakings and other pertinent information: None

q) Part(s) (Heading and Code Citations): Fire Truck Revolving Loan Program (41 Ill. Adm. Code 290)

1) Rulemaking:

A) Description: The Office of the Illinois State Fire Marshal (OSFM) and the Illinois Finance Authority (IFA) jointly administer a program to provide zero interest loans for the purchase of fire trucks by a unit of local government (fire department, fire protection district or township fire department) in Illinois that provides fire suppression within a geographical

area. Part 290 will be updated to address requirements specific to loans for brush trucks adopted in Public Act 97-900 (effective 8/6/2012). Public Act 97-901(effective 1/1/2013) provided additional authority to OSFM and IFA to provide low interest loans and this rulemaking updates Part 290 to establish these low interest loan requirements. This rulemaking also establishes criteria for the review of loan applications, clarifies repayment procedures, and further defines the relationship between the OSFM and IFA. This rulemaking will also incorporate P.A. 98-662 (eff. 6/23/14) to increase the maximum loan amount.

B) Statutory Authority: Implementing and authorized by the Illinois Finance Authority Act, Fire Truck Revolving Loan Program [20 ILCS 3501/825-80]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: Summer 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Loan awards are based on equipment need, financial need, and how recently the applicant has received a previous loan under this program. Recipients may be eligible for a loan up to $350,000, though a brush truck loan may not exceed $100,000 per truck.

F) Agency contact person for information:

Ronny J. Wickenhauser
Chief Fiscal Officer
Office of the Illinois State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703

217/558-0577

G) Related rulemakings and other pertinent information: None

r) Part(s) (Heading and Code Citations): Small Equipment Grant Program (41 Ill. Adm. Code 291)

OFFICE OF THE STATE FIRE MARSHAL

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1) Rulemaking:

A) Description: The Office of the Illinois State Fire Marshal (OSFM) administers a program to provide grant funds for the purchase of small firefighting equipment to units of local government (fire department, fire protection district or township fire department) in Illinois that provides fire suppression within a geographical area. This rulemaking shall add fire protection districts and volunteer, non-profit, stand alone ambulance services to fire departments as being eligible for grants to purchase small fire-fighting and ambulance equipment.

B) Statutory Authority: Authorized by Section 2.7 of the State Fire Marshal Act [20 ILCS 2905/2.7]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Grant awards are based on equipment need, financial need, and how recently the applicant has received a previous grant under this program. Recipients may be eligible for a grant up to $26,000 for the purchase of small firefighting equipment.

F) Agency contact person for information:

Ronny J. Wickenhauser
Chief Fiscal Officer
Office of the Illinois State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703

217/558-0577

G) Related rulemakings and other pertinent information: None

s) Part(s) (Heading and Code Citations): Ambulance Revolving Loan Program (41 Ill. Adm. Code 292)

OFFICE OF THE STATE FIRE MARSHAL

JULY 2014 REGULATORY AGENDA

1) Rulemaking:

A) Description: The Office of the Illinois State Fire Marshal (OSFM) and the Illinois Finance Authority (IFA) have authority to jointly administer a program to provide loans for the purchase of an ambulance or ambulances by a not-for-profit ambulance service or a unit of local government (fire department, fire protection district or township fire department) in Illinois that provides emergency medical service within a geographical area. This rulemaking clarifies criteria for review of loan applications and repayment procedures and further defines the relationship between the OSFM and IFA. Public Act 97-901(effective 1/1/2013) provided additional authority to OSFM and IFA to provide low interest loans and this rulemaking updates Part 292 to establish these low interest loan requirements.

B) Statutory Authority: Implementing and authorized by the Illinois Finance Authority Act, Ambulance Revolving Loan Program [20 ILCS 3501/825-85]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: Summer 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Loan awards are based on equipment need, financial need, and how recently the applicant has received a previous loan under this program. Recipients may be eligible for a loan up to $100,000 with a 10-year repayment period for the purchase of an ambulance.

F) Agency contact person for information:

Ronny J. Wickenhauser
Chief Fiscal Officer
Office of the Illinois State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703

217/558-0577

G) Related rulemakings and other pertinent information: None

OFFICE OF THE STATE FIRE MARSHAL

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t) Part(s) (Heading and Code Citations): Fire Station Revolving Loan Program (41 Ill. Adm. Code 294)

1) Rulemaking:

A) Description: The Office of the Illinois State Fire Marshal (OSFM) and the Illinois Finance Authority (IFA) were given authority in Public Act 96-135 (effective 8/7/2009) to jointly administer a program to provide zero interest loans for the construction, rehabilitation, remodeling, or expansion of a fire station or the acquisition of land for the construction or expansion of a fire station by a fire department, fire protection district, or a township fire department. This rulemaking establishes the application, loan award and repayment requirements and clarifies the relationship between the OSFM and IFA. Public Act 97-901(effective 1/1/2013) provided additional authority to OSFM and IFA to provide low interest loans and this rulemaking also establishes these low interest loan requirements.

B) Statutory Authority: Implementing and authorized by the Illinois Finance Authority Act, Ambulance Revolving Loan Program [20 ILCS 3501/825-81]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: Summer 2014

E) Effect on small businesses, small municipalities or not for profit corporations: Loan awards are based on building need, financial need, and how recently the applicant has received a previous loan under this program. Recipients may be eligible for a loan up to $2,000,000 with a maximum 25-year repayment period for the approved projects.

F) Agency contact person for information:

Ronny J. Wickenhauser
Chief Fiscal Officer
Office of the Illinois State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703

OFFICE OF THE STATE FIRE MARSHAL

JULY 2014 REGULATORY AGENDA

217/558-0577

G) Related rulemakings and other pertinent information: None

u) Part(s) (Heading and Code Citations): Furniture Fire Safety Regulations (41 Ill. Adm. Code 300)

1) Rulemaking:

A) Description: As required by statute [425 ILCS 45], update referenced standards to the current "bulletins" (standards) of the State of California's Department of Consumer Affairs: Bureau of Home Furnishings and Thermal Insulation for descriptions of the tests that are required to be performed on upholstered furniture components.

B) Statutory Authority: Implementing and authorized by Section 15 of the Furniture Fire Safety Act [425 ILCS 45/15]

C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: Any small business or not for profit corporation that manufactures upholstered seating furniture used in public occupancies or public assembly areas, or any small business, small municipality or not-for-profit that owns or maintains a public occupancy or public assembly area that contains stuffed or upholstered furniture for specified occupancies. These include assembly occupancies; day care center occupancies; health care occupancies; detention and correctional facilities; and public assembly areas of hotels and motels that contain seating for more than 10 (individual guest rooms are not included).

F) Agency contact person for information:

Kevin Switzer
Manager

OFFICE OF THE STATE FIRE MARSHAL

JULY 2014 REGULATORY AGENDA

Division of Fire Prevention
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62704

217/558-0639

G) Related rulemakings and other pertinent information: None

v) Part(s) (Heading and Code Citations): Illinois Elevator Safety Rules (41 Ill. Adm. Code 1000)

1) Rulemaking:

A) Description: This rulemaking will incorporate nationally recognized safety codes that have been updated by the end of calendar year 2014. By statute, the Elevator Safety Review Board is given one year to adopt or amend and adopt any new national safety code cited in the statute. This rulemaking will also update the language in Part 1000 to conform to amendments to the Act adopted by the General Assembly in the Spring 2014 legislative session.

B) Statutory Authority: Authorized by Section 35 of the Elevator Safety and Regulation Act [225 ILCS 312/35]

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: All new conveyances and conveyances being modernized will have to conform to the new codes. Municipalities would also have to enforce these new codes locally, per their municipal elevator agreements with OSFM.

F) Agency contact person for information:

Bob Capuani
Manager

OFFICE OF THE STATE FIRE MARSHAL

JULY 2014 REGULATORY AGENDA

Elevator Safety Division
Office of the Illinois State Fire Marshal
James R. Thompson Center
100 W. Randolph Street
Suite 4-600
Chicago IL 60601

312/814-8734

G) Related rulemakings and other pertinent information: None

STATE BOARD OF EDUCATION

JULY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)

1) Rulemaking:

A) Description: Proposed changes in Part 1 will address both residency issues and incorporate requirements pertaining to the responsibilities of school districts regarding students who are homeless. The rulemaking also will propose changes in Subpart A in response to the agency receiving approval to waive certain requirements of the federal Elementary and Secondary Education Act, as well as to revamp criteria for schools and school districts to be placed on the Illinois Honor Roll.

B) Statutory Authority: 105 ILCS 5/2-3.6

C) Scheduled meeting/hearing date: To be announced.

D) Date agency anticipates First Notice: October 3, 2014

E) Effect on small businesses, small municipalities, or not for profit corporations: None

F) Agency contact person for information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777

217/782-5270
shelton@isbe.net
Fax: 217/524-3911

G) Related rulemakings and other pertinent information:

b) Part(s) (Heading and Code Citation): Educator Licensure (23 Ill. Adm. Code 25)

1) Rulemaking:

STATE BOARD OF EDUCATION

JULY 2014 REGULATORY AGENDA

A) Description: The proposed amendments respond to P.A. 98-610, effective December 27, 2014, regarding the renewal requirements for holders of the professional educator license, as well as address requirements for holders of the educator license with stipulations endorsed for career and technical educator. Other technical changes also will be included.

B) Statutory Authority: 105 ILCS 5/2-3.6

C) Scheduled meeting/hearing date: To be announced.

D) Date agency anticipates First Notice: July 11, 2014

E) Effect on small businesses, small municipalities, or not for profit corporations: None

F) Agency contact person for information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777

217/782-5270
shelton@isbe.net
Fax: 217/524-3911

G) Related rulemakings and other pertinent information:

1) Rulemaking:

A) Description: Subpart C of the rules will be redesigned to update and streamline the process for recognized institutions of higher education to have their educator preparation programs approved, as well as for the agency to monitor or sanction approved programs, as necessary.

B) Statutory Authority: 105 ILCS 5/2-3.6

STATE BOARD OF EDUCATION

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C) Scheduled meeting/hearing date: To be announced.

D) Date agency anticipates First Notice: December 5, 2014

E) Effect on small businesses, small municipalities, or not for profit corporations: None

F) Agency contact person for information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777

217/782-5270
shelton@isbe.net
Fax: 217/524-3911

G) Related rulemakings and other pertinent information:

c) Part(s) (Heading and Code Citation): Evaluation of Certified Employees under Articles 24A and 34 of the School Code (23 Ill. Adm. Code 50)

1) Rulemaking:

A) Description: The proposed amendments incorporate the criteria for the State Performance Evaluation Model required to be developed under Section 24A-7 of the School Code [105 ILCS 5/24A-7]. Components of the model are required to be used by school districts whose joint committees fail to agree to one or more aspects of the performance evaluation plan for teachers that incorporates the data and indicators of student growth.

B) Statutory Authority: 105 ILCS 5/24A-7

C) Scheduled meeting/hearing date: To be announced.

D) Date agency anticipates First Notice: July 11, 2014

STATE BOARD OF EDUCATION

JULY 2014 REGULATORY AGENDA

E) Effect on small businesses, small municipalities, or not for profit corporations: None

F) Agency contact person for information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777

217/782-5270
shelton@isbe.net
Fax: 217/524-3911

G) Related rulemakings and other pertinent information:

d) Part(s) (Heading and Code Citation): Dismissal of Certified Employees under Article 24 and Dismissal of Certified Employees and Principals under Article 34 of the School Code (23 Ill. Adm. Code 51)

1) Rulemaking:

A) Description: For clarity, the process to be used to seek applications from and approve entities to offer training about performance evaluations required under Article 24A of the School Code will be placed in Part 51 rather than referring entities seeking approval to 23 Ill. Adm. Code 1.210. The training is to be successfully completed by school board members who will be using the optional alternative evaluative dismissal process set forth in Section 24-16.5 of the School Code.

B) Statutory Authority: 105 ILCS 5/24-12 and 34-85

C) Scheduled meeting/hearing date: To be announced.

D) Date agency anticipates First Notice: July 11, 2014

STATE BOARD OF EDUCATION

JULY 2014 REGULATORY AGENDA

E) Effect on small businesses, small municipalities, or not for profit corporations: None

F) Agency contact person for information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777

217/782-5270
shelton@isbe.net
Fax: 217/524-3911

G) Related rulemakings and other pertinent information:

e) Part(s) (Heading and Code Citation): Special Education (23 Ill. Adm. Code 226)

1) Rulemaking:

A) Description: Proposed revisions include clarifying Section 226.160, concerning qualifications of practitioners conducting medical reviews, and Section 226.550, regarding background checks.

B) Statutory Authority: 105 ILCS 5/Art. 14

C) Scheduled meeting/hearing date: To be announced.

D) Date agency anticipates First Notice: October 31, 2014

E) Effect on small businesses, small municipalities, or not for profit corporations: None

F) Agency contact person for information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education

STATE BOARD OF EDUCATION

JULY 2014 REGULATORY AGENDA

100 North First Street, S-493
Springfield IL 62777

217/782-5270
shelton@isbe.net
Fax: 217/524-3911

G) Related rulemakings and other pertinent information:

f) Part(s) (Heading and Code Citation): Driver Education (23 Ill. Adm. Code 252)

1) Rulemaking:

A) Description: The agency will be proposing a technical change in Section 252.20(e) to fix an outdated web address regarding certification as a "driver rehabilitation specialist".

B) Statutory Authority: 105 ILCS 5/27-24 through 27-24.10

C) Scheduled meeting/hearing date: To be announced.

D) Date agency anticipates First Notice: October 31, 2014

E) Effect on small businesses, small municipalities, or not for profit corporations: None

F) Agency contact person for information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777

217/782-5270
shelton@isbe.net
Fax: 217/524-3911

G) Related rulemakings and other pertinent information:

STATE UNIVERSITIES RETIREMENT SYSTEM

JULY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Universities Retirement (80 Ill. Adm. Code 1600)

1) Rulemaking:

A) Description: The System anticipates rulemaking affecting the following:

Receive the current rule on Making Preliminary estimated Payments to include procedures for holding payments when the member has not responded to informational requests, and to terminate the benefit after a period of non-compliance with the request.

Tier II – Promulgate additional rules for implementation of P.A. 96-889 and 97-609.

Revise the current procurement rule to further modify existing procedures.

Return to Work – Promulgate rule for implementation of P.A. 97-0968.

Revise the current rule concerning disability benefits to clarify the treatment of vacation pay with respect to initial eligibility for benefit payments.

B) Statutory Authority: Article 15 of the Illinois Pension Code 40 ILCS 5/15-177.

C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. No public hearings are anticipated.

D) Date agency anticipates First Notice: Fall 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Michael B. Weinstein, General Counsel
State Universities Retirement System
1901 Fox Drive

STATE UNIVERSITIES RETIREMENT SYSTEM

JULY 2014 REGULATORY AGENDA

Champaign, IL 61820

Telephone: 217/378-8825
Email: mweinstein@surs.org
Fax: 217/378-9801

G) Related rulemakings and other pertinent information: Other Amendments may be necessary based on emergent issues.

ILLINOIS STUDENT ASSISTANCE COMMISSION

JULY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citations): Illinois National Guard (ING) Grant Program 23 Ill. Adm. Code 2730

1) Rulemaking:

A) Description: To designate potential state benefits available via the Illinois National Guard Grant (ING) Program as the last payer for veterans with less than 100% Post-9/11 GI Bill eligibility who are concurrently drawing ING benefits. The proposed change is intended to maximize benefit preservation for veterans that qualify for both potentially available state benefits and the Post-9/11 GI Bill.

B) Statutory Authority: Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/45 and 20(f)]

C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) Date agency anticipates First Notice: Winter 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

Telephone: 847/948-8500, ext. 2305
Email: lynn.hynes@isac.illinois.gov

G) Related rulemakings and other pertinent information: None

ILLINOIS STUDENT ASSISTANCE COMMISSION

JULY 2014 REGULATORY AGENDA

b) Part(s) (Heading and Code Citations): Illinois Veterans Grant (IVG) Program 23 Ill. Adm. Code 2733

1) Rulemaking:

A) Description: To designate potential state benefits available via the Illinois Veteran Grant (IVG) Program as the last payer for veterans with less than 100% Post-9/11 GI Bill eligibility who are concurrently drawing IVG benefits. The proposed change is intended to maximize benefit preservation for veterans that qualify for both potentially available state benefits and the Post-9/11 GI Bill.

B) Statutory Authority: Implementing Section 40 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/40 and 20(f)]

C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) Date agency anticipates First Notice: Winter 2014

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

Telephone: 847/948-8500, ext. 2305
Email: lynn.hynes@isac.illinois.gov

ILLINOIS STUDENT ASSISTANCE COMMISSION

JULY 2014 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

JULY 2014 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): The Administration and Operation of the Teachers' Retirement System, 80 Ill. Adm. Code 1650

1) Rulemaking:

A) Description: None

B) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16]

C) Scheduled meeting/hearing dates: There is no proposed schedule of dates for meetings/hearings at this time.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Sandy Cochran
Teachers' Retirement System
Office of the General Counsel
P.O. Box 19253
2815 West Washington
Springfield IL 62794-9253

217/753-0375

G) Related rulemakings and other pertinent information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES

MICHAEL A. BILANDIC BUILDING
ROOM 600C
CHICAGO, ILLINOIS
JULY 15, 2014
11:00 A.M.

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

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

RULEMAKINGS SCHEDULED FOR JCAR REVIEW

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

PROPOSED RULEMAKINGS

Agriculture

1. Compassionate Use of Medical Cannabis Pilot Program (8 Ill. Adm. Code 1000)
   -First Notice Published: 38 Ill. Reg. 8069 – 4/18/14
   -Expiration of Second Notice: 8/7/14

Central Management Services

2. Pay Plan (80 Ill. Adm. Code 310)
   -First Notice Published: 38 Ill. Reg. 8507 – 4/25/14
   -Expiration of Second Notice: 7/26/14

3. Pay Plan (80 Ill. Adm. Code 310)
   -First Notice Published: 38 Ill. Reg. 9719 – 5/9/14
   -Expiration of Second Notice: 8/7/14

JOINT COMMITTEE ON ADMINISTRATIVE RULES

MICHAEL A. BILANDIC BUILDING
ROOM 600C
CHICAGO, ILLINOIS
JULY 15, 2014
11:00 A.M.

Commerce Commission

4. Standards of Service for Local Exchange Telecommunications Carriers (83 Ill. Adm. Code 730)
-First Notice Published: 37 Ill. Reg. 20562 – 12/27/13
-Expiration of Second Notice: 8/9/14

5. Service Quality and Customer Protection Applicable to Wireless Eligible Telecommunications Carriers (83 Ill. Adm. Code 736)
-First Notice Published: 38 Ill. Reg. 5441 – 2/28/14
-Expiration of Second Notice: 8/8/14

Corrections

6. County Jail Standards (20 Ill. Adm. Code 701)
-First Notice Published: 38 Ill. Reg. 8511 – 4/25/14
-Expiration of Second Notice: 8/7/14

Emergency Management Agency

7. Accrediting Persons in the Practice of Medical Radiation Technology (32 Ill. Adm. Code 401)
-First Notice Published: 38 Ill. Reg. 7422 – 4/4/14
-Expiration of Second Notice: 7/16/14

Environmental Protection Agency

8. Accreditation of Environmental Laboratories (35 Ill. Adm. Code 186)
-First Notice Published: 38 Ill. Reg. 7695 – 4/11/14
-Expiration of Second Notice: 8/3/14

Financial and Professional Regulation

JOINT COMMITTEE ON ADMINISTRATIVE RULES

MICHAEL A. BILANDIC BUILDING
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CHICAGO, ILLINOIS
JULY 15, 2014
11:00 A.M.

9. Rules for Administration of the Compassionate Use of Medical Cannabis Pilot Program (68 Ill. Adm. Code 1290)
   -First Notice Published: 38 Ill. Reg. 8163 – 4/18/14
   -Expiration of Second Notice: 8/10/14

Human Services

10. Child Care (89 Ill. Adm. Code 50)
    -First Notice Published: 38 Ill. Reg. 7018 – 3/28/14
    -Expiration of Second Notice: 7/30/14

11. Temporaty Assistance for Needy Families (89 Ill. Adm. Code 112)
    -First Notice Published: 38 Ill. Reg. 7028 – 3/28/14
    -Expiration of Second Notice: 8/9/14

12. Supplemental Nutrition Assistance Program (SNAP) (89 Ill. Adm. Code 121)
    -First Notice Published: 38 Ill. Reg. 8241 – 4/18/14
    -Expiration of Second Notice: 8/7/14

13. Rules of Conduct, Discipline, Suspension and Discharge Procedures (89 Ill. Adm. Code 827)
    -First Notice Published: 38 Ill. Reg. 4292 – 2/14/14
    -Expiration of Second Notice: 8/25/14

Insurance

14. License, Documents Necessary to Engage in Activities and Examinations (50 Ill. Adm. Code 752)
    -First Notice Published: 38 Ill. Reg. 7715 – 4/11/14
    -Expiration of Second Notice: 7/26/14

Labor

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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11:00 A.M.

15. Employee Classification (56 Ill. Adm. Code 240)
-First Notice Published: 38 Ill. Reg. 3298 – 1/31/14
-Expiration of Second Notice: 8/9/14

16. Payment and Collection of Wages or Final Compensation (56 Ill. Adm. Code 300)
-First Notice Published: 38 Ill. Reg. 7052 – 3/28/14
-Expiration of Second Notice: 8/9/14

Natural Resources

17. Revocation Procedures for Conservation Offenses (17 Ill. Adm. Code 2530)
-First Notice Published: 38 Ill. Reg. 7450 – 4/4/14
-Expiration of Second Notice: 7/31/14

Public Health

18. AIDS Drug Assistance Program (77 Ill. Adm. Code 692)
-First Notice Published: 38 Ill. Reg. 7783 – 4/11/14
-Expiration of Second Notice: 7/19/14

19. Compassionate Use of Medical Cannabis Patient Registry (77 Ill. Adm. Code 946)
-First Notice Published: 38 Ill. Reg. 8243 – 4/18/14
-Expiration of Second Notice: 8/7/14

Revenue

20. Income Tax (86 Ill. Adm. Code 100)
-First Notice Published: 38 Ill. Reg. 832 – 1/10/14
-Expiration of Second Notice: 8/9/14

21. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
-First Notice Published: 38 Ill. Reg. 7555 – 4/4/14

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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JULY 15, 2014
11:00 A.M.

-Expiration of Second Notice: 7/24/14

22. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
-First Notice Published: 38 Ill. Reg. 8294 – 4/18/14
-Expiration of Second Notice: 8/9/14

23. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
-First Notice Published: 38 Ill. Reg. 8785 – 4/25/14
-Expiration of Second Notice: 8/2/14

24. Medical Cannabis Cultivation Privilege Tax Law (86 Ill. Adm. Code 429)
-First Notice Published: 38 Ill. Reg. 8319 – 4/18/14
-Expiration of Second Notice: 8/9/14

Secretary of State

25. Issuance of Licenses (92 Ill. Adm. Code 1030)
-First Notice Published: 38 Ill. Reg. 8331 – 4/18/14
-Expiration of Second Notice: 7/17/14

EXEMPT RULEMAKINGS

Pollution Control Board

26. Definitions and General Provisions (35 Ill. Adm. Code 211)
-First Notice Published: 38 Ill. Reg. 7749 – 4/11/14

27. Air Quality Standards (35 Ill. Adm. Code 243)
-First Notice Published: 38 Ill. Reg. 7774 – 4/11/14

28. Hazardous Waste Management System: General (35 Ill. Adm. Code 720)
-First Notice Published: 38 Ill. Reg. 5016 – 2/21/14

29. Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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-First Notice Published: 38 Ill. Reg. 5077 – 2/21/14

EMERGENCY RULEMAKINGS

Natural Resources

30. Sport Fishing Regulations for the Waters of Illinois (77 Ill. Adm. Code 810)
-First Notice Published: 38 Ill. Reg. 13022 – 6/20/14

Public Health

31. Specialized Mental Health Rehabilitation Facilities Code (77 Ill. Adm. Code 380)
-First Notice Published: 38 Ill. Reg. 11819 – 6/6/14

PEREMPTORY RULEMAKING

Central Management Services

32. Pay Plan (80 Ill. Adm. Code 310)
-First Notice Published: 38 Ill. Reg. 13416 – 6/27/14

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of June 24, 2014 through June 30, 2014. The rulemakings are scheduled for review at the Committee's July 15, 2014 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
8/7/14	Department of Central Management Services, Pay Plan (80 Ill Adm. Code 310)	5/9/14 38 Ill. Reg. 9719	7/15/14
8/2/14	Department of Corrections, County Jail Standards (20 Ill. Adm. Code 701)	4/25/14 38 Ill. Reg. 8511	7/15/14
8/7/14	Department of Public Health, Compassionate Use of Medical Cannabis Patient Registry (77 Ill. Adm. Code 946)	4/18/14 38 Ill. Reg. 8243	7/15/14
8/7/14	Department of Agriculture, Compassionate Use of Medical Cannabis Pilot Program (8 Ill Adm. Code 1000)	4/18/14 38 Ill. Reg. 8069	7/15/14
8/7/14	Department of Human Services, Supplemental Nutrition Assistance Program (SNAP) (89 Ill. Adm. Code 121)	4/18/14 38 Ill. Reg. 8241	7/15/14
8/9/14	Department of Human Services, Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)	3/28/14 38 Ill. Reg. 7028	7/15/14
8/8/14	Illinois Commerce Commission, Service Quality and Customer Protection Applicable to	2/28/14	7/15/14

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

	Wireless Eligible Telecommunications Carriers (83 Ill. Adm. Code 736)	38 Ill. Reg. 5441	
8/9/14	Illinois Commerce Commission, Standards of Service for Local Exchange Telecommunicatons Carriers (83 Ill. Adm. Code 730)	12/27/13 37 Ill. Reg. 20562	7/15/14
8/9/14	Department of Revenue, Retailers' Occupation Tax (86 Ill. Adm. Code 130)	4/18/14 38 Ill. Reg. 8294	7/15/14
8/9/14	Department of Revenue, Medical Cannabis Cultivation Privilege Tax Law (86 Ill. Adm. Code 429)	4/18/14 38 Ill. Reg. 8319	7/15/14
8/9/14	Department of Revenue, Income Tax (86 Ill. Adm. Code 100)	1/10/14 38 Ill. Reg. 832	7/15/14
8/9/14	Department of Labor, Payment and Collection of Wages or Final Compensation (56 Ill. Adm. Code 300)	3/28/14 38 Ill. Reg. 7052	7/15/14
8/9/14	Department of Labor, Employee Classification (56 Ill. Adm. Code 240)	1/31/14 38 Ill. Reg. 3298	7/15/14
8/10/14	Department of Financial and Professional Regulation, Rules for Administration of the Compassionate Use of Medical Cannabis Pilot Program (68 Ill. Adm. Code 1290)	4/18/14 38 Ill. Reg. 8163	7/15/14

CHIEF PROCUREMENT OFFICER FOR DEPARTMENT OF TRANSPORTATION

NOTICE OF PUBLIC INFORMATION

NOTICE OF CAMPAIGN CONTRIBUTION VIOLATION OF PROCUREMENT CODE

1. Statutory Authority: Section 50-37 of the Illinois Procurement Code, 30 ILCS 500/50-37, prohibits business entities with contracts and solicitations worth in excess of $50,000 in combined annual value pending with a given officeholder responsible for awarding the contracts from making campaign contributions to campaign committees established to promote the candidacy of the officeholder or any other declared candidate for that office. The prohibition also extends to contributions made by various affiliated persons and businesses of a business entity that is subject to the prohibition. Section 50-37 requires that notice of violation of the prohibition and the penalty imposed is to be published in the Illinois Register.

2. Name of Contributor: D. Construction, Inc.

3. Date of Violation: April 29, 2014

4 Description of Violation: D. Construction, Inc., made a contribution of $2,500.00 to Citizens for Rauner, Inc., a campaign committee established to support the gubernatorial candidacy of Bruce Rauner. At the time of the contribution, Bruce Rauner was a declared candidate for the office of governor, D. Construction, Inc. had in place active contracts with the State of Illinois, the total annual combined value of which was in excess of $50,000.

5. Summary of Action Taken by the Agency: Section 50-37 provides that State contracts with a business entity that violates the campaign contribution prohibition are voidable at the discretion of the chief procurement officer. The Chief Procurement Officer for the Department of Transportation has notified D. Construction, Inc. of the apparent violation, and has considered the value, status, and necessity of the contracts. In addition, the Chief Procurement Officer has taken into consideration the recognition by D. Construction of the violation and their understanding of the necessity to avoid such situations in the future. The Chief Procurement Officer finds that voiding affected contracts, bids or proposals would not be in the best interest of the State.

As required by Section 50-37(e) of the Procurement Code, Citizens for Rauner, Inc., is required to pay to the State an amount equal to the value of the contribution within 30 days of the publication of this notice.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning proposed changes in methods and standards for establishing medical assistance payment rates for hospital services in the *Illinois Register*: 5 ILCS 100/5-70(c)

2. Summary of information: The Illinois Department of Healthcare and Family Services wishes to provide public notice regarding proposed changes in methods and standards for setting hospital rates. The Department may amend the Title XIX State plan to implement new hospital payment methodologies that would be funded by an assessment on hospital services. Amending the State plan to implement these new methodologies is dependent on the outcome of other pending rate changes or state initiatives.

   The annual spending for these changes is estimated to be $400 million.

3. Name and address of person to contact concerning this information:

   Bureau of Program and Reimbursement Analysis
   Division of Medical Programs
   Healthcare and Family Services
   201 South Grand Avenue East
   Springfield IL 62763-0001

   HFS.bpra@illinois.gov

   Interested persons may review these proposed changes on the Internet at http://www2.illinois.gov/hfs/PublicInvolvement/ Local access to the Internet is available through any local public library. In addition, this material may be viewed at the DHS local offices (except in Cook County). In Cook County, the changes may be reviewed at the Office of the Director, Illinois Department of Healthcare and Family Services, 401 South Clinton Street, Chicago, Illinois. The changes may be reviewed at all offices Monday through Friday from 8:30 a.m. until 5:00 p.m. This notice is being provided in accordance with federal requirements found at 42 CFR 447.205.

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 38, Issue 28 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.

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