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TABLE OF CONTENTS

February 7, 2014 Volume 38, Issue 6

PROPOSED RULES
COMMERCE COMMISSION, ILLINOIS
Rules of Practice
83 Ill. Adm. Code 200.....3416
HEALTH FACILITIES AND SERVICES REVIEW BOARD
Public Information, Rulemaking, and Organization (Repealer)
2 Ill. Adm. Code 1925.....3424
Public Information Access, Rulemaking, and Organization
2 Ill. Adm. Code 1925.....3442
REVENUE, DEPARTMENT OF
Income Tax
86 Ill. Adm. Code 100.....3482
Home Rule County Retailers' Occupation Tax
86 Ill. Adm. Code 220.....3502
Home Rule Municipal Retailers' Occupation Tax
86 Ill. Adm. Code 270.....3504
Regional Transportation Authority Retailers' Occupation Tax
86 Ill. Adm. Code 320.....3506
Metro East Mass Transit District Retailers' Occupation Tax
86 Ill. Adm. Code 370.....3508
Metro-East Park and Recreation District Retailers' Occupation Tax
86 Ill. Adm. Code 395.....3510
County Water Commission Retailers' Occupation Tax
86 Ill. Adm. Code 630.....3512
Special County Retailers' Occupation Tax for Public Safety
86 Ill. Adm. Code 670.....3514
Salem Civic Center Retailers' Occupation Tax
86 Ill. Adm. Code 690.....3516
Non-Home Rule Municipal Retailers' Occupation Tax
86 Ill. Adm. Code 693.....3518
County Motor Fuel Tax
86 Ill. Adm. Code 695.....3520
STUDENT ASSISTANCE COMMISSION, ILLINOIS
General Provisions
23 Ill. Adm. Code 2700.....3522
Federal Family Education Loan Program (FFELP)
23 Ill. Adm. Code 2720.....3541
Grant Program for Dependents of Correctional Officers
23 Ill. Adm. Code 2731.....3557
Grant Program for Dependents of Police or Fire Officers
23 Ill. Adm. Code 2732.....3563

Illinois Special Education Teacher Tuition Waiver (SETTW) Program
23 Ill. Adm. Code 2765.....3569
ADOPTED RULES
COMMERCE AND ECONOMIC OPPORTUNITY, DEPARTMENT OF
International Tourism Grant Program
14 Ill. Adm. Code 555.....3577
HOUSING DEVELOPMENT AUTHORITY, ILLINOIS
State Housing Appeals Board
47 Ill. Adm. Code 395.....3596
POLLUTION CONTROL BOARD
Primary Drinking Water Standards
35 Ill. Adm. Code 611.....3608
STATE EMPLOYEES' RETIREMENT SYSTEM
The Administration and Operation of the State Employees' Retirement System of Illinois
80 Ill. Adm. Code 1540.....4023
STATE TOLL HIGHWAY AUTHORITY, ILLINOIS
State Toll Highway Rules
92 Ill. Adm. Code 2520.....4037
EMERGENCY RULES
REVENUE, DEPARTMENT OF
Home Rule County Retailers' Occupation Tax
86 Ill. Adm. Code 220.....4047
Home Rule Municipal Retailers' Occupation Tax
86 Ill. Adm. Code 270.....4060
Regional Transportation Authority Retailers' Occupation Tax
86 Ill. Adm. Code 320.....4073
Metro East Mass Transit District Retailers' Occupation Tax
86 Ill. Adm. Code 370.....4086
Metro-East Park and Recreation District Retailers' Occupation Tax
86 Ill. Adm. Code 395.....4099
County Water Commission Retailers' Occupation Tax
86 Ill. Adm. Code 630.....4112
Special County Retailers' Occupation Tax for Public Safety
86 Ill. Adm. Code 670.....4125
Salem Civic Center Retailers' Occupation Tax
86 Ill. Adm. Code 690.....4138
Non-Home Rule Municipal Retailers' Occupation Tax
86 Ill. Adm. Code 693.....4151
County Motor Fuel Tax
86 Ill. Adm. Code 695.....4164
PEREMPTORY RULES
AGRICULTURE, DEPARTMENT OF
Meat and Poultry Inspection Act
8 Ill. Adm. Code 125.....4176

PUBLIC HEARINGS ON PROPOSED RULES
HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF
Notice of Public Hearing.....4194
REQUEST FOR EXPEDITED CORRECTION
HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF
Hospital Services
89 Ill. Adm. Code 148.....4196
SECOND NOTICES RECEIVED
JOINT COMMITTEE ON ADMINISTRATIVE RULES
Second Notices Received.....4224
EXECUTIVE ORDERS AND PROCLAMATIONS
PROCLAMATIONS
Gubernatorial Disaster Proclamation 2
2014-22.....4226

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Rules of Practice

2) Code Citation: 83 Ill. Adm. Code 200

3)

Section Numbers:	Proposed Action:
200.90	Amend
200.100	Amend

4) Statutory Authority: Implementing and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101], Section 18c-1202 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1202], Section 18a-200 of the Illinois Commercial Relocation of Trespassing Vehicles Law [625 ILCS 5/18a-200], Section 10 of the Electric Supplier Act [220 ILCS 30/10], and Section 25-101 of the Electronic Commerce Security Act [5 ILCS 175/25-101].

5) A Complete Description of the Subjects and Issues Involved: The Supreme Court of Illinois recently amended its Rule 707 to change the requirements governing the practice in Illinois proceedings by attorneys who are licensed in other jurisdictions. The amendments proposed in this rulemaking are intended to reflect the new requirements established by the Court. The amendments also update a citation to the rules of conduct applicable to Illinois attorneys.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: The proposed rulemaking neither creates nor expands any State mandate on units of local government, school districts or community college districts.

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Comments should be filed, within 45 days after the date of this issue of the *Illinois Register*, in Docket No. 13-0696 with:

Elizabeth Rolando, Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/782-7434

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This rulemaking will not affect any small municipalities or not-for-profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: Administrative procedures

C) Types of Professional skills necessary for compliance: Administrative skills

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: the Commission did not anticipate the need for this rulemaking at that time.

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER b: PROVISIONS APPLICABLE TO
MORE THAN ONE KIND OF UTILITY

PART 200
RULES OF PRACTICE

SUBPART A: GENERAL PROVISIONS

Section
200.10 Procedure Governed
200.20 Construction of This Part
200.25 Standards for Discretion
200.30 Deviation from This Part
200.40 Definitions
200.50 Office
200.60 Open Meetings
200.70 Submission of Paper Documents
200.80 Computation of Time
200.90 Appearances
200.95 Class Actions Prohibited

SUBPART B: FORM, FILING AND SERVICE OF PLEADINGS

Section
200.100 Contents of Pleadings and Documents
200.110 Forms of Pleadings and Documents
200.120 Copies of Pleadings
200.130 Signature and Verification
200.140 Amendments
200.150 Service
200.160 Informal Complaints
200.170 Formal Complaints
200.180 Answers
200.185 Satisfaction of Complaint
200.190 Motions
200.200 Intervention
200.210 Petition for Rulemaking

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

200.220 Declaratory Rulings

SUBPART C: PREHEARING PROCEDURE AND DISCOVERY

Section
200.300 Prehearing Conferences
200.310 Other Prehearing Submissions
200.320 Facts Disclosed Privileged
200.330 Recordation and Order
200.335 Application of Discovery Rules Contained in Sections 200.340 through 200.430
200.340 Policy on Discovery
200.345 Discovery by Staff Witnesses
200.350 Reasonable Attempts to Resolve Differences Required
200.360 Depositions and Other Discovery Procedures
200.370 Supervision of Discovery
200.380 Subpoenas
200.390 Motion to Quash Subpoena
200.400 Service and Fees Payable
200.410 Time Limits on Discovery
200.420 Failure to Comply With a Discovery Order or a Subpoena
200.430 Protective Orders

SUBPART D: HEARING PROCEDURE

Section
200.500 Authority of Hearing Examiner
200.505 Recessing Hearing For Conference or Discussion
200.510 Disqualification of Hearing Examiner
200.520 Interlocutory Review of Hearing Examiner's Ruling
200.525 Paper Hearings
200.530 Notice, Time and Place of Hearings
200.540 Recording Appearances at Hearings
200.550 Failure to Appear or to Exercise Diligence in Proceeding
200.560 Continuances
200.570 Order of Procedure and Receiving Evidence
200.580 Transcripts
200.590 Conduct at Hearings
200.600 Consolidation and Severance
200.605 Procedure for the Identification and Treatment in Hearings of Confidential or

Proprietary Information or a Trade Secret
200.610 Evidence
200.615 Waiver of Cross-examination
200.620 Testimony to be Under Oath or Affirmation
200.625 Examination of Adverse Party or Agent
200.630 Stipulation of Facts
200.640 Administrative Notice
200.650 Records of Other Proceedings
200.660 Prepared Testimony
200.670 Exhibits
200.680 Objections
200.690 Offer of Proof
200.700 Record in Commission Proceedings
200.710 Ex Parte Communications

SUBPART E: POST-HEARING PROCEDURE

Section
200.800 Briefs
200.810 Draft Orders
200.820 Hearing Examiner's Recommended or Proposed Order
200.830 Exceptions; Reply
200.840 Filing of Briefs
200.850 Oral Argument
200.860 Commission Order
200.870 Additional Hearings
200.875 Post-Record Data
200.880 Rehearing
200.890 Appeals
200.900 Reopening on Motion of the Commission

SUBPART F: ELECTRONIC FILING

Section
200.1000 Overview of Electronic Filing
200.1010 Acceptable Formats
200.1020 e-Docket Accounts
200.1030 Control Processes
200.1040 Submission of Electronic Documents

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

200.1045 Electronic Documents Accepted by the Commission
200.1050 Service by Electronic Means
200.1060 Electronic Documents and the Hearing Process

AUTHORITY: Implementing and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101], Section 18c-1202 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1202], Section 18a-200 of the Illinois Commercial Relocation of Trespassing Vehicles Law [625 ILCS 5/18a-200], Section 10 of the Electric Supplier Act [220 ILCS 30/10], and Section 25-101 of the Electronic Commerce Security Act [5 ILCS 175/25-101].

SOURCE: Filed and effective January 15, 1960; codified at 8 Ill. Reg. 18459; old rules repealed and new Part adopted at 9 Ill. Reg. 5627, effective April 15, 1985; emergency amendments at 10 Ill. Reg. 1277, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 10481, effective May 30, 1986; amended at 18 Ill. Reg. 7748, effective May 15, 1994; amended at 20 Ill. Reg. 10607, effective August 15, 1996; emergency amendment at 24 Ill. Reg. 7903, effective May 22, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 16019, effective October 15, 2000; amended at 32 Ill. Reg. 14497, effective September 1, 2008; amended at 35 Ill. Reg. 6327, effective April 1, 2011; amended at 38 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 200.90 Appearances

a) Any party may appear by an attorney at law authorized to practice in the State of Illinois; attorneys licensed in another state, territory or commonwealth of the United States, in the District of Columbia, or in a foreign country shall be allowed to appear before the Commission as provided in Supreme Court Rule 707. An attorney appearing pursuant to Supreme Court Rule 707 shall file the statement described in Supreme Court Rule 707(d) as a part of the attorney's entry of appearance, along with proof of service as required by Section 200.150(b), or Section 200.1050(a), if applicable. ~~admitted to practice in states other than Illinois may appear and be heard upon special leave of the Hearing Examiner in particular cases. In determining whether to grant such leave, the Hearing Examiner shall consider, in addition to the goals set forth in Section 200.25, whether the state in which the attorney is admitted to practice grants leave to Illinois attorneys in similar situations.~~

b) A natural person may appear in his or her own behalf.

c) A corporation or association may appear by any bona fide officer, employee or representative. Only persons admitted to practice as attorneys ~~and counsellors at law~~ shall represent others in proceedings before this Commission in any matter involving the exercise of legal skill or knowledge.

d) When Staff witnesses are represented by an attorney, their appearance shall be made by their attorney or attorneys. All Commission Staff witnesses not represented by counsel, who speak at any hearing, shall enter an appearance.

e) All persons appearing in proceedings before the Commission shall conform to the standards of conduct of attorneys before the courts of Illinois. These standards are set forth in the Illinois Rules of Professional Conduct of 2010 (~~[~~Ill. S. Ct. Rules of Prof. Conduct, Art. VIII)~~]~~. If any person does not conform to such standards, the Hearing Examiner may decline to permit such person to appear in any proceeding.

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

SUBPART B: FORM, FILING AND SERVICE OF PLEADINGS

Section 200.100 Contents of Pleadings and Documents

All pleadings and documents in proceedings before the Commission to which a docket number has been assigned shall display the docket number. Pleadings initiating a new proceeding shall leave a space for the docket number. All pleadings shall also include the following information

a) The full name, address, telephone number, and, unless the party has no facsimile number or e-mail address either directly or through its attorney, facsimile number and e-mail address of the person or the representative of the person filing the pleadings. A party, in its first pleading in a proceeding, shall state whether it agrees to accept service by electronic means as provided for in Section 200.1050. A party later may agree, or may revoke its agreement, to accept electronic service, provided that the party shall file and serve a notice of the later agreement or revocation.

b) A plain and concise statement of any facts upon which the pleadings are based.

c) The specific relief sought, which may be in the alternative, including the statutory authority or rule and regulation upon which such relief is sought.

d) If an attorney licensed in another state, territory or commonwealth of the United States, in the District of Columbia, or in a foreign country files a pleading initiating a new proceeding, the pleading shall be accompanied by the statement described in Supreme Court Rule 707(d).

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

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Public Information, Rulemaking, and Organization

2) Code Citation: 2 Ill. Adm. Code 1925

3)

Section Numbers:	Proposed Action:
1925.10	Repeal
1925.110	Repeal
1925.120	Repeal
1925.210	Repeal
1925.220	Repeal
1925.230	Repeal
1925.240	Repeal
1925.260	Repeal
1925.270	Repeal
1925.280	Repeal
1925.285	Repeal
1925.290	Repeal
1925.292	Repeal
1925.293	Repeal
1925.295	Repeal
1925.297	Repeal
1925.298	Repeal

4) Statutory Authority: Illinois Health Facilities Act [20 ILCS 3960/12]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking repeals the existing Part for public information, rulemaking and organization for the Health Facilities and Services Review Board. The repealed Part will be replaced by a new rulemaking that incorporates the Governor's model for public information access requirements with updates for HFSRB rulemaking and organization.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED REPEALER

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

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.

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

HFSRB will conduct public hearings on proposed rules, if requested in writing within 14 business days following the publication of the proposed rules in the *Illinois Register*. Notice of public hearings will be posted on the HFSRB website (http://hfsrb.illinois.gov).

Interested persons may present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Claire Burman
Rules Coordinator
122 S. Michigan Avenue, Suite 700
Chicago IL 60603

312/814-8814
e-mail: Claire.Burman@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected:
Hospitals; long-term care facilities; Ambulatory Surgical Treatment Centers; ESRD facilities; Institutions, places, buildings or rooms used for provisions of a health care category of service as defined by the Board, including, but not limited to cardiac catheterization and open heart surgery; and Institutions, places, buildings or rooms used for the provision of major medical equipment used in the direct clinical diagnosis or treatment of patients, and whose project cost is in excess of the capital expenditure minimum.

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

C) Types of professional skills necessary for compliance: None

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED REPEALER

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because the need for the rulemaking was not apparent when the Regulatory Agenda was prepared.

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

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED REPEALER

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XVIII: HEALTH FACILITIES AND SERVICES REVIEW BOARD

PART 1925
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION (REPEALED)

SUBPART A: PUBLIC INFORMATION

Section
1925.10 Procedures for the Public to Obtain Information

SUBPART B: RULEMAKING

Section
1925.110 Rulemaking
1925.120 Request for Adoption of Rules

SUBPART C: ORGANIZATION

Section
1925.210 Name, Statutory Authority and Composition
1925.220 Appointment and Terms of Office
1925.230 Officers and Committees
1925.240 Executive Secretary
1925.250 Description and Chart of State Board Organization (Repealed)
1925.260 Meetings
1925.270 Quorum
1925.280 Matters Requiring State Board Action
1925.285 Conflict of Interest
1925.290 Renumeration and Reimbursement
1925.292 Rules of Order
1925.293 Ex Parte and Extra-Record Communication
1925.295 Official Headquarters
1925.297 Records and Reports
1925.298 Amendment

1925.APPENDIX A Chart of Organization of the State Board (Repealed)

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED REPEALER

AUTHORITY: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 12(2) of the Illinois Health Facilities Planning Act [20 ILCS 3960/12].

SOURCE: Adopted at 2 Ill. Reg. 187, effective July 26, 1978; amended at 3 Ill. Reg. 8, p. 57, effective February 18, 1979; amended at 4 Ill. Reg. 25, p. 187, effective June 11, 1979; amended at 3 Ill. Reg. 52, p. 118, effective January 1, 1980; amended at 5 Ill. Reg. 4995, effective April 22, 1981; amended at 6 Ill. Reg. 7221, effective June 9, 1982; amended at 6 Ill. Reg. 11484, effective September 9, 1982; amended at 7 Ill. Reg. 7316, effective May 31, 1983; amended at 8 Ill. Reg. 11518, effective June 27, 1984; codified at 8 Ill. Reg. 16340; amended at 9 Ill. Reg. 6276, effective April 24, 1985; amended at 11 Ill. Reg. 15649, effective September 14, 1987; amended at 24 Ill. Reg. 5671, effective March 14, 2000; amended at 24 Ill. Reg. 15060, effective September 26, 2000; amended at 25 Ill. Reg. 2718, effective January 22, 2001; repealed at 38 Ill. Reg. _____, effective _____.

SUBPART A: PUBLIC INFORMATION

Section 1925.10 Procedures for the Public to Obtain Information

Pursuant to Section 5-15(a)(2) of the Illinois Administrative Procedure Act and the Freedom of Information Act [5 ILCS 140], the public can obtain information or make submissions or requests on subjects, programs or activities of the State Board by contacting the Executive Secretary at the official headquarters. Information available includes, but is not limited to, applications for Certificate of Need, copies of the Health Facilities Planning Board's administrative rules, and the Inventory of Health Care Facilities and Need Determinations.

SUBPART B: RULEMAKING

Section 1925.110 Rulemaking

a) All proposed rules are referred by the State Board to the appropriate committee.

b) Requests for the adoption of rules shall be processed as prescribed in the Illinois Administrative Procedure Act [5 ILCS 100/5-145], for presentation to the State Board (see Section 1925.120). Requesters shall be notified of the disposition of their request.

c) All proposed and adopted rulemaking of the State Board shall be published in the Illinois Register in accordance with the provisions of the Illinois Administrative

Procedure Act.

d) When rules have been adopted by the State Board and become effective after filing with the Office of the Secretary of State, copies of the adopted rules shall be available upon request.

Section 1925.120 Request for Adoption of Rules

a) Pursuant to the requirements of Section 5-145 of the Illinois Administrative Procedure Act, any interested person may contact the State Board requesting the promulgation, amendment or repeal of a rule.

b) The form of the request, which may be handwritten or typewritten, shall be essentially as follows:

1) Name, title (if any), organization (if any), address, and telephone number of the requester.

2) Nature of action sought, i.e., promulgation of a rule, amendment of a rule, or repeal of a rule.

3) Proposed text of the rule or amendment or identification of the rule to be repealed.

4) Brief statement of the rationale for the requested action.

c) Such requests are to be sent or delivered to the Executive Secretary at 525-535 West Jefferson, Springfield, Illinois 62761.

d) Such requests shall be handled as follows:

1) The Executive Secretary will forward a copy of the request to the Chairman who will assign the matter for consideration by the State Board or for consideration by a committee of the State Board.

2) If, after submission of the request to the State Board at its regular meeting or within 30 days after submission of the requests, whichever period of time is the longer, the State Board has not initiated rulemaking

proceedings in accordance with Section 5-35 of the Illinois Administrative Procedure Act, the request shall be deemed to have been denied.

SUBPART C: ORGANIZATION

Section 1925.210 Name, Statutory Authority, and Composition

a) Name: The Health Facilities Planning Board hereinafter called the "State Board".

b) Statutory Authority: The Illinois Health Facilities Planning Act, [20 ILCS 3960].

c) Composition: The composition of the State Board shall be as prescribed by the Act.

Section 1925.220 Appointment and Terms of Office

Members shall be appointed and confirmed in the manner provided in the Act, and shall serve for such terms as provided therein.

Section 1925.230 Officers and Committees

a) Officers

1) The State Board shall select a Chairman and Vice Chairman and such other officers at the first meeting of the calendar year and whenever there is a vacancy in any elected position.

2) The term of office shall be one year from the date of election until the date of the first meeting of the next calendar year. The incumbent officers shall serve until the State Board has acted on the selection of officers for the ensuing year.

b) Committees: The Chairman, acting for the State Board, will establish such standing and/or special committees as are deemed necessary. The Chairman shall specify the duties of committees and appoint the members.

Section 1925.240 Executive Secretary

a) The Executive Secretary of the State Board shall be named by the Director of the

Department of Public Health (State Agency), with concurrence of the State Board. The Executive Secretary shall be a person qualified in health care facility planning and in administration.

b) The Executive Secretary shall be the chief executive officer of the State Board, responsible to the Chairman and, through the Chairman, responsible to the State Board for the execution of its policies and procedures. The working title of this position and office shall be Executive Secretary, Office of the Illinois Health Facilities Planning Board.

c) The Executive Secretary shall be employed and paid by the State Agency in accordance with the provisions of the Illinois Personnel Code, and be responsible to carry out the duties assigned to the State Agency by the Act.

d) The Executive Secretary shall, on behalf of the State Board, have responsibility and commensurate authority to perform duties, including but not limited to, the following:

1) provide staff and administrative services for the State Board; report periodically to the State Board on staffing, budgetary, and administrative resources and needs.

2) recommend to the State Board its policies and procedures for implementing the provisions and purposes of the Illinois Health Facilities Planning Act.

3) execute and administer the program in accordance with State Board policies, procedures and directives.

4) plan, with the Chairman, all meetings of the State Board and prepare the tentative agenda for State Board approval.

5) maintain all records, files, and reports required by the State Board.

6) as the agent of the State Board, and in the manner it prescribes, prepare all contracts and agreements to which the State Board is a party. The Chairman of the State Board shall cosign with the Director of the Department of Public Health all contracts and agreements.

7) represent the State Board whenever necessary; write and issue letters and other communications on its behalf.

8) perform other duties as directed by the State Board, or by its Chairman.

Section 1925.250 Description and Chart of State Board Organization (Repealed)

Section 1925.260 Meetings

a) As provided in The Open Meetings Act [5 ILCS 120/2] all decisions of the State Board shall be made at meetings open to the public.

b) The State Board shall keep a complete and accurate record of all meetings including the votes of individual members on all matters before it. Minutes of State Board meetings may be taken by stenographic, electronic or other means. Transcriptions of any minutes taken or made by the State Board may be obtained pursuant to the provisions of the Freedom of Information Act [5 ILCS 140/1] following approval of such minutes by the State Board.

c) Regular and special meetings shall be called by the Chairman through the Executive Secretary.

d) The State Board shall meet at least once each quarter, or as often as the Chairman of the State Board deems necessary, or upon the request of the majority of the members.

e) The State Board shall, in the scheduling and conduct of its meetings, comply with the provisions of the Open Meetings Act [5 ILCS 120/2] specifically that the State Board shall adopt prior to the beginning of each fiscal year a schedule of meetings which shall state the regular dates, times, and places of such meetings.

f) Public notice of regular meetings shall be given by posting a copy of the notice at the office headquarters of the State Board and supplying notice to media requesting such information pursuant to the Open Meetings Act.

g) The State Board, through its Executive Secretary, shall at the beginning of each fiscal year, prepare and make available a schedule of all its regular meetings for such fiscal year, listing the times and places of such meetings. If a change is made in regular meeting dates, at least 10 days notice of such change shall be

given by publication in a newspaper of general circulation, with notice of such change posted at the principal office, and supplied to those media that have requested annual information.

h) Special meetings may be called by the Chairman or a majority of State Board members upon at least 24 hours written notice to each member. Public notice of all special meetings, rescheduled regular meetings, or reconvened meetings shall be given at least 24 hours before such meetings, except that public notice of reconvened meetings does not apply to any case where the meeting is to be reconvened within 24 hours, nor to any case where announcement of the time and place of the reconvened meeting was made at the original meeting, and there is no change in the agenda.

i) Meetings of the State Board may be held with Board members physically present or present telephonically. Meetings held with teleconferencing equipment shall have hook-ups in, at least, Chicago and Springfield. Both locations shall be open to the public.

Section 1925.270 Quorum

The quorum requirements are as specified in the Act. A vacancy in the membership of the State Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the State Board as provided for in the Act.

Section 1925.280 Matters Requiring State Board Action

a) Matters on which the State Board shall deliberate and vote shall include, but not be limited to, the following:

1) Adoption of the State Board's own organization and procedures including election of officers;

2) Promulgation of rules, regulations, standards, criteria, or plans implementing the provisions and purposes of the Act;

3) Adoption of procedures for public notice and hearing on all proposed rules, regulations, standards, criteria, and plans required to carry out the provisions of the Act;

4) Adopting criteria for recognition of areawide health planning organizations;

5) Approval of certificates of recognition for areawide health planning organizations;

6) Approval and authorization of the issuance of a permit for construction or modification of a health facility;

7) Adoption of rules of procedure for administrative hearing in case of denial of permit for construction or modification;

8) Scheduling an administrative hearing within 30 days after being notified that a hearing is requested and appointing a hearing officer;

9) Make its final determination following an administrative hearing;

10) Issue subpoenas requiring the attendance and giving of testimony by witnesses and subpoenas duces tecum requiring the production of books, papers, records, or memoranda for an administrative hearing;

11) Decide whether to require that the costs of service of subpoenas or subpoenas duces tecum issued at instance of any other party to such proceeding be borne by the party at whose instance the witness is summoned, and decide whether to require a deposit to cover the cost of such service and witness fees;

12) Apply to any Circuit Court of this State to compel attendance of witnesses, production of books, papers, records, or memoranda and the giving of testimony before it or its hearing officer;

13) May cause depositions of witnesses within the State to be taken in the manner prescribed by law for like depositions in civil actions in Courts of this State, and to that end complete the attendance of witnesses and the production of books, papers, or memoranda;

14) Order investigations to be made by the Agency in connection with an application for permit.

b) This Section shall not contradict the State Board's statutory authority that, before the State Board renders any negative decision relative to an application for a permit, a renewal thereof, or an application for a certificate of recognition or a revocation thereof, it shall notify the applicant or the holder of a permit or certificate in writing and permit him and such other parties as the State Board permits to appear before the State Board and present such information as may be relevant to the approval of a permit or certificate or renewal thereof or in resistance of the denial, revocation or modification of a permit or certificate.

Section 1925.285 Conflict of Interest

The State Board recognizes that a particular situation may present a conflict of interest as between any members' private interests and his or her service on the State Board. Such situations may arise where an application for a permit or exemption or an application for a certificate of recognition of an areawide health planning agency is filed by individuals, organizations or agencies with whom the member is closely associated or has a direct business relationship. In such instances the member shall declare the situation and refrain from voting on any matter relating to the particular situation. Membership in a provider association or service on its committees shall not be deemed a conflict of interest.

Section 1925.290 Renumeration and Reimbursement

State Board members, while serving on business of the State Board, shall receive compensation as provided in the Act [20 ILCS 3960/4]. Additionally, State Board members shall receive actual and necessary travel and subsistence expenses while serving away from their places of residence (as specified in subsection (e) of this Section). Serving on business of the State Board includes, but shall not be limited to, the following: Attendance at regular, special, or committee meetings of the State Board; one day's compensation for review of materials in preparation for each regular meeting that is attended by a State Board member; and participation in task forces, investigations, hearings, judicial and legislative proceedings.

a) Eligibility:

1) Voting members of the State Board shall be reimbursed through the State Agency for travel and subsistence expenses incurred in the performance of their duties as provided by law and/or by this Part.

2) Ex-officio members of the State Board shall request reimbursement for travel and subsistence expenses from their respective departments as being

a form of their official duties.

b) Official Headquarters of Voting Members:
For the purpose of calculating travel and subsistence expenses of voting members of the State Board, the official headquarters of such members shall be their respective residences. Members are not entitled to reimbursement of living expenses while at their official headquarters.

c) Official Travel Regulations:
Under ruling of the Attorney General, State of Illinois, dated April 21, 1972 (File No. S-446), members of the State Board shall be subject to the restrictions of the Travel Regulations, State of Illinois,, published by the Department of Central Management Services and approved and promulgated by the Travel Control Board.

d) Reimbursement Procedures:
All claims for reimbursement of travel and subsistence expenses shall be submitted on forms provided for the purpose. Submissions of such forms may be made subsequent to each meeting of the State Board, or may be held for submission at the conclusion of each month's individual activity. The Executive Secretary shall be the recipient of such vouchers for administrative processing and approval.

e) Definition of Official Business Requiring Travel:
For the purpose of travel expense reimbursement, expenses incurred by the State Board members participating singly, or as a unit of the whole, or as the entire State Board, shall be considered to be official business of the State and of the State Board when such expenses are incurred as a participant in the following activities:

1) Regular, special, and committee State Board meetings called by the Chairman through the Executive Secretary.

2) Participation in investigations, hearings, judicial and legislative proceedings, or the like, in connection with a permit or matters arising from the administration of the Act.

3) Participation in public hearings relative to State Board Rules and/or health facilities standards, criteria, or plans.

4) Participation in Task Forces, Ad Hoc Committees, and other special units prescribed by the Chairman of the State Board.

5) Speaking before interested groups and organizations and meetings with interested persons and government officials, as a representative of the State Board, for the purpose of describing the activities of the State Board, its procedures, and the laws governing its purpose, organization and operation, and discussing issues related to health facilities planning.

6) Attendance, as a representative of the State Board, at meetings conducted by agencies of the State and Federal governments, and by National, State and Local organizations having a direct interest in health facilities planning, except that attendance at meetings held outside the State shall have the prior approval of the Chairman of the Board, the Executive Secretary, and the Department of Central Management Services.

Section 1925.292 Rules of Order

Roberts Rules of Order shall govern the conduct of all meetings of the State Board, except that any matter on which the State Board is required by the Act to defer its action until parties have been notified and afforded the opportunity to appear before the State Board thereon shall be deferred until the next meeting.

Section 1925.293 Ex Parte and Extra-Record Communication

a) *Except in the disposition of matters that agencies are authorized by law to entertain or dispose of on an ex parte basis including, but not limited to rule making, the State board, any State Board member, employee, or a hearing officer shall not engage in ex parte* or extra record *communication, after an application for a permit is received,* until project completion, *in connection with the substance of any application for a permit or an exemption with any person or party or the representative of any party.*

b) *A State Board member or employee may communicate with other members or employees and any State Board member or hearing officer may have the aid and advice of one or more personal assistants.*

c) *An ex parte* or extra record *communication received by the State Board, any State*

Board member, employee, or a hearing officer shall be made a part of the record of the pending matter, including all written communication, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received.

d) The State Board member, employee or hearing officer who received or made the ex parte or extra record communication shall submit such communications, responses, and memoranda to the Executive Secretary who shall cause them to be filed in the administrative record for the subject project in a separately identified section.

e) The ex parte or extra record communication, together with all other documents enumerated in this Section, shall be available to the public in conformance with the procedures of the Freedom of Information Act [5 ILCS 140/3]. Prohibited communications shall be reported to the General Assembly and incorporated on the State Board's Internet site.

f) Any ex parte or extra record communication shall not be considered by the State Board, any State Board member or employee, nor form the basis for any decision, finding of fact or order.

g) *"Ex Parte communication*" or "extra record communication" *means a communication between a person who is not a State Board member or employee and a State Board member or employee that reflects on the substance of a pending State Board proceeding and that takes place outside the record of the proceeding. Communications regarding matters of procedure and practice, such as the format of pleading, number of copies required, manner of service, and status of proceedings, are not considered ex parte or extra record communications. Technical assistance with respect to an application, not intended to influence any decision on the application, may be provided by employees to the applicant. Any assistance shall be documented in writing by the applicant and employees within 10 business days after the assistance is provided.*

h) Written communication made by applicants, persons, parties, or their representatives shall not be considered ex parte or extra record if made in accordance with the procedures authorized by Parts 1130, 1140 and 1180 of the State Board rules.

i) Written communications made by applicants or permit holders in response to inquiries made by Agency staff in connection with project review, to Agency reports, to State Board questions or requests for information, or as otherwise authorized by State Board rules shall be made part of the record and are not considered prohibited communications. All other communications by applicants or permit holders are prohibited communications, except for requests for information pertaining to procedure or the status of a pending application or permit.

j) Any communication, written or oral, received from a member of the public, news media, interested persons, legislative members, or other persons regarding any matter other than the status of an application which is not authorized by the public comment process specified in 77 Ill. Adm. Code 1140 of the State Board rules is ex parte or extra record communication and is prohibited.

k) The Executive Secretary shall maintain a record of inquiries and responses regarding an application for permit or exemption.

l) *For purposes of this Section, "employee" means a person the State Board or the Agency employs on a full-time, part-time, contract, or intern basis.*

m) *The State Board, State Board member, or hearing examiner presiding over the proceeding, in the event of a violation of this Section, must take whatever action is necessary to ensure that the violation does not prejudice any party or adversely affect the fairness of the proceedings.*

n) *Nothing in this Section shall be construed to prevent the State Board or any member of the State board or any employee from consulting with the attorney for the State Board.*

Section 1925.297 Records and Reports

a) The Executive Secretary shall be responsible for all records, reports and files of the State Board and shall keep same at the official headquarters or at other designated locations when directed by the State Board.

b) The Executive Secretary shall, on behalf of the State Board, make available for public inspection all rules adopted by the State Board in the discharge of its functions and all final orders, decisions and opinions of the State Board, except

any deemed confidential by State or Federal statute; and all information declared public in Health Facilities Planning Act, the Open Meetings Act [5 ILCS 120/2] , or in the Illinois Administrative Procedure Act [5 ILCS 100].

c) All files created or received in the execution of the responsibilities under the Act shall be open to reasonable public inspection and copying at the offices of the State Board, State Agency, or recognized areawide health planning organizations.

Section 1925.298 Amendment

This Part may be amended at any time by the State Board as stipulated in the Act [20 ILCS 3960/12].

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED REPEALER

Section 1925.Appendix A Chart of Organization of the State Board (Repealed)

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED RULE

1) Heading of the Part: Public Information Access, Rulemaking, and Organization

2) Code Citation: 2 Ill. Adm. Code 1925

3)

Section Numbers	Proposed Action
1925.100	New
1925.110	New
1925.120	New
1925.200	New
1925.210	New
1925.220	New
1925.300	New
1925.310	New
1925.320	New
1925.400	New
1925.410	New
1925.420	New
1925.430	New
1925.440	New
1925.450	New
1925.460	New
1925.470	New
1925.500	New
1925.510	New
1925.520	New
1925.600	New
1925.610	New
1925.700	New
1925.710	New
1925.720	New
1925.730	New
1925.740	New
1925.750	New
1925.760	New
1925.770	New
1925.780	New
1925.APPENDIX A	New

4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960/12]

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED RULE

5) A Complete Description of the Subjects and Issues Involved: The subject rulemaking establishes public information access, rulemaking, and organization requirements for the Health Facilities and Services Review Board.

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 does not create or expand a State mandate.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:
\
HFSRB will conduct public hearings on proposed rules, if requested in writing within 14 business days following the publication of the proposed rules in the *Illinois Register*. Notice of public hearings will be posted on the HFSRB website (http://hfsrb.illinois.gov).

Interested persons may present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Claire Burman
Rules Coordinator
122 S. Michigan Avenue, 7th Floor
Chicago IL 60603

312/814-8814
e-mail: Claire.Burman@illinois.gov

13) Initial Regulatory Flexibility Analysis:

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED RULE

A) Types of small businesses, small municipalities and not-for-profit corporations affected:
Hospitals. Long-term care facilities; Ambulatory Surgical Treatment Centers; ESRD facilities; Institutions, places, buildings, or rooms used for provisions of a health care category of service as defined by the Board, including, but not limited to, cardiac catheterization, and open heart surgery; and Institutions, places, buildings, or rooms used for provision of major medical equipment used in the direct clinical diagnosis or treatment of patients, and whose project cost is in excess of the capital expenditure minimum.

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 rule was not included on the most recent Regulatory Agenda because the need for the rulemaking was not apparent when the Regulatory Agenda was prepared.

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

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED RULE

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XVIII: HEALTH FACILITIES AND SERVICES REVIEW BOARD

PART 1925
PUBLIC INFORMATION ACCESS, RULEMAKING AND ORGANIZATION

SUBPART A: INTRODUCTION

Section
1925.100 Summary and Purpose
1925.110 Definitions
1925.120 Records and Reports

SUBPART B: CLASSIFICATION OF RECORDS

Section
1925.200 Records that Will Be Disclosed
1925.210 Records that Will Be Withheld from Disclosure
1925.220 Statutory Exemptions

SUBPART C: PROCEDURES FOR REQUESTING
RECORDS FROM THE AGENCY

Section
1925.300 Submittal of Requests for Records
1925.310 Information To Be Provided in Requests for Records
1925.320 Requests for Records for Commercial Purposes

SUBPART D: AGENCY RESPONSE TO REQUESTS FOR RECORDS

Section
1925.400 Timeline for Agency Response
1925.410 Requests for Records that the Agency Considers Unduly Burdensome
1925.420 Recurrent Requesters
1925.430 Requests for Records that Require Electronic Retrieval
1925.440 Denials of Requests for Records
1925.450 Requests for Review of Denials − Public Access Counselor
1925.460 Circuit Court Review

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED RULE

1925.470 Administrative Review

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section
1925.500 Inspection of Records
1925.510 Copying of Records; Fees
1925.520 Reduction and Waiver of Fees

SUBPART F: RULEMAKING

Section
1925.600 Rulemaking
1925.610 Request for Adoption of Rules

SUBPART G: ORGANIZATION

Section
1925.700 Name, Statutory Authority and Composition
1925.710 Membership, Officers and Committees
1925.720 Meetings
1925.730 Quorum
1925.740 Conflict of Interest
1925.750 Compliance with Illinois Ethics Laws
1925.760 Travel Expenses
1925.770 Rules of Order
1925.780 Ex Parte and Extra-Record Communication

1925.APPENDIX A Fee Schedule for Duplication and Certification of Records

AUTHORITY: Implementing and authorized by Section 3(h) of the Freedom of Information Act [5 ILCS 140/3(h)], implementing the Illinois Health Facilities Planning Act [20 ILCS 3960] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted at 2 Ill. Reg. 187, effective July 26, 1978; amended at 3 Ill. Reg. 8, p. 57, effective February 18, 1979; amended at 4 Ill. Reg. 25, p. 187, effective June 11, 1979; amended at 3 Ill. Reg. 52, p. 118, effective January 1, 1980; amended at 5 Ill. Reg. 4995, effective April 22, 1981; amended at 6 Ill. Reg. 7221, effective June 9, 1982; amended at 6 Ill. Reg. 11484, effective September 9, 1982; amended at 7 Ill. Reg. 7316, effective May 31, 1983; amended at 8

Ill. Reg. 11518, effective June 27, 1984; codified at 8 Ill. Reg. 16340; amended at 9 Ill. Reg. 6276, effective April 24, 1985; amended at 11 Ill. Reg. 15649, effective September 14, 1987; amended at 24 Ill. Reg. 5671, effective March 14, 2000; amended at 24 Ill. Reg. 15060, effective September 26, 2000; amended at 25 Ill. Reg. 2718, effective January 22, 2001; old Part repealed at 38 Ill. Reg. _____ and new Part adopted at 38 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

Section 1925.100 Summary and Purpose

a) This Part states the policy of the Health Facilities and Services Review Board (HFSRB) for making its public records available for reasonable public inspection or copying while, at the same time, protecting legitimate interests in confidentiality.

b) This Part:

1) Establishes the following classifications for records in the Agency's possession:

A) Records that shall be disclosed; and

B) Records that shall be withheld from disclosure.

2) Contains the procedures by which requesters may obtain records in the Agency's possession; and

3) Contains the procedures for claiming and determining that records submitted to the Agency are exempt from disclosure.

Section 1925.110 Definitions

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

"Act" means the Illinois Health Facilities Planning Act [20 ILCS 3960].

"Administrator" means the chief administrative officer of HFSRB, responsible to the HFSRB chairman, and, through the chairman, responsible to HFSRB for the execution of its policies and procedures.

"Agency", "HFSRB", "State Board" or "Board" means the Illinois Health Facilities and Services Review Board, as established by the Act.

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

> *to access and disseminate information concerning news and current or passing events;*
>
> *for articles or opinion or features of interest to the public; or*
>
> *for the purpose of academic, scientific, or public research or education.* (Section 2(c-10) of FOIA)

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

"Director" means the Director of the Department of Public Health.

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

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

"News media" means a newspaper or other periodical issued at regular intervals, news service in paper or electronic form, radio station, television station, television network, community antenna television service, or person or corporation engaged in making news reels or other motion picture news for public showing. (Section 2(f) of FOIA)

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

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

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

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

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

"Recurrent Requester" means a person that, in the 12 months immediately preceding the request, has submitted to the Agency, *a minimum of 50 requests for records, a minimum of 15 requests for records within a 30-day period, or a minimum of 7 requests for records within a 7-day period. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered in calculating the number of requests made in the time periods in this definition when the principal purpose of the requests is to access and disseminate information concerning news and current or passing*

events, for articles of opinion or features of interest to the public, or for the purpose of academic, scientific, or public research or education. For the purposes of this definition, *"request" means a written document (or oral request, if the* Agency *chooses to honor oral requests) that is submitted to* the Agency *via personal delivery, mail, telefax, electronic mail, or other means available to the* Agency *and that identifies the particular public record the requester seeks. One request may identify multiple records to be inspected or copied.* (Section 2(g) of FOIA)

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

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

Section 1925.120 Records and Reports

a) The HFSRB Administrator shall be responsible for all records, reports and files of HFSRB and shall keep these materials at the official headquarters or at other designated locations when directed to do so by HFSRB.

b) The Administrator shall, on behalf of HFSRB, make available for public inspection:

1) all rules adopted by HFSRB in the discharge of its functions;

2) all final orders, decisions and opinions of HFSRB, except any deemed confidential by State or federal statute; and

3) all information declared public by the Health Facilities Planning Act, the Freedom of Information Act [5 ILCS 140], the Open Meetings Act [5 ILCS 120/2] or the Illinois Administrative Procedure Act [5 ILCS 100].

c) All files created or received in the execution of the responsibilities under the Act shall be open to reasonable public inspection and copying at the HFSRB offices.

SUBPART B: CLASSIFICATION OF RECORDS

Section 1925.200 Records that Will Be Disclosed

Upon request meeting the requirements of this Part, the Agency shall disclose to the requester all records requested except that it shall not disclose certain records as provided in Section 1925.210 or 1925.220. Records covered under this Section shall include, but are not limited to:

a) *Records of funds. All records relating to the obligation, receipt and use of public funds of the Agency are records subject to inspection and copying by the public.* (Section 2.5 of FOIA)

b) *Payrolls. Certified payroll records submitted to the Agency under Section 5(a)(2) of the Prevailing Wage Act* [820 ILCS 130] *are records subject to inspection and copying in accordance with the provisions of FOIA; except that contractors' and employees' addresses, telephone numbers, and Social Security numbers will be redacted by the Agency prior to disclosure.* (Section 2.10 of FOIA)

c) *Criminal history records. The following documents maintained by the Agency pertaining to criminal history record information are records subject to inspection and copying by the public pursuant to FOIA:*

1) *Court records that are public;*

2) *Records that are otherwise available under State or local law; and*

3) *Records in which the requesting party is the individual identified, except as provided under* Section 1925.210(a)(5)(F) of this Part. (Section 2.15(b) of FOIA)

d) *Settlement agreements. All settlement agreements entered into by or on behalf of the Agency are records subject to inspection and copying by the public, provided that information exempt from disclosure under* Section 1925.210 or 1925.220 of this Part *may be redacted.* (Section 2.20 of FOIA)

Section 1925.210 Records that Will Be Withheld from Disclosure

When a request is made to inspect or copy a record that contains information that is otherwise exempt from disclosure under this Section, but also contains information that is not exempt from

disclosure, the Agency shall make the remaining information available for inspection and copying. (Section 7(1) of FOIA)

a) *Subject to this requirement and Section 7 of FOIA, the following shall be exempt from inspection and copying:*

1) *Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law;* (Section 7(1)(a) of FOIA)

2) *Private information, unless disclosure is required by another provision of FOIA, a State or federal law or a court order;* (Section 7(1)(b) of FOIA)

3) *Files, documents, and other data or databases maintained by one or more law enforcement agencies and specifically designed to provide information to one or more law enforcement agencies regarding the physical or mental status of one or more individual subject*s; (Section 7(1)(b-5) of FOIA)

4) *Personal information contained within records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy;* (Section 7(1)(c) of FOIA)

5) *Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:*

A) *Interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;*

B) *Interfere with active administrative enforcement proceedings conducted by the public body that is the recipient of the request;*

C) *Create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;*

D) *Unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the Agency will provide traffic accident reports, the identities of witnesses to traffic accidents, and rescue reports, except when disclosure would interfere with an active criminal investigation;*

E) *Disclose unique or specialized investigative techniques other than those generally used and known, or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the Agency;*

F) *Endanger the life or physical safety of law enforcement personnel or any other person; or*

G) *Obstruct an ongoing criminal investigation by the Agency;* (Section 7(1)(d) of FOIA)

6) *Records that relate to or affect the security of correctional institutions and detention facilities;* (Section 7(1)(e) of FOIA)

7) *Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the Agency. The exemption provided in this* subsection (a)(7) *extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents;* (Section 7(1)(f) of FOIA)

8) *Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested. All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this* subsection (a)(8) *does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this* subsection (a)(8) *does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm. Nothing in this* subsection (a)(8) *shall be construed to prevent a person or business from consenting to disclosure;* (Section 7(1)(g) of FOIA)

9) *Proposals and bids for any contract, grant, or agreement, including information that if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contract or agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made;* (Section 7(1)(h) of FOIA)

10) *Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by the Agency when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this* subsection (a)(10) *does not extend to requests made by news media as defined in* Section 1925.110 *when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public*; (Section 7(1)(i) of FOIA)

11) *The following information pertaining to educational matters:*

A) *Test questions, scoring keys, and other examination data used to administer an academic exam;*

B) *Information received by a primary or secondary school, college, or university under its procedure for the evaluation of faculty members by their academic peers;*

C) *Information concerning a school's or university's adjudication of student disciplinary cases, but only to the extent that disclosure would unavoidably reveal the identity of the student; and*

D) *Course materials or research materials used by faculty members;* (Section 7(1)(j) of FOIA)

12) *Architects' plans and engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and for projects constructed or developed with public funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security;* (Section 7(1)(k) of FOIA)

13) *Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act* [5 ILCS 120] *until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act;* (Section 7(1)(l) of FOIA)

14) *Communications between the Agency and an attorney or auditor representing the Agency that would not be subject to discovery in litigation, and materials prepared or compiled by or for the Agency in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the Agency, and materials prepared or compiled with respect to internal audits of the Agency;* (Section 7(1)(m) of FOIA)

15) *Records relating to the Agency's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed;* (Section 7(1)(n) of FOIA)

16) *Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section;* (Section 7(1)(o) of FOIA)

17) *Records relating to collective negotiating matters between the Agency and its employees or representatives, except that any final contract or agreement shall be subject to inspection and copying;* (Section 7(1)(p) of FOIA)

18) *Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment;* (Section 7(1)(q) of FOIA)

19) *The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act* [735 ILCS 30], *records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt only until a sale is consummated;* (Section 7(1)(r) of FOIA)

20) *Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool. Insurance or self-insurance (including any intergovernmental risk management association or self-insurance pool) claims, loss or risk*

management information, records, data, advice or communications; (Section 7(1)(s) of FOIA)

21) *Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law;* (Section 7(1)(t) of FOIA)

22) *Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act* [5 ILCS 175]; (Section 7(1)(u) of FOIA)

23) *Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this* subsection (a)(23) *may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations;* (Section 7(1)(v) of FOIA)

24) *Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency;* (Section 7(1)(x) of FOIA)

25) *Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act* [20 ILCS 3855] *and Section 16-111.5 of the Public Utilities Act* [220 ILCS 5] *that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission;* (Section 7(1)(y) of FOIA)

26) *Information about students exempted from disclosure under Section 10-20.38 or 34-18.29 of the School Code, and information about undergraduate students enrolled at an institution of higher education exempted from disclosure under Section 25 of the Illinois Credit Card Marketing Act of 2009* [110 ILCS 26]; (Section 7(1)(z) of FOIA)

27) *Information the disclosure of which is exempted under the Viatical Settlements Act of 2009* [215 ILCS 158]; (Section 7(1)(aa) of FOIA)

28) *Information regarding interments, entombments, or inurnments of human remains that are submitted to the Cemetery Oversight Database under the Cemetery Care Act* [760 ILCS 100] *or the Cemetery Oversight Act* [225 ILCS 411], *whichever is applicable.* (Section 7(1)(bb) of FOIA)

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

Section 1925.220 Statutory Exemptions

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

a) *All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act* [20 ILCS 700].

b) *Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act* [75 ILCS 70].

c) *Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.*

d) *Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually*

transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act [410 ILCS 325].

e) *Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act* [420 ILCS 44].

f) *Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act* [30 ILCS 535].

g) *Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act* [110 ILCS 979].

h) *Information the disclosure of which is exempted under the State Officials and Employees Ethics Act* [5 ILCS 430] *and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.*

i) *Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code* [65 ILCS 5].

j) *Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act* [20 ILCS 2605].

k) *Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code* [625 ILCS 5].

l) *Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act* [210 ILCS 28].

m) *Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act* [765 ILCS 77], *except to the extent authorized under that Article.*

n) *Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act* [725 ILCS 124]. *This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.*

o) *Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act* [410 ILCS 525].

p) *Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act* [70 ILCS 3615] *or the St. Clair County Transit District under the Bi-State Transit Safety Act* [45 ILCS 111].

q) *Information prohibited from being disclosed by the Personnel Records Review Act* [820 ILCS 40].

r) *Information prohibited from being disclosed by the Illinois School Student Records Act* [105 ILCS 10].

s) *Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act* [220 ILCS 5]. (Section 7.5 of FOIA)

SUBPART C: PROCEDURES FOR REQUESTING RECORDS FROM THE AGENCY

Section 1925.300 Submittal of Requests for Records

a) Any request for public records should be submitted in writing to the HFSRB FOI Officer.

b) FOIA requests may be submitted via mail, e-mail, fax or hand delivery. Requests should be mailed or hand delivered to:

Illinois Health Facilities and Services Review Board
525 W. Jefferson Street, 2nd Floor
Springfield IL 62761
Attn: FOI Officer

c) E-mailed requests should be sent to DPH.HFSRB.FOIA@illinois.gov, contain the request in the body of the e-mail, and indicate in the subject line of the e-mail that it contains a FOIA request. Faxed FOIA requests should be faxed to (312)814-1503, Attn: HFSRB FOI Officer.

Section 1925.310 Information To Be Provided in Requests for Records

A request for records should include:

a) The complete name, mailing address and telephone number of the requester;

b) As specific a description as possible of the records sought. Requests that the Agency considers unduly burdensome or categorical may be denied. (See Section 3(g) of FOIA and Section 1925.410.);

c) A statement as to the requested medium and format for the Agency to use in providing the records sought: for example, paper, specific types of digital or magnetic media, or videotape;

d) A statement as to the requested manner for the Agency to use in providing the records sought: for example, inspection at Agency headquarters or providing paper or electronic copies;

e) A statement as to whether the requester needs certified copies of all or any portion of the records, including reference to the specific documents that require certification; and

f) A statement as to whether the request is for a commercial purpose.

Section 1925.320 Requests for Records for Commercial Purposes

a) *It is a violation of FOIA for a person to knowingly obtain a record for a commercial purpose without disclosing that it is for a commercial purpose if requested to do so by the Agency.* (Section 3.1(c) of FOIA)

b) *The Agency shall respond to a request for records to be used for a commercial purpose within 21 working days after receipt. The response shall:*

1) *Provide to the requester an estimate of the time required by the Agency to provide the records requested and an estimate of the fees to be charged, which the Agency may require the person to pay in full before copying the requested documents;*

2) *Deny the request pursuant to one or more of the exemptions set out in* Section 1925.210 or 1925.220;

3) *Notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*

4) *Provide the records requested.* (Section 3.1(a) of FOIA)

c) *Unless the records are exempt from disclosure, the Agency shall comply with a request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes.* (Section 3.1(b) of FOIA)

SUBPART D: AGENCY RESPONSE TO REQUESTS FOR RECORDS

Section 1925.400 Timeline for Agency Response

a) Except as stated in subsection (b) or (c), the Agency will respond to any written *request for records within 5 business days after its receipt of the request. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. If the Agency fails to respond to a request within the requisite periods in this* subsection (a) *but thereafter provides the requester with copies of the requested records, it will not impose a fee for such copies. If the Agency fails to respond to a request received, it will not treat the request as unduly burdensome as provided under* Section 1925.410. (Section 3(d) of FOIA) A written request from the Agency to provide additional information shall be considered a response to the FOIA request.

b) *The time limits prescribed in* subsection (a) *may be extended for not more than 5 business days from the original due date for any of the following reasons:*

1) *The requested records are stored in whole or in part at locations other than the office having charge of the requested records;*

2) *The request requires the collection of a substantial number of specified records;*

3) *The request is couched in categorical terms and requires an extensive search for the records responsive to it;*

4) *The requested records have not been located in the course of routine search and additional efforts are being made to locate them;*

5) *The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 or 7.5 of FOIA or should be revealed only with appropriate deletions*;

6) *The request for records cannot be complied with by the Agency within the time limits prescribed by* subsection (a) *without unduly burdening or interfering with the operations of the Agency; or*

7) *There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request.* (Section 3(e) of FOIA)

c) *The person making a request and the Agency may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the Agency agree to extend the period for compliance, a failure by the Agency to comply with any previous deadlines shall not be treated as a denial of the request for the records.* (Section 3(e) of FOIA)

d) *When additional time is required for any of the reasons* set forth in subsection (b), *the Agency will, within 5 business days after receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming. Failure to respond within the time permitted for extension shall be considered a denial of the request. If the Agency fails to respond to a request within the time permitted for extension but thereafter*

provides the requester with copies of the requested public records, it may not impose a fee for those copies. If the Agency issues an extension and subsequently fails to respond to the request, it will not treat the request as unduly burdensome under Section 1925.410. (Section 3(f) of FOIA)

Section 1925.410 Requests for Records that the Agency Considers Unduly Burdensome

a) *The Agency will fulfill requests calling for all records falling within a category unless compliance with the request would unduly burden the Agency, there is no way to narrow the request, and the burden on the Agency outweighs the public interest in the information. Before invoking this exemption, the Agency will extend to the requester an opportunity to confer with it in an attempt to reduce the request to manageable proportions.* (Section 3(g) of FOIA) The amended request must be in writing.

b) If the Agency determines that a request is unduly burdensome, *it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the Agency. Such a response shall be treated as a denial of the request for information.* (Section 3(g) of FOIA)

c) *Repeated requests for records that are unchanged or identical to records previously provided or properly denied under this Part from the same person shall be deemed unduly burdensome.* (Section 3(g) of FOIA)

Section 1925.420 Recurrent Requesters

a) *Notwithstanding any provision of this* Part *to the contrary,* the Agency will *respond to a request from a recurrent requester, as defined in* Section 1925.110, *within 21 business days after receipt. The response* will:

1) *provide to the requester an estimate of the time required by the* Agency *to provide the records requested and an estimate of the fees to be charged, which the* Agency *may require the person to pay in full before copying the requested documents*;

2) *deny the request pursuant to one or more of the exemptions set out in this* Part;

3) *notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*

4) *provide the records requested.*

b) *Within 5 business days after receiving a request from a recurrent requester, the* Agency will *notify the requestor that the* Agency *is treating the request as a* recurrent request*, and that the* Agency *will send an initial response within 21 business days after receipt in accordance with subsection (a). The* Agency will *also notify the requester of the proposed responses that can be asserted pursuant to subsection (a).*

c) *Unless the records are exempt from disclosure,* the Agency will *comply with a request within a reasonable period considering the size and complexity of the request.* (Section 3.2 of FOIA)

Section 1925.430 Requests for Records that Require Electronic Retrieval

a) A request for records that requires electronic retrieval will be treated the same as any other request for records, with the same timeline and extensions as allowed for other records.

b) The Agency will retrieve and provide electronic records only in a format and medium that is available to the Agency.

Section 1925.440 Denials of Requests for Records

a) The Agency will deny requests for records when:

1) Compliance with the request would unduly burden the Agency, as determined pursuant to Section 1925.410, and the requester has not reduced the request to manageable proportions; or

2) The records are exempt from disclosure pursuant to Section 7 or 7.5 of FOIA or Section 1925.210 or 1925.220.

b) The denial of a request for records must be in writing.

1) The notification shall include a description of the records denied; *the reason for the denial, including a detailed factual basis for the application of any exemption claimed; and the names and titles or positions of each person responsible for the denial* (Section 9(a) of FOIA);

2) *Each notice of denial shall also inform such person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor* (Section 9(a) of FOIA); and

3) *When a request for records is denied on the grounds that the records are exempt under Section 7* or 7.5 *of FOIA, the notice of denial shall specify the exemption claimed to authorize the denial and the specific reasons for the denial, including a detailed factual basis and a citation to the supporting legal authority* (Section 9(b) of FOIA).

c) A requester may treat the Agency's failure to respond to a request for records within 5 business days after receipt of the written request as a denial for purposes of the right to review by the Public Access Counselor.

d) If the Agency has given written notice pursuant to Section 1925.400(d), failure to respond to a written request within the time permitted for extension may be treated as a denial for purposes of the right to review by the Public Access Counselor.

e) *Any person making a request for records shall be deemed to have exhausted his or her administrative remedies with respect to that request if the Agency fails to act within the time periods provided in* Section 1925.400. (Section 9(c) of FOIA)

Section 1925.450 Requests for Review of Denials − Public Access Counselor

a) *A person whose request to inspect or copy a record is denied by the Agency may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial.* (Section 9.5(a) of FOIA)

b) If the Agency *asserts that the records are exempt under* Section 1925.210(a)(4) or (a)(7), *it will, within the time periods provided for responding to a request, provide written notice to the requester and the Public Access Counselor of its intent to deny the request in whole or in part. The notice will include:*

1) *A copy of the request for access to records;*

2) *The proposed response from the Agency;* and

3) *A detailed summary of the Agency's basis for asserting the exemption.* (Section 9.5(b) of FOIA)

c) *Upon receipt of a notice of intent to deny from the Agency, the Public Access Counselor shall determine whether further inquiry is warranted.* The Public Access Counselor shall process the notification of intent to deny as detailed in Section 9.5(b) of FOIA. *Times for response or compliance by the Agency* under Section 1925.400 *will be tolled until the Public Access Counselor concludes his or her inquiry.* (Section 9.5(b) of FOIA)

d) *Within 7 working days after the Agency receives a request for review from the Public Access Counselor, the Agency shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor.* (Section 9.5(c) of FOIA)

e) *Within 7 working days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the Agency may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy.* (Section 9.5(d) of FOIA)

f) *The requester may, but is not required to, respond in writing to the answer within 7 working days and shall provide a copy of the response to the Agency.* (Section 9.5(d) of FOIA)

g) *In addition to the request for review, and the answer and response thereto, if any, a requester or the Agency may furnish affidavits or records concerning any matter germane to the review.* (Section 9.5(e) of FOIA)

h) *A binding opinion from the Attorney General shall be binding upon both the requester and the Agency, subject to administrative review under* Section 1925.408. (Section 9.5(f) of FOIA)

i) *If the Attorney General decides to exercise his or her discretion to resolve a request for review by mediation or by a means other than issuance of a binding opinion, the decision not to issue a binding opinion shall not be reviewable.* (Section 9.5(f) of FOIA)

j) *Upon receipt of a binding opinion concluding that a violation of FOIA has occurred, the Agency shall either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under* Section 1925.470. *If the opinion concludes that no violation of FOIA has occurred, the requester may initiate administrative review under* Section 1925.470. (Section 9.5(f) of FOIA)

k) *If the Agency discloses records in accordance with an opinion of the Attorney General, the Agency is immune from all liabilities by reason thereof and shall not be liable for penalties under FOIA.* (Section 9.5(f) of FOIA)

l) *If the requester files suit under* Section 1925.460 *with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor, and the Public Access Counselor shall so notify the Agency.* (Section 9.5(g) of FOIA)

m) *The Attorney General may also issue advisory opinions to the Agency regarding compliance with FOIA. A review may be initiated upon receipt of a written request from the* Director of the Agency or the Agency's Chief Legal Counsel, *which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the Agency in order to assist in the review. If the Agency relies in good faith on an advisory opinion of the Attorney General in responding to a request, the Agency is not liable for penalties under FOIA, so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor.* (Section 9.5(h) of FOIA)

Section 1925.460 Circuit Court Review

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

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED RULE

Section 1925.470 Administrative Review

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

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section 1925.500 Inspection of Records

a) The Agency may make available records for personal inspection at the Agency's headquarters office located at 525 West Jefferson Street, 2nd Floor, Springfield, Illinois 62761, or at another location agreed to by both the Agency and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record. The Agency may provide records in duplicate forms, including, but not limited to, paper copies, data processing printouts, videotape, microfilm, audio tape, reel to reel microfilm, photographs, computer disks and diazo.

b) *When a person requests a copy of a record maintained in an electronic format, the Agency shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the records in the specified electronic format, then the Agency shall furnish it in the format in which it is maintained by the Agency, or in paper format at the option of the requester.* (Section 6(a) of FOIA)

c) A requester may inspect records by appointment only, scheduled subject to space availability. The Agency will schedule inspection appointments to take place during normal business hours, which are 8:30 a.m. to 5:00 p.m. Monday through Friday, exclusive of State holidays. If the requester must cancel the viewing appointment, the requester shall so inform the Agency as soon as possible before the appointment.

d) In order to maintain routine Agency operations, the requester may be asked to leave the inspection area for a specified period of time.

e) The requester will have access only to the designated inspection area.

f) Requesters shall not be permitted to take briefcases, folders or similar materials into the room where the inspection takes place. An Agency employee may be present during the inspection.

g) The requester shall segregate and identify the documents to be copied during the course of the inspection.

Section 1925.510 Copying of Records; Fees

a) In accordance with Section 1925.520, unless a fee is otherwise fixed by statute, the Agency will provide copies of records and certifications of records in accordance with the fee schedule set forth in Appendix A.

b) *In calculating its actual cost for reproducing records or for the use of the equipment of the Agency to reproduce records, the Agency will not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records.* (Section 6(b) of FOIA)

c) In order to expedite the copying of records that the Agency cannot copy, due to the volume of the request or the operational needs of the Agency, in the timelines established in Section 1925.400, the requester may provide, at the requester's expense, the copy machine, all necessary materials, and the labor to copy the public records at the Agency headquarters in Section 1925.500, or at another location agreed to by both the Agency and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record.

d) Copies of records will be provided to the requester only upon payment of any fees due. *The Agency may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium, but the Agency will not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records.* (Section 6(a) of FOIA) Payment must be by check or money order sent to the Agency, payable to "Illinois Department of Public Health".

e) If a contractor is used to inspect or copy records, the following procedures shall apply:

1) The requester, rather than the Agency, must contract with the contractor;

2) The requester is responsible for all fees charged by the contractor;

3) The requester must notify the Agency of the contractor to be used prior to the scheduled on-site inspection or copying;

4) Only Agency personnel may provide records to the contractor;

5) The Agency must have verification that the requester has paid the Agency, if payment is due, for the copying of the records before providing the records to the contractor; and

6) The requester must provide to the Agency the contractor's written agreement to hold the records secure and to copy the records only for the purpose stated by the requester.

Section 1925.520 Reduction and Waiver of Fees

a) *Fees may be reduced or waived by the Agency if the requester states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. In making this determination, the Agency will consider the following:*

1) *Whether the principal purpose of the request is to disseminate information regarding the health, safety, welfare or legal rights of the general public; and*

2) *Whether the principal purpose of the request is personal or commercial benefit. For purposes of this subsection (a), "commercial benefit" shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public.* (Section 6(c) of FOIA)

b) The Agency will provide copies of records without charge to federal, State and municipal agencies, Constitutional officers and members of the General

Assembly, and not-for-profit organizations providing evidence of good standing with the Secretary of State's Office.

c) *Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of records when furnished in a paper format will not be applicable to those records when furnished to a requester in an electronic format.* (Section 6(a) of FOIA)

SUBPART F: RULEMAKING

Section 1925.600 Rulemaking

a) All proposed rules are referred by the State Board to HFSRB staff .

b) Requests for the adoption of rules shall be processed as prescribed in Section 5-145 of the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100/5-145] for presentation to the State Board (see Section 1925.610). Requesters shall be notified of the disposition of their requests.

c) All proposed and adopted rulemaking of HFSRB shall be published in the *Illinois Register* in accordance with the requirements of the IAPA.

d) Rules adopted by HFSRB shall be in effect on the date that the rules are filed with the Illinois Secretary of State's Office. The rules will then be available on HFSRB's website (http://www.hfsrb.illinois.gov).

Section 1925.610 Request for Adoption of Rules

a) Pursuant to the requirements of Section 5-145 of the IAPA, any interested person may contact HFSRB requesting the promulgation, amendment or repeal of a rule.

b) The form of the request shall be typed and sent to the main HFSRB office (see Section 1925.300) via USPS, any recognized delivery service or email. The request shall include the following information:

1) Name, title (if any), organization (if any), address and telephone number of the requester.

2) Nature of action sought, i.e., promulgation of a new rule or amendment or

repeal of a rule.

3) Proposed text or identification of the rule to be repealed.

4) Brief statement of the rationale for the requested action.

c) The Administrator will forward a copy of the request to the HFSRB Chairman who will assign the matter for consideration by the State Board.

SUBPART G: ORGANIZATION

Section 1925.700 Name, Statutory Authority and Composition

a) Name: The Health Facilities and Services Review Board.

b) Statutory Authority: The Illinois Health Facilities Planning Act [20 ILCS 3960].

c) Composition: The composition of the State Board shall be as prescribed in Section 4 of the Act.

Section 1925.710 Membership, Officers and Committees

a) Membership

1) *The State Board shall be appointed by the Governor, with the advice and consent of the Senate. Not more than 5 of the appointments shall be of the same political party at the time of the appointment.* [20 ILCS 3960/4(c)]

2) *The State Board shall consist of 9 voting members*. [20 ILCS 3960/4(b) *Each appointed member shall hold office for a term of 3 years, provided that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term and the term of office of each successor shall commence on July 1 of the year in which his* or her *predecessor's term expires. The Governor may reappoint a member for additional terms, but no member shall serve more than 3 terms, subject to review and re-approval every 3 years.* [20 ILCS 3960/4(d)]

3) Ex-Officio Members

The Secretary of Human Services, the Director of Healthcare and Family Services, and the Director of Public Health, or their designated representatives, shall serve as ex-officio, non-voting members of the State Board. [20 ILCS 3960(c)]

b) Officers
The Governor shall designate one of the members to serve as the Chairman of the Board, who shall be a person with expertise in health care delivery system planning, finance or management of health care facilities that are regulated under the Act. The Chairman shall annually review Board member performance and shall report the attendance record of each Board member to the General Assembly. [20 ILCS 3960/4(f)]

c) Committees
The Chairman, acting for the State Board, will establish such standing and/or special committees as are deemed necessary. The Chairman shall specify the duties of committees and appoint the members.

Section 1925.720 Meetings

a) The State Board will, in the scheduling and conduct of its meetings, conform to all requirements of the Open Meetings Act [5 ILCS 120].

b) As provided in the Open Meetings Act, all decisions of HFSRB shall be made at meetings open to the public.

c) HFSRB shall keep a complete and accurate record of all meetings, including the votes of individual members on all matters before it. Minutes of HFSRB meetings shall be taken by a court reporter. Transcriptions of any minutes taken or made by HFSRB may be obtained pursuant to the provisions of the Freedom of Information Act and the Open Meetings Act following approval of the minutes by HFSRB.

d) Meeting Schedule

1) Regular and special meetings shall be called by the Chairman through the Administrator.

2) *HFSRB shall meet at least every 45 days, or as often as the HFSRB Chairman deems necessary, or upon the request of the majority of the members.* [20 ILCS 3960/4(h)]

3) HFSRB, through its Administrator, shall, at the beginning of each fiscal year, prepare and make available a schedule of all regular HFSRB meetings for the fiscal year, listing the dates, times and places of the meetings. If a change is made in regular meeting dates, at least 10 days notice of the change shall be given by publication in a newspaper of general circulation, with notice of the change posted at the principal HFSRB office (see Section 1925.300), and shall be supplied to those media that have requested annual information.

4) Public notice of regular meetings shall be given by posting the notice on the HFSRB website (http://www.hfsrb.illinois.gov).

Section 1925.730 Quorum

The quorum requirements are as specified in Section 4(i) of the Act. *A vacancy in the membership of the State Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the State Board as provided for in the Act.* [20 ILCS 3960/4(i)]

Section 1925.740 Conflict of Interest

a) *Prior to appointment to, and in the course of service on, the Board, members shall disclose the employment or other financial interest of any other relative of the member, if known, in service or facilities subject to the Act. Members of the Board shall declare any conflict of interest that may exist with respect to the status of those relatives and recuse themselves from voting on any issue for which a conflict of interest is declared. No person shall be appointed or continue to serve as a member of the State Board who is, or whose spouse, parent, sibling, or child is, a member of the Board of Directors of, has a financial interest in, or has a business relationship with a health care facility.* [20 ILCS 3960/4(b)]

b) *A State Board member shall disqualify himself or herself from the consideration of any application for a permit or exemption in which the State Board member or the State Board member's spouse, parent, sibling, or child has an economic interest in the matter or is employed by, serves as a consultant for, or is member of the governing board of the applicant or a party opposing the application.* [20 ILCS 3960/4(j)]

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED RULE

Section 1925.750 Compliance with Illinois Ethics Laws

a) *The Chairman, Board members and Board staff must comply with the Illinois Governmental Ethics Act* [5 ILCS 420]. [20 ILCS 3960/4(k)]

b) *The State Board is subject to the State Officials and Employees Ethics Act* [5 ILCS 430]. [20 ILCS 3960/4.1(b)]

Section 1925.760 Travel Expenses

HFSRB members, while serving on the business of HFSRB, shall be reimbursed for actual and necessary travel and subsistance expenses as provided in Section 4(e) of the Act. Additionally, State Board members shall receive actual and necessary travel and subsistence expenses while serving away from their places of residence (as specified in subsection (e) of this Section). Serving on the business of HFSRB includes, but shall not be limited to, attendance at regular, special or committee meetings or public hearings of HFSRB.

a) Eligibility

1) Voting HFSRB members shall be reimbursed through the Agency for travel and subsistence expenses incurred in the performance of their duties as provided by law and/or this Part.

2) Ex-officio members of HFSRB shall request reimbursement for travel and subsistence expenses from their respective agencies as being a form of their official duties.

b) Official Headquarters of Voting Members
For the purpose of calculating travel expenses for State Board members, the member's place of residence will be considered his or her headquarters location.

c) Official Travel Regulations
HFSRB is subject to the travel requirements for the State of Illinois, as published by the Department of Central Management Services and approved and promulgated by the Travel Control Board.

d) Reimbursement Procedures

All claims for reimbursement of travel and subsistence expenses shall be submitted on forms provided for that purpose. Submission of travel reimbursement forms may be made subsequent to each meeting of the State Board, or may be held for submission at the conclusion of each month's individual activity. The Administrator shall be the recipient of the vouchers for administrative processing and approval.

e) Definition of Official Business Requiring Travel
For the purpose of travel expense reimbursement, expenses incurred by HFSRB members shall be considered to be official business of the State and of HFSRB when the expenses are incurred as a participant in the following activities:

1) HFSRB regular, special and committee meetings called by the Chairman through the Administrator.

2) Participation in investigations, hearings, judicial and legislative proceedings, or the like, in connection with a permit or matters arising from the administration of the Act.

3) Participation in public hearings relative to HFSRB rules and/or health facilities standards, criteria or plans.

4) Participation in task forces, ad hoc committees, and other special units prescribed by the HFSRB Chairman.

5) Speaking before interested groups and organizations and meetings with interested persons and government officials, as a representative of HFSRB, for the purpose of:

A) describing the activities of the State Board, its procedures, and the laws governing its purpose, organization and operation; and

B) discussing issues related to health facilities planning.

6) Attendance, as a representative of HFSRB, at meetings conducted by agencies of the State and federal governments, and by national, state and local organizations having a direct interest in health facilities planning, except that attendance at meetings held outside the State shall have the

prior approval of the Chairman of the Board, the Administrator, and the Department of Central Management Services.

Section 1925.770 Rules of Order

Roberts Rules of Order shall govern the conduct of all meetings of HFSRB, except that any matter on which HFSRB is required by the Act to defer its action until parties have been notified and afforded the opportunity to appear before the State Board shall be deferred until the next meeting.

Section 1925.780 Ex Parte and Extra-Record Communication

a) *Except in the disposition of matters that agencies are authorized by law to entertain or dispose of on an ex parte basis including, but not limited to rule making, the State Board, any State Board member, employee, or hearing officer shall not engage in ex parte communication in connection with the substance of any formally filed application for a permit with any person or party or the representative of any party. This subsection (a) applies when the Board, member, employee, or hearing officer knows, or should know upon reasonable inquiry, that the application or exemption has been formally filed with the Board. Nothing in this Section shall prohibit staff members from providing technical assistance to applicants. Nothing in this Section shall prohibit staff from verifying or clarifying an applicant's information as it prepares the Board staff report. Once an application or exemption is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed, standardized format, and shall be included in the application file.* [20 ILCS 3960/4.2(a)]

b) *A State Board member or employee may communicate with other members or employees and any State Board member or hearing officer may have the aid and advice of one or more personal assistants.* [20 ILCS 3960/4.2(b)]

c) *An ex parte* or extra-record *communication received by the State Board, any State Board member, employee, or hearing officer shall be made a part of the record of the pending matter, including all written communication, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received.* [20 ILCS 3960/4.2(c)]

d) The State Board member, employee or hearing officer who received or made the ex parte or extra-record communication shall submit those communications, responses and memoranda to the Administrator who shall cause them to be filed in the administrative record for the subject project in a separately identified section.

e) The ex parte or extra-record communication, together with all other documents enumerated in this Section, shall be available to the public in conformance with Section 3 of the Freedom of Information Act. Prohibited communications shall be reported to the General Assembly and incorporated on the State Board's website (http://www.hfsrb@illinois.gov).

f) Any ex parte or extra-record communication shall not be considered by the State Board, any State Board member or any HFSRB employee, nor form the basis for any decision, finding of fact or order.

g) *"Ex Parte communication*" or "extra-record communication" *means a communication between a person who is not a State Board member or employee and a State Board member or employee that reflects on the substance of a pending State Board proceeding and that takes place outside the record of the proceeding. Communications regarding matters of procedure and practice, such as the format of pleading, number of copies required, manner of service, and status of proceedings, are not considered ex parte or extra-record communications. Technical assistance with respect to an application, not intended to influence any decision on the application, may be provided by employees to the applicant. Any assistance shall be documented in writing by the applicant and employees within 10 business days after the assistance is provided.* [20 ILCS 3960/4.2(d)]

h) Any communication, written or oral, received from a member of the public, news media, interested persons, legislators, or other persons regarding any matter, other than the status of an application, that is not authorized by the public comment process specified in 77 Ill. Adm. Code 1130 is ex parte or extra-record communication and is prohibited.

i) *For purposes of this Section, "employee" means a person the State Board or the Agency employs on a full-time, part-time, contract, or intern basis.* [20 ILCS 3960/4.2(e)]

j) *The State Board, State Board member, or hearing examiner presiding over the proceeding, in the event of a violation of this Section, must take whatever action is necessary to ensure that the violation does not prejudice any party or adversely affect the fairness of the proceedings.* [20 ILCS 3960/4.2(f)]

k) *Nothing in this Section shall be construed to prevent the State Board or any member of the State board or any employee from consulting with the attorney for the State Board.* [20 ILCS 3960/4.2(g)]

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED RULE

Section 1925.APPENDIX A Fee Schedule for Duplication and Certification of Records

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

NOTE: Expense for delivery other than by First Class U.S. Mail must be borne by the requester.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code 100

3)

Section Numbers:	Proposed Action:
100.2198	Amend
100.7380	New

4) Statutory Authority: 35 ILCS 5/704A(g) and (h)

5) A Complete Description of the Subjects and Issues Involved: This rulemaking provides guidance for taxpayers entitled to claim credits against employee wage withholding under the Economic Development for a Growing Economy Act and the Small Business Job Creation Tax Act.

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

7) Will this rulemaking replace any emergency rulemaking currently in effect: No

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

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers:	Proposed Action:	*Illinois Register* Citation:
100.2110	Amendment	37 Ill. Reg. 15464, September 27, 2013
100.2120	Amendment	37 Ill. Reg. 15464, September 27, 2013
100.2160	Amendment	37 Ill. Reg. 15464, September 27, 2013
100.2185	Amendment	37 Ill. Reg. 15464, September 27, 2013
100.2190	Amendment	37 Ill. Reg. 15464, September 27, 2013
100.2480	Amendment	37 Ill. Reg. 15464, September 27, 2013
100.2655	Amendment	37 Ill. Reg. 15464, September 27, 2013
100.2657	New Section	37 Ill. Reg. 19082, December 2, 2013
100.2060	New Section	38 Ill. Reg. 832, January 10, 2014

11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

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

Illinois Department of Revenue
Paul Caselton
Deputy Counsel Income Tax
Legal Services Office
101 West Jefferson
Springfield IL 62794

217/782-7055

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses entitled to the credit under the Small Business Job Creation Tax Act for increasing their Illinois employment will receive guidance on claiming that credit.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2013

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section
100.2000 Introduction
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section
100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
100.2160 Research and Development Credit (IITA 201(k))
100.2163 Environmental Remediation Credit (IITA 201(l))
100.2165 Education Expense Credit (IITA 201(m))
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180 Credit for Residential Real Property Taxes (IITA 208)
100.2185 Film Production Services Credit (IITA 213)
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2193 Student-Assistance Contributions Credit (IITA 218)
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

OCCURRING PRIOR TO DECEMBER 31, 1986

Section
100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) − Scope
100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) − Definitions
100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) − Current Net Operating Losses: Offsets Between Members
100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) − Carrybacks and Carryforwards
100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) − Effect of Combined Net Operating Loss in Computing Illinois Base Income
100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) − Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

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

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section
100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
100.2430 Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies
100.2435 Addition Modification for Student-Assistance Contribution Credit (IITA Sections 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10))
100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section
100.2510 Subtraction for Contributions to Illinois Qualified Tuition Programs (Section 529 Plans) (IITA Section 203(a)(2)(Y)
100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Section
100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

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

Section
100.3000 Terms Used in Article 3 (IITA Section 301)
100.3010 Business and Nonbusiness Income (IITA Section 301)
100.3015 Business Income Election (IITA Section 1501)
100.3020 Resident (IITA Section 301)

SUBPART J: COMPENSATION

Section
100.3100 Compensation (IITA Section 302)
100.3110 State (IITA Section 302)
100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

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

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

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
100.3310 Business Income of Persons Other Than Residents (IITA Section 304) − In General
100.3320 Business Income of Persons Other Than Residents (IITA Section 304) − Apportionment (Repealed)

100.3330 Business Income of Persons Other Than Residents (IITA Section 304) − Allocation
100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
100.3350 Property Factor (IITA Section 304)
100.3360 Payroll Factor (IITA Section 304)
100.3370 Sales Factor (IITA Section 304)
100.3371 Sales Factor for Telecommunications Services
100.3373 Sales Factor for Publishing
100.3380 Special Rules (IITA Section 304)
100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400 Apportionment of Business Income of Financial Organizations for Taxable Years Ending Prior to December 31, 2008 (IITA Section 304(c))
100.3405 Apportionment of Business Income of Financial Organizations for Taxable Years Ending on or after December 31, 2008 (IITA Section 304(c))
100.3420 Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART M: ACCOUNTING

Section
100.4500 Carryovers of Tax Attributes (IITA Section 405)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section
100.5000 Time for Filing Returns: Individuals (IITA Section 505)
100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
100.5040 Innocent Spouses
100.5050 Frivolous Returns
100.5060 Reportable Transactions
100.5070 List of Investors in Potentially Abusive Tax Shelters and Reportable Transactions
100.5080 Registration of Tax Shelters (IITA Section 1405.5)

SUBPART O: COMPOSITE RETURNS

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Section
100.5100 Composite Returns: Eligibility
100.5110 Composite Returns: Responsibilities of Authorized Agent
100.5120 Composite Returns: Individual Liability
100.5130 Composite Returns: Required forms and computation of Income
100.5140 Composite Returns: Estimated Payments
100.5150 Composite Returns: Tax, Penalties and Interest
100.5160 Composite Returns: Credits on Separate Returns
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"
100.5180 Composite Returns: Overpayments and Underpayments

SUBPART P: COMBINED RETURNS

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

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section
100.7000 Requirement of Withholding (IITA Section 701)
100.7010 Compensation Paid in this State (IITA Section 701)
100.7020 Transacting Business Within this State (IITA Section 701)
100.7030 Payments to Residents (IITA Section 701)
100.7035 Nonresident Partners, Subchapter S Corporation Shareholders, and Trust Beneficiaries (IITA Section 709.5)
100.7040 Employer Registration (IITA Section 701)

100.7050 Computation of Amount Withheld (IITA Section 702)
100.7060 Additional Withholding (IITA Section 701)
100.7070 Voluntary Withholding (IITA Section 701)
100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090 Reciprocal Agreement (IITA Section 701)
100.7095 Cross References

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

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

SUBPART S: INFORMATION STATEMENT

Section
100.7200 Reports for Employee (IITA Section 703)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section
100.7300 Returns and Payments of Income Tax Withheld from Wages (IITA Sections 704 and 704A)
100.7310 Returns Filed and Payments Made on Annual Basis (IITA Section 704)
100.7320 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld Prior to January 1, 2008 (IITA Section 704)
100.7325 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)
100.7330 Payment of Tax Required to be Shown Due on a Return (IITA Sections 704 and 704A)
100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)
100.7350 Domestic Service Employment (IITA Sections 704 and 704A)
100.7360 Definitions and Special Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
100.7370 Penalty and Interest Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
100.7380 Economic Development for a Growing Economy (EDGE) and Small Business Job Creation Credit (IITA Section 704A(g) and (h))

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

SUBPART U: ESTIMATED TAX PAYMENTS

Section
100.8000 Payment of Estimated Tax (IITA Section 803)
100.8010 Failure to Pay Estimated Tax (IITA Sections 804 and 806)

SUBPART V: COLLECTION AUTHORITY

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

SUBPART W: NOTICE AND DEMAND

Section
100.9100 Notice and Demand (IITA Section 902)

SUBPART X: ASSESSMENT

Section
100.9200 Assessment (IITA Section 903)
100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

SUBPART Y: DEFICIENCIES AND OVERPAYMENTS

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

SUBPART Z: CREDITS AND REFUNDS

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

SUBPART AA: INVESTIGATIONS AND HEARINGS

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

SUBPART BB: JUDICIAL REVIEW

Section
100.9600 Administrative Review Law (IITA Section 1201)

SUBPART CC: DEFINITIONS

Section
100.9700 Unitary Business Group Defined (IITA Section 1501)
100.9710 Financial Organizations (IITA Section 1501)
100.9720 Nexus
100.9730 Investment Partnerships (IITA Section 1501(a)(11.5))
100.9750 Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART DD: LETTER RULING PROCEDURES

Section
100.9800 Letter Ruling Procedures

SUBPART EE: MISCELLANEOUS

Section
100.9900 Tax Shelter Voluntary Compliance Program

100.APPENDIX A Business Income Of Persons Other Than Residents
100.TABLE A Example of Unitary Business Apportionment
100.TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

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

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended

at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092, effective August 24, 2011; amended at 36 Ill. Reg. 2363, effective January 25, 2012; amended at 36 Ill. Reg. 9247, effective June 5, 2012; amended at 37 Ill. Reg. 5823, effective April 19, 2013; amended at 37 Ill. Reg. 20751, effective December 13, 2013; amended at 38 Ill. Reg. _____, effective _____.

SUBPART B: CREDITS

Section 100.2198 Economic Development for a Growing Economy Credit (IITA 211)

a) *For tax years beginning on or after January 1, 1999, a taxpayer who has entered an Agreement under the Economic Development for a Growing Economy Tax Credit Act* [35 ILCS 10] (EDGETCA)*, shall be allowed a credit against the tax imposed by IITA Section 201(a) and (b) in an amount to be determined in the Agreement.* (IITA Section 211)

b) The credit shall be computed as follows:

1) *The credit allowed shall not exceed the Incremental Income Tax with respect to the project.* (IITA Section 211(1)) EDGETCA Section 5-5 defines Incremental Income Tax as the *total amount withheld during the taxable year from the compensation of new employees under Article 7 of the IITA arising from employment at a project that is the subject of an Agreement.*

2) *The amount of the credit allowed during the tax year plus the sum of all amounts allowed in prior years shall not exceed 100% of the aggregate amount expended by the taxpayer during all prior tax years on approved costs defined by Agreement.* (IITA Section 211(2))

3) Pursuant to IITA Section 211(3)*, the amount of credit shall be determined on an annual basis; provided, however, that:*

A) except in the case of a taxpayer described in subsection (b)(3)(B)*, the credit against any State tax liability may not extend beyond 10 taxable years after the project is first approved and may not extend beyond the expiration of the Agreement;*

B) in the case of a taxpayer certified by the Department of Commerce and Community Affairs under the Corporate Headquarters Relocation Act, the credit may not extend beyond 15 taxable years and may not extend beyond the expiration of the Agreement; provided, that such taxpayer may not claim for any tax year during such period more than 60% of the credit otherwise allowed for such tax year under the EDGETCA (EDGETCA Section 5-45);

C) a credit earned within the applicable period specified in subsection (b)(3)(A) or (B) may be carried forward beyond that period pursuant to IITA Section 211(4).

4) *The credit may not exceed the amount of taxes imposed pursuant to IITA 201(a) and (b).* (IITA Section 211(4))

5) In the case of an election under Section 100.7380(a), no credit shall be allowed under IITA Section 211 or this Section for the taxable year of the election.

c) *Any credit in excess of the tax liability for the taxable year may be carried forward to offset the income tax liability of the taxpayer for the next 5 years* or until it has been fully utilized, whichever occurs first. *The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first.* (IITA Section 211(4)) In the case of an election under Section 100.7380(a), no credit to which the election applies may be carried forward under IITA Section 211(4) and this Section.

d) *No credit shall be allowed with respect to any Agreement for any taxable year ending after the Noncompliance Date. Upon receiving notification by the Department of Commerce and Community Affairs of the noncompliance of a taxpayer with an Agreement, the Department shall notify the taxpayer that no credit is allowed with respect to that Agreement for any taxable year ending after the Noncompliance Date, as stated in such notification. If any credit has been allowed with respect to an Agreement for a taxable year ending after the Noncompliance Date for that Agreement, any refund paid to the taxpayer for that taxable year shall, to the extent of that credit allowed, be an erroneous refund within the meaning of IITA Section 912.* (IITA Section 211(5))

e) In the case of a credit earned by a partnership or Subchapter S corporation, the credit passes through to the owners for use against their regular income tax liabilities in the same proportion as other items of the taxpayer are passed through to the taxpayer's owners for federal income tax purposes. (See IITA Section 211.)

f) *For purposes of this credit, the terms "Agreement", "Incremental Income Tax", and "Noncompliance Date" shall have the same meaning as when used in* EDGETCA Section 5-5. (IITA Section 211(6))

g) *This credit is exempt from the sunset provisions of IITA Section 250.* (IITA Section 211)

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

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section 100.7380 Economic Development for a Growing Economy (EDGE) and Small Business Job Creation Credit (IITA Section 704A(g) and (h))

a) EDGE Credit. An eligible taxpayer who makes an election under this subsection (a) shall be allowed a credit against payments required under IITA Section 704A equal to the *credits not previously claimed and allowed to be carried forward under IITA Section 211(4) as provided in Section 5-15(f) of the Economic Development for a Growing Economy Tax Credit Act* (EDGETCA). (IITA Section 704A(g)) A taxpayer may make an election under this subsection (a) for taxable years ending on and after December 31, 2009. Only an eligible taxpayer, as defined in subsection (a)(2), may make the election.

1) Effect of Election. When an election under this subsection (a) is made, the amount of the credit awarded to the taxpayer under EDGETCA Section 5-15 for the taxable year of the election shall be allowed as a credit against payments due under IITA Section 704A for the first calendar year beginning after the taxable year in respect of which the election is made. (See EDGETCA Section 5-15(f)(2).) No credit awarded in a taxable year for which the election is made shall be allowed under IITA Section 211.

EXAMPLE: Taxpayer is an eligible taxpayer and makes the election under this subsection (a)(1) for its taxable year ending June 30, 2010. For its taxable year ending June 30, 2010, Taxpayer is awarded a credit under IITA Section 211 of $10,000. In addition, Taxpayer has credit carryovers under Section 211(4) of $5000 from 2008, and $7000 from 2009. Under Section 704A(g) and this subsection (a)(1), Taxpayer is allowed a credit of $10,000 against withholding payments due under IITA 704A(c) in calendar year 2011. Taxpayer may not claim a credit against the tax imposed under IITA Section 201(a) and (b) for its taxable year ending June 30, 2010, for the $10,000 credit awarded in that taxable year, but may claim a credit for the amounts carried forward from 2008 and 2009.

2) Eligible Taxpayer Defined. The term eligible taxpayer means a taxpayer that meets the requirement of subsection (a)(2)(A) and one of the requirements of subsection (a)(2)(B) with respect to the taxable year for which the election under this subsection (a) is otherwise available:

A) The taxpayer is primarily engaged (more than 50%) in one of the following business activities: *motor vehicle metal stamping, automobile manufacturing, automobile and light duty motor vehicle manufacturing, motor vehicle manufacturing, light truck and utility vehicle manufacturing, heavy duty truck manufacturing, or motor vehicle body manufacturing* (EDGETCA Section 5-15(f)(1)); and

B) The taxpayer:

i) has an Illinois net loss or net loss deduction under IITA Section 207 for the taxable year, employed no fewer than 1,000 full-time employees (as defined in 35 ILCS 10/5-5) in Illinois on each day of the taxable year, has an "Agreement" (as defined in 35 ILCS 10/5-5) in effect as of December 14, 2009, and is in compliance with all provisions of that Agreement (see EDGETCA Section 5-15(f)(1)(A));

ii) has an Illinois net loss or net loss deduction under IITA Section 207 for the taxable year, employed no fewer than 1,000 full time employees (as defined in 35 ILCS 10/5-5) in Illinois on each day of the taxable year, applied for the "Agreement" (as defined in 35 ILCS 10/5-5) resulting in the credit with respect to which the election is made within 365 days after December 14, 2009 (see EDGETCA Section 5-15(f)(1)(B)); or

iii) *had an Illinois net operating loss carryforward under Section 207 of the Illinois Income Tax Act in a taxable year ending during calendar year 2008, has applied for an Agreement by November 1, 2010 (150 days after the June 4, 2010 effective date of Public Act 96-905), creates at least*

400 new jobs in Illinois, retains at least 2,000 jobs in Illinois that would have been at risk of relocation out of Illinois over a 10-year period, and makes a capital investment of at least $75,000,000 (EDGETCA Section 5-15(f)(1)(C)).

3) Manner of Making Election. *The election shall be made in the form and manner required by the Department and, once made, shall be irrevocable* (EDGETCA Section 5-15(f)(3)). The election shall be made by claiming the credit on the first withholding return due under IITA Section 704A for the first quarter of the calendar year beginning after the taxable year in which the credit was awarded. The election applies to the entire credit awarded for the taxable year under IITA Section 211.

4) Partnerships and S Corporations. A partnership or Subchapter S corporation may be an eligible taxpayer and make an election under this subsection (a). When a partnership or S corporation makes an election under this subsection (a), no credit shall pass through to the partners or shareholders for the taxable year under IITA Section 211.

5) *The credit or credits may not reduce the taxpayer's obligation for any payment due under IITA Section 704A to less than zero. If the amount of the credit or credits exceeds the total payments due under Section 704A with respect to amounts withheld during the calendar year, the excess may be carried forward and applied against the taxpayer's liability under Section 704A in the 5 succeeding calendar years as allowed to be carried forward under IITA Section 211(4). The credit or credits shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one taxable year that are available to offset a liability, the earlier credit shall be applied first.* (IITA Section 704A(g))

EXAMPLE: Taxpayer is an eligible taxpayer and makes an election under this subsection (a) for its taxable year ending June 30, 2010. For its taxable year ending June 30, 2010, Taxpayer is awarded a credit under IITA Section 211 of $10,000. Under Section 704A(g) and this subsection (a)(5), Taxpayer is allowed a credit of $10,000 against withholding payments due under IITA 704A(c) in calendar year 2011. Taxpayer withheld tax during calendar year 2011 of $4,000. Under Section 704(A)(g) and this subsection (a)(5), Taxpayer's credit may not exceed

$4,000. Taxpayer is allowed to carry forward the $6,000 excess credit to the 5 succeeding calendar years.

6) No credit shall be allowed under IITA Section 704A(g) and this subsection with respect to any amount that would be disallowed as a credit under IITA Section 211(5) due to a Noncompliance Date. (See Section 100.2198(d).)

b) Small Business Job Creation Credit. *A taxpayer may claim a credit against payments due under IITA Section 704A for the first calendar year ending after the date on which a tax credit certificate was issued under Small Business Job Creation Tax Credit Act* (SBJCTCA) *Section 35. The credit shall be equal to the amount shown on the certificate, but may not reduce the taxpayer's obligation for any payment due under Section 704A to less than zero.* (IITA Section 704A(h))

1) *If the amount of the credit exceeds the total payments due under Section 704A with respect to amounts withheld during the calendar year, the excess may be carried forward and applied against the taxpayer's liability under Section 704A in the 5 succeeding calendar years* or until it has been fully utilized, whichever occurs first. *The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one calendar year that are available to offset a liability, the earlier credit shall be applied first.* (IITA Section 704A(h))

2) No credit shall be allowed under IITA Section 704A(h) and this subsection (b) with respect to any payment due under IITA Section 704A after the date a notice of noncompliance is issued to the Department under Section 45 of the Small Business Job Creation Tax Credit Act, as stated in the notification. If any credit has been allowed for a payment due after the date of notice of noncompliance, any refund paid to the taxpayer for that taxable year shall, to the extent of the credit allowed, be an erroneous refund within the meaning of IITA Section 912.

c) For purposes of this Section, *the term "taxpayer" shall include members of the taxpayer's unitary business group.* (IITA Section 704A(g) and SBJCTCA Section 10)

d) The credits allowed under *this Section are exempt from the sunset provisions of IITA Section 250.* (IITA Section 704A(g) and (h))

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED 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 Proposed Action: Amend

4) Statutory Authority: 55 ILCS 5/5-1006

5) A Complete Description of the Subjects and Issues Involved: 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130. The proposed rule contains three basic parts. In subsection (b), the rule sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (c) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (d) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection". The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

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

7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

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 does not create a State mandate, nor does it modify any existing State mandates.

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680 (ph)
312/814-4344 (fax)

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Retailers; counties that receive tax revenue under this Part

B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping

C) Types of professional skills necessary for compliance: Bookkeeping

14) Regulatory Agenda on which this rulemaking was summarized: January, 2014

The full text of the proposed Amendment is identical to that of the text of the emergency rulemaking for this Part and begins in this issue of the *Illinois Register* on page 4047:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED 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 Proposed Action: Amendment

4) Statutory Authority: 65 ILCS 5/8-11-1

5) A Complete Description of the Subjects and Issues Involved: These proposed regulations provide 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130. The proposed rule contains three basic parts. In subsection (a), the rule sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (b) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (c) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection." The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

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 does not create a State mandate, nor does it modify any existing State mandates.

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago, IL 60601

312/814-4680 (ph)
312/814-4344 (fax)

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Retailers; municipalities that receive tax revenue under this Part.

B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping.

C) Types of professional skills necessary for compliance: Bookkeeping.

14) Regulatory Agenda on which this rulemaking was summarized: January 2014

The full text of the Proposed Amendment is identical to that of the text of the Emergency amendment for this Part, and begins in this issue of the *Illinois Register* on page 4060:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED 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 Proposed Action: Amend

4) Statutory Authority: 70 ILCS 3615/4.03

5) A Complete Description of the Subjects and Issues Involved: These proposed regulations provide 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130. The proposed rulemaking contains three basic parts. In subsection (a), the rulemaking sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (b) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (c) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection". The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

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 does not create a State mandate, nor does it modify any existing State mandates.

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

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Retailers, jurisdictions that receive tax revenue under this Part

B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping

C) Types of Professional skills necessary for compliance: Bookkeeping

14) Regulatory Agenda on which this rulemaking was summarized: January 2014

The full text of the Proposed Amendment is identical to that of the text of the emergency rulemaking for this Part, and begins in this issue of the *Illinois Register* on page 4073:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED 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 Proposed Action: Amendment

4) Statutory Authority: 70 ILCS 3610/5.01

5) A Complete Description of the Subjects and Issues Involved: These proposed regulations provide 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130. The proposed rule contains three basic parts. In subsection (a), the rule sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (b) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (c) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection." The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

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 does not create a State mandate, nor does it modify any existing State mandates.

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680 (ph)
312/814-4344 (fax)

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Retailers; jurisdictions that receive tax revenue under this Part.

B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping.

C) Types of professional skills necessary for compliance: Bookkeeping.

14) Regulatory Agenda on which this rulemaking was summarized: January 2014

The full text of the Proposed Amendment is identical to that of the text of the Emergency amendment for this Part, and begins in this issue of the *Illinois Register* on page 4086:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED 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 Proposed Action: Amend

4) Statutory Authority: 70 ILCS 1605/15

5) A Complete Description of the Subjects and Issues Involved: 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130. The proposed rule contains three basic parts. In subsection (b), the rule sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (c) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (d) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection". The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

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 does not create a State mandate, nor does it modify any existing State mandates.

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago, IL 60601

312/814-4680 (ph)
312/814-4344 (fax)

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Retailers; jurisdictions that receive tax revenue under this Part

B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping

C) Types of Professional skills necessary for compliance: Bookkeeping

14) Regulatory Agenda on which this rulemaking was summarized: January 2014

The full text of the Proposed Amendment is identical to that of the text of the emergency rulemaking for this Part, and begins in this issue of the *Illinois Register* on page 4099:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED 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 Proposed Action: Amend

4) Statutory Authority: 70 ILCS 3720/4

5) A Complete Description of the Subjects and Issues Involved: These proposed regulations provide 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130. The proposed rule contains three basic parts. In subsection (a), the rule sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (b) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (c) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection". The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

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 does not create a State mandate, nor does it modify any existing State mandates.

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680 (ph)
312/814-4344 (fax)

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Retailers; jurisdictions that receive tax revenue under this Part.

B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping

C) Types of Professional skills necessary for compliance: Bookkeeping

14) Regulatory Agenda on which this rulemaking was summarized: January 2014

The full text of the Proposed Amendment is identical to that of the text of the emergency rulemaking for this Part, and begins in this issue of the *Illinois Register* on page 4112:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED 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 Proposed Action: Amend

4) Statutory Authority: 55 ILCS 5/5-1006.5

5) A Complete Description of the Subjects and Issues Involved: These proposed regulations provide 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130. The proposed rule contains three basic parts. In subsection (b), the rule sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (c) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (d) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection". The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

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 does not create a State mandate, nor does it modify any existing State mandates.

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680 (ph)
312/814-4344 (fax)

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Retailers; jurisdictions that receive tax revenue under this Part

B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping

C) Types of professional skills necessary for compliance: Bookkeeping

14) Regulatory Agenda on which this rulemaking was summarized: January 2014

The full text of the Proposed Amendment is identical to that of the text of the emergency rulemaking for this Part, and begins in this issue of the *Illinois Register* on page 4125:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED 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 Proposed Action: Amend

4) Statutory Authority: 70 ILCS 200/245-12

5) A Complete Description of the Subjects and Issues Involved: These proposed regulations provide 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130. The proposed rule contains three basic parts. In subsection (b), the rule sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (c) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (d) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection". The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

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 does not create a State mandate, nor does it modify any existing State mandates.

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

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Retailers, jurisdictions that receive tax revenue under this Part.

B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping

C) Types of professional skills necessary for compliance: Bookkeeping

14) Regulatory Agenda on which this rulemaking was summarized: January 2014

The full text of the Proposed Amendment is identical to that of the text of the emergency rulemaking for this Part and begins in this issue of the *Illinois Register* on page 4138:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED 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 Proposed Action: Amend

4) Statutory Authority: 65 ILCS 5/8-11-1.3

5) A Complete Description of the Subjects and Issues Involved: These proposed regulations provide 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130. The proposed rulemaking contains three basic parts. In subsection (a), the rulemaking sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (b) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (c) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection". The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

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 does not create a State mandate, nor does it modify any existing State mandates.

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

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
Chicago IL 60601

312/814-4680 (ph)
312/814-4344 (fax)

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Retailers; municipalities that receive tax revenue under this Part

B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping

C) Types of professional skills necessary for compliance: Bookkeeping

14) Regulatory Agenda on which this rulemaking was summarized: January 2014

The full text of the Proposed Amendment is identical to that of the text of the emergency rulemaking for this Part and begins in this issue of the *Illinois Register* on page 4151:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: County Motor Fuel Tax

2) Code Citation: 86 Ill. Adm. Code 695

3) Section Number: 695.115 Proposed Action: Amend

4) Statutory Authority: 55 ILCS 5/5-1035.1

5) A Complete Description of the Subjects and Issues Involved: These proposed regulations provide 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130. The proposed rulemaking contains three basic parts. In subsection (b), the rule sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (c) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (d) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection." The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

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 does not create a State mandate, nor does it modify any existing State mandates.

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

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Retailers, counties that receive tax revenue under this Part

B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping

C) Types of professional skills necessary for compliance: Bookkeeping

14) Regulatory Agenda on which this rulemaking was summarized: January 2014

The full text of the Proposed Amendment is identical to that of the text of the emergency rulemaking for this Part and begins in this issue of the *Illinois Register* on page 4164:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: General Provisions

2) Code Citation: 23 Ill. Adm. Code 2700

3)

Section Numbers:	Proposed Action:
2700.15	Amend
2700.20	Amend
2700.40	Amend
2700.55	Amend

4) Statutory Authority: Implementing the Higher Education Student Assistance Act [110 ILCS 947]; Title IV of the Higher Education Act of 1965, as amended (20 USC 1070 et seq., as amended by P.L. 105-244); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]

5) A Complete Description of the Subjects and Issues Involved: New loan originations under the Federal Family Education Loan Program (FFELP) have been discontinued. The amendments proposed for this Part are necessitated by federal regulatory changes which add and update citations to the federal regulations as a result of the program's discontinuation. In addition, ISAC proposes clarifying language in Section 2700.55 regarding the use, security and confidentiality of personally identifiable information.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Student Aid and Fiscal Responsibility Act (SAFRA), which was included as part of the Health Care and Education Reconciliation Act of 2010

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? Yes

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

847/948-8500, ext. 2305
e-mail: lynn.hynes@isac.illinois.gov
fax: 847/831-8299

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 following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2700
GENERAL PROVISIONS

Section
2700.10 Summary and Purpose
2700.15 Incorporations by Reference
2700.20 Definitions
2700.30 General Institutional Eligibility Requirements
2700.40 General Applicant Eligibility Requirements
2700.50 Determining Applicant Eligibility
2700.55 Use, Security and Confidentiality of Information~~Data~~
2700.60 Audits and Investigations
2700.70 Appeal Procedures
2700.80 Contractual Agreement Requirements

AUTHORITY: Implementing the Higher Education Student Assistance Act [110 ILCS 947]; Title IV of the Higher Education Act of 1965, as amended (20 USC 1070 et seq., as amended by P.L. 105-244); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20783, effective January 1, 1986; amended at 11 Ill. Reg. 3167, effective January 29, 1987; amended at 11 Ill. Reg. 14099, effective August 10, 1987; amended at 12 Ill. Reg. 11510, effective July 1, 1988; amended at 13 Ill. Reg. 8626, effective July 1, 1989; transferred from Chapter IX, 23 Ill. Adm. Code 1700 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2700 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17854; amended at 14 Ill. Reg. 10538, effective July 1, 1990; amended at 16 Ill. Reg. 11206, effective July 1, 1992; amended at 17 Ill. Reg. 10541, effective July 1, 1993; amended at 18 Ill. Reg. 10282, effective July 1, 1994; amended at 19 Ill. Reg. 8343, effective July 1, 1995; amended at 20 Ill. Reg. 9170, effective July 1, 1996; amended at 21 Ill. Reg. 11066, effective July 18, 1997; amended at 22 Ill. Reg. 11072, effective July 1, 1998; amended at 23 Ill. Reg. 7550, effective July 1, 1999; amended at 24 Ill. Reg. 9121, effective July 1, 2000; amended at 25 Ill. Reg. 8383, effective July 1, 2001; amended at 26 Ill. Reg. 9980, effective July 1, 2002; amended at 27 Ill. Reg. 10320, effective July 1, 2003; amended at 29 Ill. Reg. 9884, effective July 1, 2005; amended at 30 Ill. Reg. 11600, effective July 1, 2006; amended at 31 Ill. Reg. 9478, effective July 1, 2007; amended at 32 Ill. Reg.

10269, effective July 1, 2008; amended at 33 Ill. Reg. 9742, effective July 1, 2009; amended at 34 Ill. Reg. 8543, effective July 1, 2010; amended at 37 Ill. Reg. 9497, effective July 1, 2013; amended at 38 Ill. Reg. _____, effective _____.

Section 2700.15 Incorporations by Reference

a) The Commission incorporates by reference 34 CFR ~~85, 237,~~ 600, ~~653,~~ 668, 674, 675, 676, 682, 685 and 690 (July 1, 2014)~~(October 2009)~~. No incorporation by reference in this Section includes any later amendment or edition beyond the date stated. The Code of Federal Regulations is available online.

b) Copies of the appropriate material are available for inspection at the Illinois Student Assistance Commission offices at:

1755 Lake Cook Road, Deerfield IL 60015-5209

500 West Monroe, Springfield IL 62704-1876

100 West Randolph, Suite 3-200, Chicago IL 60601-3219

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

Section 2700.20 Definitions

"Academic Level" – The classification of a student as a freshman, sophomore, junior, senior, or graduate student.

"Academic Year" – In relation to scholarship and grant programs, a 12 month period of time, normally from August or September of any year through August or September of the ensuing year. In relation to the Federal Family Education Loan Program, academic year is defined at section 481(d)(2) of the Higher Education Act of 1965, as amended (HEA), and at 34 CFR 668.3.

"Alternative Loan" – Any educational loan made or purchased by ISAC other than a loan made pursuant to Title IV of the Higher Education Act of 1965, as amended (20 USC 1071 et seq.), or any other federal statute providing for federal insurance of education loans to borrowers.

"Applicant" – Any individual who requests ISAC consideration for a scholarship,

grant, tuition waiver, or guaranteed or alternative loan.

"Approved High School" – *Any public high school located in this State; and any high school, located in this State or elsewhere (whether designated as a high school, secondary school, academy, preparatory school, or otherwise) which in the judgment of the State Superintendent of Education provides a course of instruction at the secondary level and maintains standards of instruction substantially the equivalent of those public high schools located in this State.* (Section 10 of the Higher Education Student Assistance Act [110 ILCS 947/10])

"Armed Forces" – The United States Army, Air Force, Navy, Marines and Coast Guard.

"Blanket Certificate of Loan Guaranty" – A process that permits an eligible lender to make loans without receiving prior approval from ISAC for individual loans to eligible borrowers enrolled in eligible programs at eligible institutions, as authorized by section 428(n) of the HEA.

"Chargeback" – Payment of tuition by the community college district of a student's residence to the community college district of a student's attendance. (See 110 ILCS 805/6-2.)

"Citizen" – One who, under the Constitution and laws of the United States, is a native-born or naturalized citizen of the United States of America.

"College Savings Bond" – A State of Illinois general obligation, zero coupon bond, issued pursuant to the Baccalaureate Savings Act as a long-term education savings instrument.

"Co-maker" – One of the 2 individuals who are joint borrowers either on a Federal PLUS Loan (parent borrowers) that was certified prior to January 1, 1995 or on any Federal Consolidation loan (married borrowers) and who are equally liable for repayment of the loan. (See 34 CFR 682.200.)

"Commission" – The 10 member Illinois Student Assistance Commission created by Section 15 of the Higher Education Student Assistance Act [110 ILCS 947/15].

"Compound Accreted Value" – An amount equal to the original amount plus an

investment return accrued to the date of determination at a semiannual compounding rate that is necessary to produce the yield at maturity indicated on the Official Statement that was issued when the college savings bonds were sold. The "Compound Accreted Value at Maturity" will be equal to $5000 or an integral multiple thereof.

"Concurrent Registration" – The simultaneous enrollment at 2 or more institutions.

"Consolidation" – A federal program under which a borrower may receive a single new loan that refinances one or more outstanding qualified education loans under new terms and conditions, as authorized by section 428C of the HEA.

"Contractual Agreement" – The written agreement between an eligible institution and a school or organization that is not eligible for participation in ISAC-administered programs whereby the non-eligible institution provides part of the education program of students enrolled at the eligible institution, as codified in Section 2700.80. A contractual agreement differs from a consortium agreement, which is an agreement among 2 or more eligible institutions only.

"Correctional Officer" – An employee of the Illinois Department of Corrections (DOC) who is assigned to a security position with the Department, and who has responsibility for inmates of any correctional institution under the jurisdiction of the Department.

"Correspondence Course" – A home study course provided by an institution under which the institution provides instructional materials, including examinations on the materials, to students who are not physically attending classes at the institution, as defined at 34 CFR 600.2.

"Co-signer" – A person who is secondarily liable for the repayment of an Alternative Loan.

"Cost of Attendance" – For the purposes of ISAC's rules, this term is defined at section 472 of the HEA (20 USC 1087*ll*).

"Cumulative Grade Point Average" – The average grade earned throughout a student's applicable secondary or postsecondary educational program. The calculation shall be consistent with the institution's established policy or practice

and shall be the same as that completed for admission, placement or other similar purposes.

"Default Status" – The failure of a borrower or endorser (if any) to make an installment payment when due or to meet other terms of the promissory note as defined at 34 CFR 682.200.

"Delinquency" – For the purposes of ISAC's rules, this term is defined at 34 CFR 682.411(b).

"Dependent Student" – A scholarship, loan, tuition waiver or grant applicant or recipient who is not classified as an independent student.

"Disbursement" – In relation to scholarship and grant programs, a disbursement occurs on the payment voucher date. In relation to the Federal Family Education Loan Program, disbursement is the process of transferring loan proceeds as defined at 34 CFR 682.200.

"Distance Education" – A learning and teaching mode characterized by the separation of place or time between instructor and student, which includes programs and courses offered by correspondence and telecommunications.

"ED" – The acronym for the United States Department of Education.

"Educational Institution" – Unless otherwise qualified, any secondary or postsecondary educational organization that enrolls students who participate in ISAC programs.

"Educational Lender" – An institution that meets the lender eligibility criteria outlined in 23 Ill. Adm. Code 2720.25 for FFELP Loans and 2721.40 for alternative loans.

"EFT" – The acronym for electronic funds transfer.

"Eligible Noncitizen" – A noncitizen who is eligible for federal student assistance pursuant to section 484 of the HEA (20 USC 1091).

"Endorser" – A person fitting the definitions found at 34 CFR 682.200 or 34 CFR 685.102(b) who is secondarily liable for the repayment of a federal student loan~~A~~

~~person who is secondarily liable for the repayment of a Federal PLUS Loan obligation (34 CFR 682.200)~~.

"Enrolled" – The status of a student who has completed the institution's registration requirements and is attending classes.

"Executive Director" – The chief executive officer of ISAC.

"Expected Family Contribution" – The amount the student and the student's family may be reasonably expected to contribute toward the student's postsecondary education. Expected Family Contribution is defined at section 474 of the HEA (20 USC 1087nn).

"FAFSA" – The acronym for the Free Application for Federal Student Aid.

"FAFSA Receipt Date" – The date reported by ED's processor as the date upon which it receives an applicant's initial FAFSA for an academic year. For paper FAFSA's sent through the U.S. Postal Service, this is the date of physical receipt at the processor, not the postmark date.

"Federal Regulations" – Refers to regulations promulgated by ED and codified at 34 CFR 600 et seq.

"FFELP" – The acronym for the Federal Family Education Loan Program, as authorized by section 421 of the HEA, including subsidized and unsubsidized Federal Stafford Loans, Federal PLUS Loans, Federal SLS Loans and Federal Consolidation Loans.

"Fire Officer" – For the purposes of ISAC's rules, this term means a firefighter who is employed by, or in the voluntary service of, this State or any public entity in this State.

"Foreign Missionary" – An individual who is assigned duty outside of the United States by an organization that engages in educational, philanthropic, humanitarian or altruistic works. The missionary organization must be exempt from the payment of federal taxes and must have been engaged in placing foreign missionaries for at least 5 years. Examples of such missionary organizations include, but are not limited to, the following: Peace Corps, Evangelical Alliance Mission, etc.

"Full-time Student" – In relation to scholarship and grant programs, an individual enrolled for 12 or more credit hours, for either a semester or quarter term. In relation to the Federal Family Educational Loan Program, full-time student is defined at 34 CFR 668.2(b).

"Gift Assistance" – Student assistance funds in the form of a scholarship, grant or tuition waiver, including, but not limited to, federal, State, institutional and private aid.

"Golden Apple Scholars of Illinois" – A private, not-for-profit program under the auspices of the Golden Apple Foundation that recruits, prepares and provides financial assistance to high school graduates to pursue postsecondary education for careers as teachers for particular Illinois schools.

"Good Moral Character" – An applicant is of good moral character if the applicant will benefit from postsecondary instruction and is allowed to enroll at an approved postsecondary institution.

"Graduating Class" – The students who will complete the high school's program of instruction and graduate within an academic year.

"Guaranteed Loan" – Loan assistance through the Federal Family Education Loan Program (FFELP) that includes the subsidized and unsubsidized Federal Stafford Loan, the Federal PLUS Loan, the Federal Supplemental Loans for Students (SLS), and the Federal Consolidation Loan programs.

"HEA" – The acronym for the Higher Education Act of 1965, as amended, and codified at 20 USC 1070 et seq.

"Half-time Student" – In relation to scholarship and grant programs, an individual enrolled for 6 or more credit hours (but fewer than 12 credit hours) for either a semester or quarter term. In relation to the Federal Family Education Loan Program, half-time student is defined at 34 CFR 668.2(b).

"Holder" – An organization authorized by ED and ISAC to purchase or retain possession of guaranteed loans. These organizations operate as commercial and educational lenders or secondary markets and may purchase ISAC-guaranteed loans from approved lenders.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

"IBHE" – The acronym for the Illinois Board of Higher Education, the administrative agency created by the Board of Higher Education Act [110 ILCS 947/205].

"IDAPP" – The acronym for ISAC's Illinois Designated Account Purchase Program as authorized by the Education Loan Purchase Program Law [110 ILCS 947/125 through 170].

"Independent Student" – For the purposes of ISAC's rules, this term is defined at 34 CFR 668.2(b)~~an independent student is defined by section 480 of the HEA (20 USC 1087vv)~~.

"Institution" – Unless otherwise qualified, any secondary or postsecondary educational organization that enrolls students who participate in ISAC programs.

"Institution of Higher Learning" – An educational organization whose main campus is physically located in Illinois that:

provides at least a 2-year program of collegiate study in liberal arts or sciences, or associate degree or both, directly applicable toward the attainment of a baccalaureate degree, or, a program in health education directly applicable toward the attainment of a certificate, diploma, or an associate degree; and

is operated:

by the State; or

publicly or privately, not for profit; or

for profit, provided it:

offers degree programs that have been approved by the IBHE for a minimum of 3 years under the Academic Degree Act; and

enrolls a majority of its students in these degree programs; and

maintains accredited status with the Higher Learning Commission of the North Central Association of Colleges and Schools.

For otherwise eligible educational organizations that provide academic programs for incarcerated students, the term "institution of higher learning" shall specifically exclude academic programs for incarcerated students (Section 10 of the Higher Education Student Assistance Act). For eligible institutions with campuses in multiple states, the term "institution of higher learning" shall include only those campuses located in Illinois.

"Institution of Record" – The postsecondary institution at which a student is enrolled and seeking a degree or certificate. This institution assumes primary responsibility for certification of eligibility for ISAC-administered programs and for requesting payment from ISAC.

"ISAC" – The acronym for the Illinois Student Assistance Commission, the administrative agency created by Section 15 of the Higher Education Student Assistance Act [110 ILCS 947/15] to administer student assistance programs.

"ISBE" – The acronym for the Illinois State Board of Education, the administrative agency created by the School Code [105 ILCS 5].

"Lender" – An organization authorized by ISAC to make educational loans to students.

"Mandatory Fees" – The charges assessed by an institution to each and every full-time student for each term. Application, graduation, laboratory, breakage, add/drop fees, and program administrative fees for out-of-state or foreign study are specifically excluded. For the purposes of ISAC's rules, tuition is not a mandatory fee.

"MAP" – The acronym for the Monetary Award Program administered by ISAC, as authorized by Section 35 of the Higher Education Student Assistance Act and codified at 23 Ill. Adm. Code 2735.

"Master Check" – A single check representing the loan proceeds for more than one borrower.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

"Minority Student" – *A student who is either Black (a person having origins in any of the black racial groups in Africa); Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race); Asian American (a person with origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, including Pakistan, and the Pacific Islands, including, among others, Hawaii, Melanesia, Micronesia and Polynesia); or Native American (a person who is a member of a federally or state recognized Indian tribe, or whose parents or grandparents have such membership) and to include the native people of Alaska* (Section 50(a) of the Higher Education Student Assistance Act).

"Parent" – For the purposes of ISAC's rules, this term is defined at 34 CFR 668.2(b).

"Pell Grant" – A federal gift assistance program administered by ED in accordance with section 401 ~~411~~ of the HEA (20 USC 1070a et seq).

"PLUS" – The federal program that provides loans to graduate students or parents of certain undergraduate students, as authorized by section 428B of the HEA (20 USC 1078-2) and Sections 80 through 175 of the Higher Education Student Assistance Act [110 ILCS 947/80 through 175].

"Police Officer" – For the purposes of ISAC's rules, this term means a law enforcement officer who is employed by, or in the voluntary service of, this State or any public entity in this State.

"Qualified Applicant" – An individual who meets the eligibility requirements of the gift assistance program for which she/he is applying.

"Regular School Year" – An 8 to 9 month period of time that includes 2 semester terms or 3 quarter terms. The regular school year excludes summer terms. Terms that begin after April 15 and end before September 16 are considered summer terms.

"Remedial Courses" – The course work that prepares a student for study at the postsecondary level and is necessary for the student to pursue the eligible postsecondary program.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

"Resident of Illinois" –

A dependent student is a resident of Illinois if the parent of the dependent-applicant, who is required by the instructions to complete the Free Application for Federal Student Aid (FAFSA), physically resides within the State of Illinois and Illinois is his or her true, fixed and permanent home.

An independent student is a resident of Illinois if the applicant physically resides within the State of Illinois (at the time of application), and has so resided for a period of 12 continuous, full months immediately prior to the start of the academic year for which assistance is requested and Illinois is his or her true, fixed and permanent home.

When an applicant does not qualify as a resident of Illinois under the preceding 2 paragraphs and the applicant is a member of the U.S. Armed Forces or a foreign missionary, or is the dependent or the spouse of an individual who is a member of the U.S. Armed Forces or a foreign missionary, then the applicant's residency shall be determined in accordance with the following 4 paragraphs.

An applicant who is a member of the U.S. Armed Forces will be a resident of Illinois if the applicant physically resided in Illinois immediately prior to entering the U.S. Armed Forces, returned (or plans to return) to Illinois within 6 months after and including the date of separation and can demonstrate (pursuant to Section 2700.50(f) and (g)) that his/her domicile was the State of Illinois throughout such enlistment.

An applicant who is a foreign missionary will be a resident of Illinois if the applicant physically resided in Illinois for 6 continuous months immediately prior to entering missionary service, returned (or plans to return) to Illinois within 6 months after the conclusion of missionary service, and can demonstrate (pursuant to Section 2700.50(f) and (g)) that his/her domicile was the State of Illinois throughout such missionary service.

The dependent-applicant shall be a resident of Illinois notwithstanding the parents' temporary physical absence from Illinois provided the parents would be a resident of Illinois under the preceding 2 paragraphs.

The spouse-applicant shall be a resident of Illinois immediately upon physically occupying a dwelling within the State of Illinois provided the applicant can demonstrate that his/her absence from the State was the result of residing with the spouse during enlistment or missionary service outside of Illinois and that the spouse-applicant's domicile continues to be the State of Illinois.

"Rules" – The rules of ISAC codified at 23 Ill. Adm. Code: Subtitle A, Chapter XIX.

"Satisfactory Academic Progress" – An institutional policy that establishes minimum standards of academic performance. For purposes of ISAC-administered programs, the standards must be at least as stringent as those required by ED pursuant to section 484 of the HEA (20 USC 1091).

"Service Academy" – *The U.S. Air Force Academy, the U.S. Coast Guard Academy, the U.S. Military Academy or the U.S. Naval Academy* (Section 30(a) of the Higher Education Student Assistance Act).

"SLS" – The acronym for the federal Supplemental Loans for Students Program, as authorized by section 428A of the HEA (20 USC 1078-1). No SLS loans have been made for periods of enrollment beginning on or after July 1, 1994.

"Special Education" – A postsecondary educational program designed to teach persons how to meet the needs of all children designated as physically disabled, with specific learning disabilities, or requiring extraordinary special education services and facilities. (See 105 ILCS 5/14-1.02 and 7.20a.) These programs prepare persons for meeting the needs of children who exhibit disabilities or exceptional characteristics ranging from very mild to very severe. (See 23 Ill. Adm. Code 226, Special Education.) Such a program prepares a student to teach physically disabled children or children with learning disabilities. (See 105 ILCS 5/14-1.02 and 1.03a.)

"Stafford" – The federal subsidized and unsubsidized loan programs as authorized by sections 427, 428 and 428H of the HEA (20 USC 1078).

"Student Beneficiary" – An individual designated as the recipient of a College Savings Bond Bonus Incentive Grant.

"Teacher Education Program" – An undergraduate postsecondary course of study that, upon completion, qualifies a student to be certified as a pre-school, elementary or secondary teacher by a state board of education or its equivalent (including the Illinois State Board of Education). For a student who has completed less than 4 semesters/6 quarters of postsecondary study, this includes a postsecondary course of study that leads to a teacher education program.

"Teacher Shortage Discipline" – An academic discipline in which a shortage of teachers exists in Illinois, as designated by the Illinois State Board of Education.

"Telecommunications Course" – A course offered principally through the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable microwave, satellite, audio conferencing, computer conferencing, and video cassettes or disks, as defined at 34 CFR 600.2.

"Term" – A unit of time for student attendance, including, but not limited to, a quarter or semester.

"Tuition" – The charge for instruction assessed by an institution.

"Verification" – Procedures implemented by postsecondary institutions to verify the eligibility of applicants. The procedures are established by subpart E of 34 CFR 668 ~~et seq.~~ and by ISAC's rules.

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

Section 2700.40 General Applicant Eligibility Requirements

a) Except as otherwise provided by this subsection, an applicant with a defaulted loan made pursuant to Title IV of the Higher Education Act is not eligible for benefits under ISAC-administered programs.

1) Eligibility for federally-guaranteed loans may be reinstated in accordance with federal regulations and the following provisions:

A) Eligibility for federally~~ISAC~~-guaranteed loans will be reinstated when:

i) the debt has been paid in full;

ii) the borrower has made a "satisfactory repayment arrangement," in accordance with 34 CFR 682.200;

iii) the borrower's prior defaulted loan has been rehabilitated, in accordance with 34 CFR 682.405; or

iv) the borrower has made payments on a defaulted loan to consolidate that loan in accordance with 34 CFR 682.201.

B) Borrowers are eligible to use subsections (a)(1)(A)(ii) and (iii) only one time.

C) Eligibility for ISAC-administered gift assistance will be reinstated for current and future terms when the applicant has maintained a satisfactory repayment record for at least 6 consecutive months or has met the requirements of subsection (a)(1)(A). Factors to be considered by ISAC in evaluating the repayment record include: the amount of the debt, the amount of the payments received by ISAC, the employment status of the applicant, and the frequency of the applicant's contact with ISAC.

2) A qualified applicant for Illinois Veteran Grant (IVG) assistance (23 Ill. Adm. Code 2733) shall be permitted one term of assistance during which a satisfactory repayment record, as defined by subsection (a)(1)(C), must be established. If such a repayment record is not established, additional assistance shall be denied until a satisfactory repayment record is established.

b) No applicant shall receive ISAC-administered assistance if the applicant owes a refund for any ISAC-administered gift assistance, a Federal Pell Grant, or a Federal Supplemental Educational Opportunity Grant (FSEOG) (20 USC 1070(b)).

c) An applicant shall, upon request, provide documentation to establish and verify eligibility. (See Section 2700.50.) Failure to supply adequate documentation will result in the denial of student assistance benefits.

d) An applicant who has received financial assistance based on fraudulent data shall be denied ISAC-administered assistance until full restitution has been made to ISAC for any fraudulently-obtained funds, and may also be subject to prosecution by the Illinois Attorney General, United States Department of Justice and/or an Illinois State's Attorney.

e) Each applicant must submit his/her Social Security Number (SSN).

f) Recipients who cease to be residents of Illinois after notification of eligibility may complete the academic year with the assistance awarded.

g) Unless otherwise provided, benefits under gift assistance programs are subject to the limits of dollars appropriated to ISAC by the Illinois General Assembly and approved by the Governor.

h) When gift assistance eligibility is limited to a specified number of term payments, the eligibility cap is calculated in accordance with this subsection.

1) For each semester term of full-time payment benefits, the recipient is assessed 6 eligibility units. For each quarter term of full-time payment benefits, the recipient is assessed 4 eligibility units.

2) For each semester term of half-time payment benefits, the recipient is assessed 3 eligibility units. For each quarter term of half-time payment benefits, the recipient is assessed 2 eligibility units.

3) For each semester or quarter term of less than half-time payment benefits, the recipient is assessed one eligibility unit.

4) Sixty eligibility units are the equivalent of payments for 10 semesters/15 quarters of full-time benefits.

5) Forty-eight eligibility units are the equivalent of payments for 8 semesters/12 quarters of full-time benefits.

i) An applicant shall comply with Selective Service registration requirements, pursuant to 34 CFR 668.37 et seq.

j) Except for grants pursuant to 23 Ill. Adm. Code 2730 (Illinois National Guard

Grant Program) and 23 Ill. Adm. Code 2733 (Illinois Veteran Grant Program), an applicant must be maintaining satisfactory academic progress in accordance with the institution's policy.

k) Except for grants pursuant to 23 Ill. Adm. Code 2730 (Illinois National Guard Grant Program) and 23 Ill. Adm. Code 2733 (Illinois Veteran Grant Program), ISAC gift assistance benefits for courses utilizing distance education are limited to students enrolled in eligible degree or certificate programs who are eligible to receive Title IV, HEA program funds. (See 34 CFR 668.38.)

l) Except for grants pursuant to 23 Ill. Adm. Code 2730 (Illinois National Guard Grant Program) and 23 Ill. Adm. Code 2733 (Illinois Veteran Grant Program), students enrolled in academic programs while incarcerated are ineligible for ISAC gift assistance benefits.

m) For the purpose of determining the timeliness of an individual's application, the postmark date of an application submitted electronically shall be the date on which ISAC receives that individual's submission of complete application data.

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

Section 2700.55 Use, Security and Confidentiality of Information~~Data~~

The personally identifiable information of an ISAC program applicant, participant or anyone named in any materials related to program participation, or personally identifiable information of an individual that ISAC accesses, receives or maintains in relation to its research or other activities, is considered confidential personal information and shall be governed by applicable State and federal privacy laws. All educational institutions, lenders, holders, servicers and other entities participating in ISAC-administered programs or activities shall be expected to know and ~~shall~~ comply with all applicable federal and State laws that govern the privacy, use, access and security of the confidential information. The confidential information shall not be sold or used, shared or accessed for any purpose other than that which is directly related to the purpose for which the confidential information was provided to the participating entity~~which regulate the privacy and use of, and access to, shared data. (See, e.g., the Family Educational Rights and Privacy Act (20 USC 1232g); the Data Processing Confidentiality Act [30 ILCS 585/0.01 et seq.]; the Freedom of Information Act [5 ILCS 140]; Section 487 of the Higher Education Act of 1965, as amended (20 USC 1094); (12 CFR 313; and 34 CFR 682.610.) The data shall be confidential and shall not be used, sold or shared for any purpose other than that which is directly related to the internal operations of the participating entity or ISAC~~. Participating entities shall

be responsible for implementing appropriate security procedures to protect the integrity of the confidential information when ~~data~~ accessed, stored, transmitted or received. This Section shall not apply to the publication of the names of State Scholars pursuant to 23 Ill. Adm. Code 2760.30.

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Federal Family Education Loan Program (FFELP)

2) Code Citation: 23 Ill. Adm. Code 2720

3)

Section Numbers:	Proposed Action:
2720.10	Amend
2720.25	Repeal
2720.30	Amend
2720.41	Amend
2720.50	Amend
2720.70	Amend
2720.80	Amend

4) Statutory Authority: Implementing Sections 80 through 175 of the Higher Education Student Assistance Act [110 ILCS 947/80 through 175]; Title IV, Part B, of the Higher Education Act of 1965, as amended (20 USCA 1071 et seq.); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]

5) A Complete Description of the Subjects and Issues Involved: The Student Aid and Financial Responsibility Act of 2009 discontinued loan originations in the Federal Family Education Loan Program (FFELP). Federal regulations that will be effective July 1, 2014 removed FFELP loan origination sections.

Section 2720.25 is being repealed because schools no longer have the ability to serve as educational lenders.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Student Aid and Financial Responsibility Act of 2009 (SAFRA), which was passed as part of the Health Care and Education Reconciliation Act of 2010

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 rulemakings pending on this Part? No

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

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
Fax: 847/831-8299

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 following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2720
FEDERAL FAMILY EDUCATION LOAN PROGRAM (FFELP)

SUBPART A: FEDERAL LOAN PROGRAMS: THE FEDERAL STAFFORD LOAN PROGRAM, FEDERAL PLUS PROGRAM, FEDERAL SUPPLEMENTAL LOANS FOR STUDENTS (SLS) PROGRAM, AND FEDERAL CONSOLIDATION LOAN PROGRAM

Section
2720.5 Summary and Purpose
2720.6 Definitions (Repealed)
2720.10 Eligibility for ISAC Loan Guarantees
2720.20 Lender Eligibility
2720.25 Educational Lender Eligibility (Repealed)
2720.30 Institutional Eligibility
2720.35 Holder Eligibility
2720.40 Procedures for Obtaining a Guaranteed Loan
2720.41 One-Lender Requirement
2720.42 One-Holder Requirement
2720.50 Procedures for ~~Disbursement,~~ Disclosure~~, Delivery~~ and Repayment
2720.55 Federal Consolidation Loan Program
2720.60 Default Aversion Assistance
2720.70 Reimbursement Procedures
2720.80 Federal Default Fee
2720.90 Guarantee Transfers

SUBPART B: ILLINOIS DESIGNATED ACCOUNT PURCHASE PROGRAM (IDAPP)

Section
2720.105 Summary and Purpose
2720.120 IDAPP Eligible Loans
2720.130 IDAPP Eligible Lenders

SUBPART C: ISAC ORIGINATED LOANS

Section

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

2720.200 ISAC Originated Consolidation Loans
2720.210 Illinois Opportunity Loan Program (IOP)
2720.220 Federal Family Education Loan Program (FFELP) Loans

2720.APPENDIX A Required Activities of Educational Lenders (Repealed)

AUTHORITY: Implementing Sections 80 through 175 of the Higher Education Student Assistance Act [110 ILCS 947/80 through 175]; Title IV, Part B, of the Higher Education Act of 1965, as amended (20 USC 1071 et seq.); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted at 3 Ill. Reg. 4, p. 38, effective January 26, 1979; amended at 5 Ill. Reg. 8698, effective August 17, 1981; emergency rule and emergency repealer at 6 Ill. Reg. 7558, 7573, effective June 9, 1982, for a maximum of 150 days; new rules adopted at 6 Ill. Reg. 13799, effective October 25, 1982; old rules repealed at 6 Ill. Reg. 15254, effective December 3, 1982; emergency amendment at 7 Ill. Reg. 9942, effective August 8, 1983, for a maximum of 150 days; codified at 7 Ill. Reg. 13309; amended at 8 Ill. Reg. 876, effective January 9, 1984; amended at 8 Ill. Reg. 7286, effective May 18, 1984; amended at 8 Ill. Reg. 17006, effective September 5, 1984; amended at 9 Ill. Reg. 20796, effective January 1, 1986; amended at 11 Ill. Reg. 3181, effective January 29, 1987; emergency amendment at 11 Ill. Reg. 13669, effective August 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14103, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 18370, effective October 23, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20989, effective January 1, 1988; amended at 12 Ill. Reg. 6971, effective April 1, 1988; amended at 12 Ill. Reg. 11520, effective July 1, 1988; emergency amendment at 12 Ill. Reg. 15221, effective September 15, 1988, for a maximum of 150 days; emergency expired February 12, 1989; amended at 13 Ill. Reg. 2872, effective February 16, 1989; amended at 13 Ill. Reg. 8630, effective July 1, 1989; transferred from Chapter IX, 23 Ill. Adm. Code 1720 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2720 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17855; emergency amendment at 14 Ill. Reg. 4266, effective March 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10553, effective July 1, 1990; amended at 14 Ill. Reg. 10941, effective July 1, 1990; emergency amendments at 15 Ill. Reg. 18769, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 4060, effective February 28, 1992; amended at 16 Ill. Reg. 11224, effective July 1, 1992; emergency amendment at 17 Ill. Reg. 2055, effective February 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 10506, effective July 1, 1993; amended at 18 Ill. Reg. 10254, effective July 1, 1994; emergency amendment at 18 Ill. Reg. 15636, effective October 15, 1994, for a maximum of 150 days; emergency expired March 13, 1995; amended at 19 Ill. Reg. 6215, effective April 15, 1995; amended at 19 Ill. Reg. 8320, effective July 1, 1995; amended at 20 Ill. Reg. 9147, effective July

1, 1996; amended at 21 Ill. Reg. 11038, effective July 18, 1997; amended at 22 Ill. Reg. 11051, effective July 1, 1998; amended at 23 Ill. Reg. 7537, effective July 1, 1999; amended at 24 Ill. Reg. 9101, effective July 1, 2000; amended at 25 Ill. Reg. 8369, effective July 1, 2001; amended at 26 Ill. Reg. 9998, effective July 1, 2002; amended at 27 Ill. Reg. 10326, effective July 1, 2003; amended at 28 Ill. Reg. 9135, effective July 1, 2004; amended at 29 Ill. Reg. 9897, effective July 1, 2005; amended at 31 Ill. Reg. 9496, effective July 1, 2007; amended at 32 Ill. Reg. 10290, effective July 1, 2008; amended at 33 Ill. Reg. 9758, effective July 1, 2009; amended at 34 Ill. Reg. 8565, effective July 1, 2010; amended at 38 Ill. Reg. _____, effective _____.

SUBPART A: FEDERAL LOAN PROGRAMS:
THE FEDERAL STAFFORD LOAN PROGRAM, FEDERAL PLUS PROGRAM,
FEDERAL SUPPLEMENTAL LOANS FOR STUDENTS (SLS) PROGRAM,
AND FEDERAL CONSOLIDATION LOAN PROGRAM

Section 2720.10 Eligibility for ISAC Loan Guarantees

a) Prior to July 1, 2010, applicants could~~Applicants may~~ apply for a loan guarantee by submitting a common ED-approved application form or through a comparable electronic process in accordance with federal law. (See 15 USC~~USCA~~ 7001 et seq.)

b) Borrower eligibility requirements for guaranteed loans are established by federal regulations (34 CFR 682.201).

c) The student must be enrolled, or accepted for enrollment, at an approved postsecondary institution which has certified the applicant as eligible for a guaranteed loan.

d) An applicant shall not be disqualified for a loan guarantee by ISAC if the lender, the institution, the student, and the borrower meet the eligibility requirements of Title IV, Part B, of the Higher Education Act of 1965, as amended (20 USC~~USCA~~ 1071 et seq.), of federal regulations and of this Subpart.

e) No loan guarantee shall be issued if such loan would exceed the annual or aggregate amount permitted such borrower, as specified by federal regulations (34 CFR 682.204).

f) The institution shall compute a recommended loan amount for each applicant in accordance with Section 425(a)(1) of the Higher Education Act, as amended. No

guaranteed loan may exceed the institution's recommended amount.

1) When certifying loan eligibility for an academic year which will span academic levels, the institution's recommended loan amount shall not exceed the maximum permitted for the applicant's academic level at the time of certification.

2) Should a student borrow in excess of the permitted loan maximums, the student becomes ineligible for federal financial assistance for that academic year. (See Section 484 of the Higher Education Act of 1965, as amended (20 USC~~USCA~~ 1091) and 34 CFR 668.32(g)(2).)

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

Section 2720.25 Educational Lender Eligibility (Repealed)

~~a) Educational lenders must meet the eligibility requirements of institutions as outlined in Section 2720.30, Institutional Eligibility, and must meet the eligibility requirements established for lenders as outlined in Section 2720.20, Lender Eligibility. Also, educational lenders must comply with all federal regulations related to the origination, disbursement and servicing of a loan. (See, e.g., 34 CFR 682.601 and 682.602.)~~

~~b) Institutions may be approved as lenders if approved by ED and if the following requirements are met.~~

~~1) The specific materials to be provided by an institution in seeking approval as an eligible lender are:~~

~~A) An audited, certified and preferably unqualified annual financial statement prepared by a firm of certified public accountants (CPA). The statement must cover a period of no less than 12 months and be no more than 12 months old at the time of submission. The CPA firm must express an acceptable opinion on the statement, and the statement shall consist of no less than a balance sheet, a statement of profit and loss, and all attendant notes thereto;~~

~~B) An institutional catalog;~~

~~C) A statement of the institution's default/delinquency experience as a lender in the Federal Perkins Loan Program, FFELP, or Federal Insured Student Loan (FISL) Program (20 USC 1071 et seq.);~~

~~D) A statement explaining the source of the institution's lending capital; and~~

~~E) Any other materials that might be requested by ISAC to show the institution's potential qualifications as a lender.~~

~~2) In addition to the above materials, a school that is organized on a for-profit basis will be requested to submit a:~~

~~A) copy of its student contract;~~

~~B) description of its admission/sales staff and their functions;~~

~~C) statement of the institution's drop-out/completion rates;~~

~~D) sample of the institution's advertising materials; and~~

~~E) description or copies of student complaints filed with the institution in the last two years. In addition to these materials, ISAC will secure a Dun and Bradstreet Report on the institution, a statement from the Better Business Bureau with regard to any consumer complaints, and a statement from the institution's accrediting association.~~

~~3) The applications for eligible educational lender status in the programs and the supporting documentation shall be reviewed by ISAC staff. The applicant institution shall be informed of its annual lending limit, as well as any additions to the lender agreement that ISAC determines are prudent in individual instances to protect the default record of ISAC. If the institution is approved as an educational lender, it will execute an Educational Lender Agreement that will include:~~

~~A) the institution's agreement to comply with statutes, federal regulations and State rules;~~

~~B) a statement of agreement including, or referring to, the list of required activities of educational lenders as outlined in 34 CFR 682.601 and 682.602;~~

~~C) a statement of agreement including, or referring to, the federal regulations with respect to loan disbursements and refund application;~~

~~D) a statement of agreement including, or referring to, the federal regulations definition of "due diligence"; and~~

~~E) an expiration date of such lending contract that shall not be later than the end of the first full fiscal year following the negotiation of the contract, at which time its renewal shall be considered by ISAC.~~

~~c) A loan guarantee shall be canceled if the educational lender fails to comply with federal regulations, statutes, ISAC rules or procedures, provided such failure impairs ISAC's ability to recover the expense of reimbursing the educational lender for the defaulted loan.~~

~~d) ISAC conducts compliance reviews to determine if approved educational lenders are complying with federal regulations, statutes and rules.~~

~~e) Educational lenders that do not maintain the standards of administrative capability or financial responsibility demonstrated in their original applications for participation, or required by federal regulations, may be subject to administrative limitation, suspension or termination proceedings. (See 23 Ill. Adm. Code 2790.)~~

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

Section 2720.30 Institutional Eligibility

a) Institutional eligibility requirements are specified in federal regulations. Eligible postsecondary institutions include universities, colleges, graduate schools, schools of nursing, business, trade, technical and vocational schools. Correspondence institutions/programs are not eligible.

b) Institutions must have executed a Program Participation Agreement with ED in

order to participate in ISAC-guaranteed loan programs. (See 34 CFR 668.14.)

c) An institution may not engage in loan origination activities. This prohibition shall not apply if the institution has an ED-approved Origination Agreement on file with ISAC and the institution was previously~~has been~~ approved as an educational lender as required by federal regulations. ~~(See Section 2720.25 of this Part and 34 CFR 682.601 and 682.602.)~~

d) Approved institutions shall provide ISAC with the current enrollment status of students whom the institution has certified as eligible borrowers in accordance with federal regulations. (See 34 CFR 682.610(c).)

e) Applicant and approved institutions must demonstrate administrative capability and financial responsibility, as defined by federal regulations, in order to begin and to continue participation in ISAC-guaranteed loan programs. (See, e.g., 34 CFR 668.14, 668.15 and 668.16.)

f) Institutions wishing to participate in ISAC-guaranteed loan programs shall submit an application that shall include, but not be limited to: documentation from the U.S. Department of Education (ED) and the state in which it operates demonstrating authorization to offer educational programs; previous audit and compliance reviews conducted by other guarantors and ED; proof of accreditation; audited financial statements; student catalogs; promotional materials; documentation relating to student withdrawal rates; and other similar information requested by ISAC to show the institution's qualifications for participation. Participation will be decided by an examination of application materials and a determination of compliance with federal laws and regulations and State statutes and rules. Institutions may appeal an administrative decision denying participation or limiting eligibility in accordance with ISAC appeal procedures. (See 23 Ill. Adm. Code 2700.70.) Institutions denied participation shall be eligible to reapply one year from the date of the initial ISAC letter denying eligibility.

g) Institutions not maintaining the standards of administrative capability or financial responsibility demonstrated in their original applications for participation, or required by federal regulations, may be subject to administrative limitation, suspension or termination proceedings. (See 23 Ill. Adm. Code 2790.)

h) A foreign postsecondary institution, located outside the United States, is eligible

to participate in ISAC-guaranteed loan programs provided it produces evidence to ISAC of current eligibility with ED (e.g., Program Participation Agreement, Institutional Eligibility Notice, etc.) or documentation of such eligibility is available directly from ED. (See 34 CFR 668.15(h).)

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

Section 2720.41 One-Lender Requirement

a) All of a borrower's outstanding ISAC-guaranteed loans must be made by the same lender, subject to the ~~following~~ conditions of this subsection (a). ~~: 1)~~ISAC will issue a loan guarantee to a commercial lender provided that lender agrees to make all types of Federal Family Education Loan Program (FFELP) Loans to the borrower that the borrower requests and is eligible to receive, and:

1~~A~~) the loan is the borrower's first ISAC-guaranteed loan;

2~~B~~) the loan is a subsequent loan and the commercial lender has issued all of the borrower's previous ISAC-guaranteed loans; or

3~~C~~) the loan is a subsequent loan and the commercial lender holds or has purchased all outstanding ISAC-guaranteed loans for that borrower from previous commercial lenders, in accordance with Section 2720.42~~ of this Part~~.

~~2) ISAC will issue a loan guarantee to an educational lender provided that:~~

~~A) the lender agrees to make all types of FFELP Loans to the borrower that the borrower requests and is eligible to receive;~~

~~B) the lender is an educational institution at which the borrower is currently enrolled; and~~

~~C) the borrower has previously made a good faith effort to obtain a loan from a commercial lender pursuant to federal regulations. (See 34 CFR 682.602.)~~

b) The requirements of this Section shall not apply if:

1) the outstanding loans are held by a lender that has been declared insolvent by a regulatory agency, has terminated its agreement with ISAC or has withdrawn from participation in FFELP;

2) ISAC is informed by the borrower, the institution or its agent that the borrower has provided authorization to have subsequent loans issued by a different lender;

3) the borrower is requesting a subsequent loan and the lender has made a previous ISAC-guaranteed loan to that borrower for that loan program with a guarantee date prior to July 1, 1993; or

4) the borrower's outstanding loans were made in accordance with Section 2720.40(c)~~ of this Part~~, by a lender-of-last-resort.

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

Section 2720.50 Procedures for ~~Disbursement,~~ Disclosure~~, Delivery~~ and Repayment

a) Disclosure~~Disbursement, disclosure, delivery~~ and repayment procedures are specified in federal regulations. (See 34 CFR 682.205,~~ 34 CFR 682.206, 34 CFR 682.207, 34 CFR~~ 682.209~~,~~ and ~~34 CFR~~ 682.604.) Furthermore, the lender shall provide required disclosures to federal Stafford, PLUS, and Consolidation loan borrowers, according to federal regulations. (See 34 CFR 682.205,~~ 34 CFR~~ 682.208(e)(1), ~~34 CFR~~ 682.210(a)(3)(ii),~~; 34 CFR~~ 682.211(e).)

b) Prior to disbursement, the borrower executed~~shall execute~~ a common ED-approved promissory note for the principal and interest on the loan. The lender shall retain an original or true and exact copy of the promissory note. (See 34 CFR 682.414.)

c) The lender shall transmit to ED any and all statements and reports necessary to obtain federal interest payments on the borrower's behalf. The lender shall not collect or attempt to collect from the borrower or ISAC any portion of the interest on the loan that is payable by ED.

d) Except for loans pursuant to Section 2720.55, or loans made under a Blanket Certificate of Loan Guaranty agreement, the lender shall not disburse the proceeds of any loan on the borrower's behalf unless and until the lender shall have

received from ISAC evidence of a guarantee. The lender shall inform ISAC of all disbursement dates.

e) Federal Stafford and Federal PLUS Loan proceeds shall be transmitted directly to the institution.

1) Federal Stafford Loan checks shall be payable to the student borrower unless the institution requires all Stafford loan checks to be co-payable to the borrower and the institution. Federal PLUS Loan checks shall be co-payable to the institution and the borrower. Federal Stafford or Federal PLUS Loan funds disbursed either via EFT or by Master Check to the institution shall include information identifying the names, Social Security Numbers and the loan amounts of the borrowers who are receiving a portion of the disbursement, and, in the case of a Parent PLUS Loan, the names and the Social Security Numbers of the students on whose behalf the parents are borrowing.

2) Loan proceeds must be disbursed to the institution and delivered to the borrower no later than 180 days after the end of the loan period or 180 days after the date on which the student ceased to be enrolled at least half-time, whichever is earlier. If the loan proceeds are not delivered pursuant to this subsection (e)(2), the school must request that the loan be canceled and must return any loan proceeds. (See 34 CFR 668.164(g).)

3) If the student has withdrawn from enrollment and federal regulations require the institution to submit a refund to the lender, either electronically or in the form of a check payable to the lender on behalf of the borrower, the institution shall provide simultaneous written notice to the borrower of the refund.

A) If the institution fails to issue a timely refund, as defined by federal regulations (see 34 CFR 682.607(c) and 668.22(j)), the institution shall pay penalty interest.

B) The penalty interest shall equal the total amount of interest and special allowance generated by the principal value of the refund amount. The penalty interest shall be computed from the date the refund was due until the date the refund was issued.

C) The penalty interest shall be paid to the lender or subsequent holder.

f) The borrower shall have the right to prepay without penalty the whole or any part of a loan guaranteed under this Part.

g) The lender or holder shall notify the borrower of the repayment options available, as specified in 34 CFR 682.209. The lender or holder shall send a repayment schedule to a FFELP borrower no less than 30 days nor more than 150 days before the first payment on the loan is due from the borrower.

h) The lender or holder shall notify ISAC of payment in full or prepayment in full by the borrower.

i) In accordance with federal regulations, the lender or holder may extend the maturity date of any note.

j) Lenders or holders may exercise administrative forbearances, which do not require the agreement of the borrower, as authorized by section 428(c)(3)(C) of the Higher Education Act of 1965, as amended (20 USC 1078(c)(3)(C)), and by federal regulations. (See 34 CFR 682.211.)

k) Borrowers are entitled to deferments, which extend the maturity date of any note, under conditions established by federal regulations. (See 34 CFR 682.210.)

l) ISAC provides lenders or holders with the ED-approved common forms necessary for servicing their guaranteed loan portfolio (e.g., deferment forms, mandatory forbearance forms).

m) No note shall be sold or transferred by the lender except to an ISAC-approved lender, an ISAC-approved holder, or ISAC.

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

Section 2720.70 Reimbursement Procedures

a) The lender or holder shall request reimbursement from ISAC within 60 days from the date the lender or holder receives a completed request for loan cancellation or discharge due to death, total and permanent disability, attendance at a school that

closes, false certification by a school of a borrower's eligibility for a loan, unpaid refunds, areas of national need, civil legal assistance attorneys, or teacher loan forgiveness, in accordance with federal regulations and the Higher Education Act of 1965, as amended. (See, e.g., 34 CFR 682.216, 682.402 and 682.409.)

b) Requests for default reimbursement must be submitted to ISAC within the time frames specified in, and the lender or holder shall be reimbursed in accordance with, federal regulations and the Higher Education Act of 1965, as amended. In the case of a default on a Federal PLUS Loan, the borrower, co-maker and endorser must meet the default criteria contained in federal regulations.

c) The lender or holder must request ISAC reimbursement for a bankruptcy claim in accordance with federal regulations and the Higher Education Act of 1965, as amended. (See, e.g., 34 CFR 682.402(f).) The request for reimbursement must be submitted within 30 days after the lender's or holder's receipt of notice that collection on the debt is stayed, or 15 days upon notice of an adversary proceeding for undue hardship. A copy of the restraining order and the appropriate papers must be included. In the case of a bankruptcy involving a Federal PLUS Loan, the borrower, co-maker and endorser must meet the bankruptcy criteria contained in federal regulations.

d) Prior to reimbursement, the lender or holder must certify compliance with federal due diligence requirements and subsection (h)~~ of this Section~~.

e) Prior to reimbursement, the lender or holder must have remitted the federal default fee established by Section 2720.80.

f) The lender or holder shall forward to ISAC any payments made by or on behalf of the borrower after default reimbursement and shall advise ISAC of any subsequent information received concerning the borrower. Prior to reimbursement, all original notes or true and exact copies of original notes must be properly endorsed and submitted to ISAC. If the notes have been lost or erroneously stamped "Paid in Full~~,~~", the lender or holder shall execute a Hold Harmless Agreement with ISAC.

g) No fee or charge to the borrower, other than the maximum interest rate prescribed by ED and the collection charges outlined in federal regulations (see 34 CFR 682.202(e)~~(f)~~ and (f)~~(g)~~), including the federal default fee, and the federal loan origination fee, shall be contracted for or received by the lender.

h) The lender or holder shall make a proper collection effort in accordance with acceptable practices of prudent lending institutions including, but not limited to, the collection activities required by federal regulations. (See, e.g., 34 CFR 682.402, 682.411 and 682.412.)

i) ISAC shall collect the outstanding amount on the reimbursed guaranteed loan. If the borrower refuses to retire the debt, ISAC shall follow the requirements of federal regulations, including, but not limited to, offsets of federal income tax refunds and other payments made by the federal government to the borrower. (See 34 CFR 682.410(b)(6).)

j) Should a borrower refuse to retire the debt, ISAC shall direct the State Comptroller to offset any payment from the State Treasurer to the borrower. The funds offset shall be remitted to ISAC and credited against the debt.

1) All offsets shall be processed in accordance with 74 Ill. Adm. Code 285.

2) ISAC shall not direct an offset if the borrower has maintained a satisfactory repayment record. (See 23 Ill. Adm. Code 2700.40(a)(1).)

3) ISAC shall notify the Office of the Comptroller that a borrower is eligible to be offset. ISAC may provide additional notice of subsequent offsets for the same debt. The Comptroller shall notify the borrower that the Comptroller is required to hold all eligible payments until the loan is paid in full. Should the borrower dispute the debt, a protest must be filed with the Office of the Comptroller within 30 days after and including the date of the notice. If the requested relief is granted, the funds offset shall be returned to the borrower.

4) Funds eligible to be offset include, but are not limited to, State income tax refunds and the wages of State employees.

k) ISAC shall provide a borrower with an opportunity for an administrative review of the legal enforceability or past-due status of the loan obligation after it pays a default claim but before it reports the default to each national consumer reporting agency or assesses collection costs against the borrower, in accordance with federal regulations (34 CFR 682.410(b)(5)(ii)(C)).

l) ISAC may garnish the disposable pay of a borrower if the individual is not currently making required payments, in accordance with Section 488A of the Higher Education Act, as amended.

m) ISAC requires the lender or holder to submit a request for an increase in claim payment within 90 days after receiving the claim payment. ISAC will provide the lender or holder with a determination on the increase in claim payment within 90 days after receiving the request and supporting documentation.

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

Section 2720.80 Federal Default Fee

a) ISAC must charge a federal default fee on each loan guaranteed on or after July 1, 2006 and prior to July 2, 2010. The fee must be collected from the borrower or from any non-federal source. If assessed to the borrower, the fee must be deducted proportionally from each disbursement of the loan. The fee must be remitted to ISAC by the lender no less frequently than monthly.

b) The amount of the federal default fee collected on each loan shall be equal to one percent of the principal amount of the loan (see 20 USC 1071 et seq.).

c) Refunds of any federal default fees assessed the borrower shall be made in accordance with federal regulations. (See 34 CFR 682.401(b)(3~~10~~)(v) & (vi).)

d) The federal default fees shall be deposited in the Federal Student Loan Reserve Fund. In accordance with federal regulations, a guaranty agency shall not use such proceeds for incentive payments to lenders and shall only use these proceeds for costs incurred as outlined in 34 CFR 682.419(c).

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Grant Program for Dependents of Correctional Officers

2) Code Citation: 23 Ill. Adm. Code 2731

3) Section Number: 2731.30 — Proposed Action: Amend

4) Statutory Authority: Implementing Section 60 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/60 and 20(f)]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking is being proposed to provide clarification for procedures and program administration.

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

7) Will the proposed rulemaking replace any emergency rule currently in effect? No

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

9) Does this proposed rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

847/948-8500, ext. 2305
email: lynn.hynes@isac.illinois.gov
fax: 847/831-8299

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 Amendment begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2731
GRANT PROGRAM FOR DEPENDENTS OF CORRECTIONAL OFFICERS

Section
2731.10 Summary and Purpose
2731.20 Applicant Eligibility
2731.30 Program Procedures
2731.40 Institutional Procedures

AUTHORITY: Implementing Section 60 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/60 and 20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20780, effective January 1, 1986; transferred from Chapter IX, 23 Ill. Adm. Code 1731 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2731 (Illinois Student Assistance Commission) pursuant to P.A. 86-169, effective July 1, 1989, at 13 Ill. Reg. 17853; amended at 14 Ill. Reg. 10534, effective July 1, 1990; amended at 17 Ill. Reg. 10559, effective July 1, 1993; amended at 18 Ill. Reg. 10299, effective July 1, 1994; amended at 20 Ill. Reg. 10183, effective July 15, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11100, effective July 18, 1997; amended at 30 Ill. Reg. 11632, effective July 1, 2006; amended at 35 Ill. Reg. 12374, effective July 15, 2011; amended at 36 Ill. Reg. 9414, effective July 1, 2012; amended at 37 Ill. Reg. 9510, effective July 1, 2013; amended at 38 Ill. Reg. _____, effective _____.

Section 2731.30 Program Procedures

a) All first-time applicants shall complete an application which includes biographical information regarding the deceased or disabled correctional officer (e.g., name, where employed, position title, date of death or disability, etc.) and the application shall be accompanied by a certified death certificate or the certified statement of a licensed physician.

1) The physician's statement must certify that there is a mental or physical condition that is reasonably certain to continue throughout the lifetime of the correctional officer, resulting in a 90% to 100% incapacity from performing substantial and material duties previously discharged.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

2) Documentation must be submitted to prove that the death or disability occurred in the line of duty.

b) Once eligibility has been established for one member of a family, it is established for all qualified applicants in the family. Thereafter, a simplified application will be required from each student on an annual basis. Also, students must indicate the institution to be attended.

c) The deadline for applications will be October 1 for consideration for all terms, March 1 for consideration for second semester/second and third quarter and summer term, and June 15 for consideration for summer term only.

d) If an application is incomplete, notice will be sent to the applicant. The applicant will then have an opportunity to furnish the missing information; however, the application will only be considered for processing as of the date it was completed and received in ISAC's Deerfield office.

e) Grants are applicable toward tuition and mandatory fees.

1) A recipient attending a public institution in Illinois shall receive a grant that shall not exceed the cost of tuition and mandatory fees at that institution. This includes the difference between in-district and out-of-district tuition.

2) A recipient attending a private institution in Illinois may receive a grant sufficient to pay the cost of tuition and mandatory fees, provided the award does not exceed the maximum grant payable to a student enrolled in the most expensive comparable program of study at a public institution.

f) Notice of the grant award shall be sent to each recipient. Applicants not receiving awards will also be notified.

g) Benefits are limited to the full-time enrollment equivalent of eight semesters or twelve quarters of payment for undergraduate or graduate study.

1) To determine the amount of eligibility a recipient has used, credit hours (and noncredit hours for which benefits are used) will be converted to eligibility units according to the following table:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

Number of Hours	Semester Term	Quarter Term
12 or more hours	12 units	8 units
9 - 11.99 hours	9 units	6 units
6 - 8.99 hours	6 units	4 units
3 - 5.99 hours	3 units	2 units
up to 2.99 hours	1 unit	1 unit

2) Full program benefits may be extended for one additional term if the recipient has accumulated fewer than 120 eligibility units but does not have enough units remaining for the number of hours in which he or she is enrolled for the term.

h) A student who receives a grant under this program and who is subsequently determined to be ineligible shall repay the institution the total amount of the funds received during the period in which he or she was ineligible.

i) Recipients receive payment through their institution of record.

j) If a recipient withdraws from enrollment after the expiration of the tuition refund/withdrawal adjustment period, the recipient shall receive a grant for costs incurred up to the term award provided the institution's tuition refund policy indicates the recipient had incurred such charges.

k) A recipient shall agree to notify ISAC, in writing, within 15 days of any change affecting his/her enrollment status, name or address.

l) ISAC pays grant funds directly to the institution of record in the name of the recipient.

m) ISAC will disburse grant funds in multiple installments, depending upon the number of terms financed by the grant; except that multiple disbursements will not be required in cases where the applicant's eligibility is not determined until the final term of the academic year for which the grant is being awarded or when a student is attending only one term and the maximum award does not exceed the student's cost of attendance.

n) Grant payment is subject to the limits of dollars appropriated for this program by

the General Assembly.

o) In the event that funds are insufficient to make awards to all eligible applicants, ISAC will make award determinations on the basis of the dates that the completed applications were received and the following:

1) first semester and first quarter awards will be paid, or prorated if funding is insufficient to pay all grants in full;

2) if funds remain after first semester and first quarter awards are paid, then second semester/second and third quarter awards will be paid, or prorated if funds remaining are insufficient to pay all grants in full;

3) if funds remain after second semester/second and third quarter awards are paid, summer term awards will be paid, or prorated if funding is insufficient to pay all grants in full; and

4) timely claims for the difference between in-district and out-of-district tuition for recipients who do not qualify for charge backs will be considered for payment at the same time and in the same priority order as all other timely claims, in accordance with the provisions of this subsection (o).

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Grant Program for Dependents of Police or Fire Officers

2) Code Citation: 23 Ill. Adm. Code 2732

3) Section Number: 2732.30 Proposed Action: Amend

4) Statutory Authority: Implementing Section 55 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/55 and 20(f)]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking is being proposed to provide clarification for procedures and program administration.

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 rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, Illinois 60015

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

847/948-8500, ext. 2305
e-mail: lynn.hynes@isac.illinois.gov
fax: 847/831-8299

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 Amendment begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2732
GRANT PROGRAM FOR DEPENDENTS OF POLICE OR FIRE OFFICERS

Section
2732.10 Summary and Purpose
2732.20 Applicant Eligibility
2732.30 Program Procedures
2732.40 Institutional Procedures

AUTHORITY: Implementing Section 55 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/55 and 20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20873, effective January 1, 1986; amended at 11 Ill. Reg. 3239, effective January 29, 1987; transferred from Chapter IX, 23 Ill. Adm. Code 1732 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2732 (Illinois Student Assistance Commission) pursuant to P.A. 86-169, effective July 1, 1989, at 13 Ill. Reg. 17866; amended at 14 Ill. Reg. 10585, effective July 1, 1990; amended at 17 Ill. Reg. 10620, effective July 1, 1993; amended at 18 Ill. Reg. 10342, effective July 1, 1994; amended at 20 Ill. Reg. 10191, effective July 15, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11090, effective July 18, 1997; amended at 30 Ill. Reg. 11639, effective July 1, 2006; amended at 35 Ill. Reg. 12378, effective July 15, 2011; amended at 36 Ill. Reg. 9420, effective July 1, 2012; amended at 37 Ill. Reg. 9516, effective July 1, 2013; amended at 38 Ill. Reg. _____, effective _____.

Section 2732.30 Program Procedures

a) All first-time applicants shall complete an application which includes biographical information regarding the deceased or disabled officer (e.g., name, where employed, position title, date of death or disability, etc.) and the application shall be accompanied by a certified death certificate or the certified statement of a licensed physician.

1) The physician's statement must certify that there is a mental or physical condition that is reasonably certain to continue throughout the lifetime of the officer, resulting in a 90% to 100% incapacity from performing substantial and material duties previously discharged.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

2) Documentation must be submitted to prove that the death or disability occurred in the line of duty.

b) Once eligibility has been established for one member of a family, it is established for all qualified applicants in the family. Thereafter, a simplified application will be required from each student on an annual basis. Also, students must indicate the institution to be attended.

c) The deadline for applications will be October 1 for consideration for all terms, March 1 for consideration for second semester/second and third quarter and summer term, and June 15 for consideration for the summer term only.

d) If an application is incomplete, notice will be sent to the applicant. The applicant will then have an opportunity to furnish the missing information; however, the application will only be considered for processing as of the date it was completed and received in ISAC's Deerfield office.

e) Grants are applicable toward tuition and mandatory fees.

1) A recipient attending a public institution in Illinois shall receive a grant that shall not exceed the cost of tuition and mandatory fees at that institution. This includes the difference between in-district and out-of-district tuition.

2) A recipient attending a private institution in Illinois may receive a grant sufficient to pay the costs of tuition and mandatory fees, provided the award does not exceed the maximum grant payable to a student enrolled in the most expensive comparable program of study at a public institution.

f) Notice of the grant award will be sent to each recipient. Applicants not receiving awards will also be notified.

g) Benefits are limited to the full-time enrollment equivalent of eight semesters or twelve quarters of payment for undergraduate or graduate study.

1) To determine the amount of eligibility a recipient has used, credit hours (and noncredit hours for which benefits are used) will be converted to eligibility units according to the following table:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

Number of Hours	Semester Term	Quarter Term
12 or more hours	12 units	8 units
9 - 11.99 hours	9 units	6 units
6 - 8.99 hours	6 units	4 units
3 - 5.99 hours	3 units	2 units
up to 2.99 hours	1 unit	1 unit

2) Full program benefits may be extended for one additional term if the recipient has accumulated fewer than 120 eligibility units but does not have enough units remaining for the number of hours in which he or she is enrolled for the term.

h) A student who receives a grant under this program and who is subsequently determined to be ineligible shall repay the institution the total amount of the funds received during the period in which he or she was ineligible.

i) Recipients receive payment through their institution of record.

j) If a recipient withdraws from enrollment after the expiration of the tuition refund/withdrawal adjustment period, the recipient shall receive a grant for costs incurred up to the term award provided that the institution's tuition refund policy indicates the recipient had incurred such charges.

k) A recipient shall agree to notify ISAC, in writing, within 15 days of any change affecting his/her enrollment status, name or address.

l) ISAC pays grant funds directly to the institution of record in the name of the recipient.

m) ISAC will disburse grant funds in multiple installments, depending upon the number of terms financed by the grant; except that multiple disbursements will not be required in cases where the applicant's eligibility is not determined until the final term of the academic year for which the grant is being awarded or when a student is attending only one term and the maximum award does not exceed the student's cost of attendance.

n) Grant payment is subject to the limits of dollars appropriated for this program by

the General Assembly.

o) In the event that funds are insufficient to make awards to all eligible applicants, ISAC will make award determinations on the basis of the dates that the completed applications were received and the following:

1) first semester and first quarter awards will be paid, or prorated if funding is insufficient to pay all grants in full;

2) if funds remain after first semester and first quarter awards are paid, then second semester/second and third quarter awards will be paid, or prorated if funds remaining are insufficient to pay all grants in full;

3) if funds remain after second semester/second and third quarter awards are paid, summer term awards will be paid, or prorated if funding is insufficient to pay all grants in full; and

4) timely claims for the difference between in-district and out-of-district tuition for recipients who do not qualify for charge backs will be considered for payment at the same time and in the same priority order as all other timely claims, in accordance with the provisions of this subsection (o).

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Illinois Special Education Teacher Tuition Waiver (SETTW) Program

2) Code Citation: 23 Ill. Adm. Code 2765

3) Section Number: 2765.30 Proposed Action: Amend

4) Statutory Authority: Implementing Section 65.15 and authorized by Sections 20(f) and 65.1(a)(2) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65.15]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking is being proposed to provide clarification and consistency for procedures and program administration. In addition, clarification is being provided for accounts in repayment.

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

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

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

9) Does this proposed rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

Deerfield IL 60015

847/948-8500, ext. 2305
email: lynn.hynes@isac.illinois.gov
fax: 847/831-8299

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 Amendment begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2765
ILLINOIS SPECIAL EDUCATION TEACHER TUITION WAIVER (SETTW) PROGRAM

Section
2765.10 Summary and Purpose
2765.20 Applicant Eligibility
2765.30 Program Procedures
2765.40 Institutional Procedures

AUTHORITY: Implementing Section 65.15 and authorized by Sections 20(f) and 65.15(a)(2) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65.15].

SOURCE: Adopted at 19 Ill. Reg. 8354, effective July 1, 1995; amended at 20 Ill. Reg. 9194, effective July 1, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11129, effective July 18, 1997; amended at 22 Ill. Reg. 11107, effective July 1, 1998; amended at 24 Ill. Reg. 9159, effective July 1, 2000; amended at 26 Ill. Reg. 10037, effective July 1, 2002; amended at 27 Ill. Reg. 10405, effective July 1, 2003; amended at 28 Ill. Reg. 9170, effective July 1, 2004; amended at 29 Ill. Reg. 9941, effective July 1, 2005; amended at 30 Ill. Reg. 11697, effective July 1, 2006; amended at 35 Ill. Reg. 12388, effective July 15, 2011; amended at 37 Ill. Reg. 9550, effective July 1, 2013; amended at 38 Ill. Reg. _____, effective _____.

Section 2765.30 Program Procedures

a) A completed ISAC application for the Illinois SETTW Program must be postmarked on or before March 1 immediately preceding the academic year for which the tuition waiver is being requested, in order to receive priority consideration for an award.

b) ISAC applications for the Illinois SETTW Program are available from eligible institutions, ISAC's website~~; the offices of Regional Superintendents of Education in Illinois; ISAC's Web site; Illinois State legislative and Illinois federal Congressional offices;~~ and ISAC's Springfield, Deerfield and Chicago offices.

c) If the student section of an application is incomplete, ISAC will notify the applicant. The applicant will then have an opportunity to furnish the missing information; however, the application will be considered for processing as of the

date when the student section is complete and received in ISAC's Deerfield office.

d) Before March 1 of each year, principals of public, private and parochial high schools in Illinois will provide the names of all students in their high school who are anticipated to be qualified applicants.

e) ISAC shall award 250 Illinois Special Education Teacher Tuition Waivers annually as follows:

1) A maximum of 40 tuition waivers may be awarded annually to qualified applicants who hold valid teaching certificates that are not in the discipline of Special Education. If more than 40 applicants qualify under these provisions, a lottery shall be used to select 40 recipients;

2) A minimum of 105 tuition waivers shall be awarded annually to students scheduled to graduate from an approved high school in the academic year in which the award is made and who rank in the upper half of their class at the end of the sixth semester. Any of the 145 tuition waivers not awarded pursuant to subsections (e)(1) and (3)~~ of this Section~~ shall be awarded to this group;

3) A maximum of 105 tuition waivers may be awarded annually to qualified applicants who have graduated from an approved high school prior to the academic year in which the award is made. If more than 105 applicants qualify under this subsection (e)(3), a lottery shall be used to select the 105 recipients;

4) ISAC shall select recipients, pursuant to subsection (e)(2), from among qualified applicants based on the highest ACT or SAT I test scores from the time periods set forth in 23 Ill. Adm. Code 2760.20(b), (c) and (d), as converted according to the Illinois Standard Test Score table (see 23 Ill. Adm. Code 2760.30(b)(1) and (2));

5) A lottery will be used to determine recipients pursuant to subsection (e)(2) if the number of qualified applicants sharing the same Illinois Standard Test Score exceeds the number of tuition waivers to be awarded.

f) Notice of eligibility will be sent by July 1 to each qualified applicant who is selected to receive a tuition waiver. The qualified applicant is then responsible for providing a copy of the notice of eligibility to the institution. All other

qualified applicants will be notified that they were not selected.

g) Tuition waivers are applicable towards credit for any semester/quarter within an academic year.

h) A recipient shall be exempt from paying tuition and mandatory fees for up to four calendar years.

i) Prior to receiving assistance, the qualified applicant must sign a Teaching Agreement/Promissory Note, which must be submitted to ISAC. The Teaching Agreement/Promissory Note shall include the following stipulations:

1) the recipient pledges to begin teaching on a full-time basis, in the field of Special Education, within one year following graduation from or termination of enrollment in a teacher education program, at a nonprofit, public, private or parochial preschool, elementary or secondary school in Illinois and to continue teaching for at least 2 of the 5 years immediately following;

2) if the teaching requirement is not fulfilled, the tuition waiver converts to a loan and the recipient must repay the entire amount of the tuition waiver (prorated according to the fraction of the teaching obligation not completed), plus interest at a rate equal to 5% per annum; and

3) the recipient agrees to provide ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.).

j) The five-year time period during which the teaching requirement must be fulfilled may be extended if the recipient:

1) serves, for not more than three years, as a member of the United States Armed Forces;

2) is enrolled full-time in an academic program related to the field of teaching, leading to a graduate or postgraduate degree;

3) is temporarily totally disabled for a period of time not to exceed three years, as established by the sworn affidavit of a qualified physician;

4) is actively seeking but unable to find full-time employment as a teacher at an Illinois public, private, or parochial school for one continuous period not to exceed two years, and is able to provide evidence of that fact;

5) is taking additional courses, on at least a half-time basis, needed to obtain certification as a teacher in Illinois; or

6) is fulfilling teaching requirements associated with other programs administered by ISAC if he or she cannot concurrently fulfill them in a period of time equal to the length of the teaching obligation.

k) A recipient may be granted a leave of absence by the president of the institution, or his/her designee, for the following reasons:

1) earning funds to defray the recipient's educational expenses;

2) illness of the recipient or a member of the recipient's immediate family, as established by the sworn statement of a licensed physician; or

3) military service.

l) A recipient must complete his or her course of study within six years including leaves of absence. A recipient must remain enrolled on a continuous basis during the regular school year for four years, unless granted a leave of absence. However, a leave of absence granted for military service shall not be considered part of the six years within which a recipient must complete a degree.

m) A recipient shall enter repayment status on the earliest of the following dates:

1) the first day of the first calendar month after the recipient has ceased to pursue a course of study leading to initial certification as a teacher in Special Education, but not until six months have elapsed after the cessation of at least half-time enrollment in such a course of study. A recipient who has transferred and is waiting to be accepted into the Special Education program at the new university shall not be subject to this provision provided he or she is enrolled and is pursuing course work that meets the new university's requirements to gain admission to the Special Education program;

2) the date the recipient informs ISAC that he or she does not plan to fulfill

the teaching obligation; or

3) the latest date upon which the recipient must have begun teaching in order to complete the teaching obligation within five years after completing the postsecondary education for which the waiver was awarded.

n) If a recipient is required to repay any portion of a~~the~~ tuition waiver awarded prior to July 1, 2014, the repayment period shall be completed within five years after the tuition waiver converts to a loan. If a recipient is required to repay any portion of a tuition waiver awarded after July 1, 2014, the repayment period shall be completed within 10 years after the tuition waiver converts to a loan. Repayment periods may be extended if a recipient ~~The five-year period may be extended if the recipient~~:

1) serves, for not more than three years, as a member of the United States Armed Forces;

2) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a licensed physician;

3) is pursuing a graduate or postgraduate degree and is enrolled on a full-time basis for one continuous period of time not to exceed three years;

4) is seeking and unable to find full-time employment for one continuous period not to exceed two years and is able to provide evidence of that fact; or

5) withdraws from a course of study leading to a teacher certification in Special Education but remains enrolled on at least a half-time basis in another academic discipline.

o) During the time a recipient qualifies for any of the extensions listed in subsection (n) of this Section, he or she shall not be required to make payments and interest shall not continue to accrue.

p) A recipient shall not be required to pay the amount of the tuition and fees waived if he or she becomes permanently totally disabled, as established by the sworn affidavit of a licensed physician (see, e.g., 34 CFR 682.402(c))~~(see, e.g., 34 CFR 653.42(k)(1))~~; or if his or her representative provides ISAC with a death certificate or other evidence that the recipient has died.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

q) A holder of a tuition waiver must register for enrollment in a special education program of teacher education within ten days after the beginning of the term for which the tuition waiver was initially awarded. If the recipient fails to comply with this requirement, he or she will forfeit the tuition waiver and ISAC will award it to another qualified applicant.

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: International Tourism Grant Program

2) Code Citation: 14 Ill. Adm. Code 555

3)

Section Numbers:	Adopted Action:
555.10	Amend
555.20	Amend
555.30	Amend
555.40	Amend
555.50	Amend
555.60	Amend
555.70	Amend
555.80	Amend
555.90	Amend
555.100	Amend
555.110	Amend
555.120	Amend
555.130	Amend

4) Statutory Authority: Implementing and authorized by Section 605/605-707 of the Civil Administrative Code of Illinois [20 ILCS 605/605-707] (see PA 91-683)

5) Effective Date of Rule: January 23, 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*: 37 Ill. Reg. 642; January 25, 2013

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Grammatical and stylistic changes were made.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? 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: Change of match requirement to allow for only 50% match of grant dollars.

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

Ms. Jolene Clarke
Rules Administrator
Illinois Department of Commerce and Economic Opportunity
500 East Monroe
Springfield IL 62701

217/557-1820

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE C: ECONOMIC DEVELOPMENT
CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY~~COMMUNITY AFFAIRS~~

PART 555
INTERNATIONAL TOURISM GRANT PROGRAM

Section
555.10 Purpose
555.20 Definitions
555.30 Eligible Applicants
555.40 Eligible Use of Funds
555.50 Form of Application
555.60 Application Procedure
555.70 Matching Funds
555.80 Computation of Time
555.90 Evaluation and Selection Process
555.100 Allocation of Appropriations
555.110 Funding Limitation
555.120 Grant Agreement
555.130 Grant Administrative Requirements

AUTHORITY: Implementing and authorized by Section 605-707 of the Civil Administrative Code of Illinois [20 ILCS 605/605-707].

SOURCE: Emergency rule adopted at 24 Ill. Reg. 3391, effective February 14, 2000, for a maximum of 150 days; emergency expired July 12, 2000; adopted at 25 Ill. Reg. 3005, effective February 9, 2001; amended at 38 Ill. Reg. 3577, effective January 23, 2014.

Section 555.10 Purpose

Section 605-707 of the Civil Administrative Code of Illinois (International Tourism Program) [20 ILCS 605/605-707] authorizes the Department of Commerce and Economic Opportunity~~Community Affairs~~ to award~~make~~ grants to and work in cooperation~~partner~~ with certified local tourism and convention bureaus and regional tourism development organizations to develop, coordinate and promote~~for the purpose of coordinating and promoting~~ international tourism efforts.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 38 Ill. Reg. 3577, effective January 23, 2014)

Section 555.20 Definitions

The following definitions are applicable to this Part:

~~"Agreement" means a written document executed by the Grantee and the Department defining the rights and obligations with respect to the Project.~~

"Applicant": means a certified local tourism and convention bureau or a certified regional tourism development organization submitting an Application for Program Grant Funds as provided for under the Statute.

"Application": means a written request for Program Grant Funds, containing and ~~program funds,~~ including the required information~~forms~~ and/or attachments.

"Approved Expenditures": means costs approved to be expended for the completion of the Project.

~~"Certified local tourism and convention bureau" means the local bureau recognized by the Department as a Grantee entitled to receive funds under the Statute.~~

"Department": means the Department of Commerce and Economic Opportunity~~Community Affairs~~.

"Director": means the Director of the Department of Commerce and Economic Opportunity~~Community Affairs~~.

~~"Domestic" means within the boundaries of the United States.~~

"Eligible Expenditure~~Projects~~": means costs that are considered appropriate and, if a grant is awarded, are costs approved by the Department for funding. Examples of Eligible Expenditures are set forth in Section 555.40(a) ~~include, but are not limited to, the following activities: brochures, advertising, web site development, familiarization tours, trade shows, sales missions, translation services, research, promotional items, technical assistance, and salaries associated with Eligible Projects~~.

"Fiscal Year~~year~~": means the period from July 1 of any given year through June 30 of the subsequent year~~July 1 through June 30, the fiscal year of the State of Illinois~~.

"Grant Agreement": means a written document executed between the Grantee and the Department setting forth the obligations and rights of the parties, describing the purpose of the grant, identifying the manner in which Grant Funds will be disbursed, specifying the grant term during which Grant Funds shall be expended, and requiring unobligated and/or unspent Grant Funds to be returned to the Department.

"Grant Amount" or "Grant Funds": means a monetary amount that the Department awarded to a Grantee to be expended on Approved Expenditures.

"Grantee" means an Applicant~~a certified local tourism and convention bureau~~ that has been awarded a grant under the ~~International Tourism~~ Program based on submission of its Application.

~~"Illinois Trade Office" is a division of the Department that performs all functions relating to the International Tourism Program.~~

"Ineligible Expenditures": means costs that are not eligible for consideration for funding and cannot be paid for with Grant Funds and Matching Funds. Examples of Ineligible Expenditures are set forth in Section 555.40(b)~~Projects" include, but are not limited to, the purchase of equipment, administrative expenses (salaries not associated with Eligible Projects, utilities, or rent), and the purchase of alcoholic beverages~~.

"In-kind Contribution" means noncash contributions necessary to complete the Project for which the cash value is easily documented (i.e., donated labor, equipment, supplies and materials) and are otherwise eligible grant and match expenditures as set forth in Sections 555.40 and 555.70.

"Illinois Office of Tourism": means the division of the Department that has the delegated authority to perform all administrative functions related to the Statute.

"International":~~, when pertaining to a country,~~ means any country other than the United States.

"Local Convention and Tourism Bureau": means a not-for-profit entity or unit of local government that meets the certification requirements as set forth in 14 Ill. Adm. Code 550.40 and is certified by the Department.

"Matching Funds": means the portion of the Total Project Cost that is required to be provided by the Grantee through cash expenditures and/or In-kind Contributions ~~means the Grantee's local funds equaling 50% of the total project expenditures~~.

"Program": means the International Tourism Grant Program.

"Project": means the activities that were~~work that is~~ described by the Applicant in its~~the~~ Application and ~~is~~ approved by the Department for funding.

"Regional Tourism Development Organization": means a not-for-profit entity that meets the certification requirements set forth in the Regional Tourism Development Organization Program rules (14 Ill. Adm. Code 515.60) and is certified by the Department.

"Statute": means Section 605-707 of the Civil Administrative Code of Illinois, which is the statutory authority for~~establishes~~ the Program [20 ILCS 605/605-707].

"Total Project Cost": means all necessary and reasonable Eligible Expenditures required to complete~~costs related to the completion of~~ the Project as identified in the budget of the Grant Agreement~~, but is limited to the eligible use of funds as set forth in Section 555.40~~.

(Source: Amended at 38 Ill. Reg. 3577, effective January 23, 2014)

Section 555.30 Eligible Applicants

Certified Local Tourism and Convention Bureaus or Regional Tourism Development Organizations certified ~~Illinois local tourism and convention bureaus~~ ~~recognized~~ by the Department ~~as certified under the Statute~~ may apply for ~~International Tourism~~ Program funding~~grants~~.

(Source: Amended at 38 Ill. Reg. 3577, effective January 23, 2014)

Section 555.40 Eligible Use of Funds

~~a) Projects and activities for which grant funds can be utilized by certified local tourism and convention bureaus in Chicago include, but are not limited to, the following:~~

~~1) Eligible Projects include, but are not limited to, the following activities: brochures, advertising, web site development, familiarization tours, trade shows, sales missions, translation services, research, promotional items, technical assistance, and salaries associated with Eligible Projects.~~

~~2) Ineligible Projects include, but are not limited to, the purchase of equipment, administrative expenses (salaries not associated with Eligible Projects, utilities, or rent), and the purchase of alcoholic beverages.~~

~~b)~~Expenditures~~Projects~~ and activities for which grant funds can be utilized by Grantees located~~certified local tourism and convention bureaus~~ outside Chicago include, but are not limited to, the following:

a)~~1)~~ Eligible Expenditures, including~~Projects include~~, but ~~are~~ not limited to, ~~the following activities:~~ brochures that target international markets, advertising, web site development and maintenance, in-country trade representations, familiarization tours, trade shows, sales missions, translation services, research, promotional items, technical assistance, training, association fees, travel expenses, and salaries for international program staff performing duties set forth in the Grant Agreement's scope of work~~associated with Eligible Projects~~.

b)~~2)~~ Ineligible Expenditures~~Projects~~ include, but are not limited to, the purchase of equipment, administrative expenses, ~~(~~salaries not associated with ~~Eligible Projects, utilities or rent,~~international activities and the purchase of alcoholic beverages.

(Source: Amended at 38 Ill. Reg. 3577, effective January 23, 2014)

Section 555.50 Form of Application

a) All communications relating to the Application procedures defined in Section 555.60 shall be addressed~~sent~~ to the International Tourism Grant Program Manager and sent to: ~~, Illinois Trade Office of the~~ Illinois Department of

Commerce and Economic Opportunity~~Community Affairs~~, Illinois Office of Tourism, 100 W. Randolph Street, Suite 3-400, Chicago, Illinois 60601.

b) An Application shall be typed in the current approved format provided by the Department, which shall be sent to an eligible Applicant upon request.

c) An Application shall contain one~~1~~ original and 6~~3~~ copies.

d) An Application shall include supporting documents and attachments under a single cover.

(Source: Amended at 38 Ill. Reg. 3577, effective January 23, 2014)

Section 555.60 Application Procedure

a) Applications for funding under this Program must be received no less than 60 days prior to the beginning of the Department's Fiscal Year or as otherwise determined by the Department~~next fiscal year~~.

b) An Application will be considered delivered and submitted on the date it is postmarked or hand delivered to the Illinois Office of Tourism's Chicago office (see Section 555.50) ~~An Application will be considered delivered on the day it is postmarked or hand delivered to the Department's Illinois Trade Office~~.

c) Within 30~~10~~ business days after the Department receives the Application, the International Tourism Program Manager shall notify~~of the Illinois Trade Office shall issue a receipt to~~ the Applicant ~~acknowledging the date on which the Department received the Application, and~~ whether, after a brief initial review, the Application and attachments, if any, are complete. This notice is not in any way an acknowledgment by the Department as to the adequacy of the substance of the Application. If the Application and attachments are incomplete, the Applicant shall be notified of the deficiencies. The Applicant will then have 20~~10~~ business days to cure any deficiencies. In the event the Applicant fails to cure all deficiencies within the 20~~10~~ business days, the Application shall be considered null and void and returned to the Applicant.

d) Within 90 days from the date an Application is determined to be complete, the~~The~~ International Tourism Grant Program Manager shall notify the Applicant whether the~~that its~~ Application has been approved or rejected. If the Application has been

rejected, the program manager~~International Tourism Program Manager~~ shall state the reasons for the~~that~~ determination.

(Source: Amended at 38 Ill. Reg. 3577, effective January 23, 2014)

Section 555.70 Matching Funds

a) The Grantee shall provide Matching Funds to be expended towards the Total Project Cost that are~~An Applicant must provide a dollar-for-dollar match for funds received under this Program. Match expenditures must equal or exceed grant funds expended. Local match shall~~:

1) Under~~Be under~~ the control of the Grantee. For purposes of the Grant, control shall mean that the Grantee can successfully demonstrate the following control and accountability requirements:~~Applicant;~~

A) The Grantee's chief executive officer maintains responsibility for establishing review and approval policies and procedures with respect to the Grantee's daily operations; and

B) The Grantee's chief executive officer has approval authority for expenses charged to the Grantee's operating budget and approval over the Grantee expenses attributable to the Grant. Within this requirement, the Grantee's chief executive officer must be the person that reviews and approves the payment of invoices related to the grant and match expenditures.

2) Identified ~~Be identified~~ in the Applicant's grant application for the applicable Fiscal Year.~~fiscal year;~~

3) Expended during the applicable grant award period.

4) Supported by records of deposit and documentation of Eligible Expenditures.

5) Necessary and irrevocably obligated and used towards completion of the Project.

b) Each Grantee shall provide matching funds equal to no less than 50% of the Grant

Amount. If Grantee fails to match any portion of the grant award in a given Fiscal Year, that portion of the grant shall be refunded to the Department in accordance with the terms of the Grant Agreement. In-kind contributions shall not exceed 25% of Matching Funds.

~~3) Be expended during the applicable grant award period;~~

~~4) Be supported by documentation of eligible Applicant's expenditures.~~

c)~~b)~~ Allowable Matching Funds include~~Sources of Eligible Match: The following monies shall be considered Matching Funds and may be used as a match for State grant funds~~:

1) Local hotel/motel taxes;

2) Membership dues;

3) Interest earned on local monies and Grant Funds;

4) Cash contributions;

5) Federal dollars deposited directly to the Grantee for tourism promotion purposes that do not require a match; and

6) In-kind Contributions~~contributions~~ necessary to complete the Project~~project for which the cash value is easily documented and that shall include costs funded through this program~~. In-kind Contributions~~contributions~~ shall not exceed 25% of the match requirement~~requirements~~.

d)~~c)~~ Ineligible Match: The following monies shall not be considered Matching Funds and may not be used as a match for Grant Funds~~State grant funds~~:

1) Costs incurred or funds expended outside the grant term identified in the Grant Agreement unless those costs are approved by the Director as otherwise being compliant with this Part and consistent with the purposes of the Statute;

2) Funds from any other Department funded grant program, regardless of

whether the other grant funds were awarded and expended to further the Project;

3) Funds used to match any other State and/or federal grants ~~State or federal funds other than allowed in subsection (b)(5) above~~;

~~2) Monies used as match for other State or federal grants; and~~

4~~3~~) Penalties, fines, late payment fees~~,~~ or interest charges; and~~.~~

5) Purchase of alcohol beverages.

(Source: Amended at 38 Ill. Reg. 3577, effective January 23, 2014)

Section 555.80 Computation of Time

Computation of any period of time prescribed by this Part shall begin with the first business day following the day on which the act, event or development initiating that period of time occurs, and shall run until the end of the last day or the next business day if the last day is a Saturday, Sunday, federal or State holiday. ~~When the period of time is 5 days or less, Saturday, Sunday, federal or State holidays shall be excluded in the computation of time.~~ Timeliness shall be deemed the date of postmark or the date of hand delivery.

(Source: Amended at 38 Ill. Reg. 3577, effective January 23, 2014)

Section 555.90 Evaluation and Selection Process

a) The Department's internal review committee shall evaluate each Application. The criteria used in determining whether an Application will be considered for a grant award includes, but is not limited to, the potential to increase overnight stays in Illinois and/or demonstrate the potential to develop international marketing materials or efforts as described in Section 555.40. Each question will be scored using a rating system of 1 through 10, with 10 being the highest possible score per question, with a maximum possible score of 100. The criteria used in determining whether an Application will be considered for funding include the following:

1) To what extent does the Project support and augment the international tourism efforts of the Illinois Bureau of Tourism?

2) To what extent is the Project part of a marketing plan based upon research to increase international visitors to the area?

3) To what extent does the Project have potential interest, or show existing interest, for the chosen international market?

4) To what extent does the Project include repeat marketing efforts and to what extent do the results from those efforts justify repeat funding?

5) To what extent does the Project include adequate tracking and evaluation measures?

6) To what extent are there measurable ways to evaluate the Project's effectiveness and return on investment?

7) To what extent will the Project have a significant impact on the area's overall tourism efforts?

8) To what extent will the Project have a significant impact on the State's overall tourism efforts?

9) To what extent is the destination visitor-ready for international visitors?

10) The effectiveness of the applicant's overall efforts.

b) The Department's internal review committee's scores are averaged to obtain the Application's final score. An Application's final score must be at least 50 of 100 possible points to be considered eligible for funding. The internal review committee shall forward all eligible Applications, together with its recommendations, to the Director for final review and determination. During the final review process, the Director will determine whether an eligible Application is awarded a grant.

~~Upon completion of the Application procedure as described in Section 555.60, complete Applications will be evaluated by the Department's internal review committee. The criteria used in determining whether an Application will be considered for a grant award includes, but is not limited to, the potential to increase overnight stays in Illinois and/or demonstrate the potential to develop international and/or domestic products or efforts as described in Section 555.40 of this Part. The internal review committee shall forward all~~

~~eligible Applications together with its recommendations to the Director for final determination. During the final review process, the Director will determine whether an eligible Application is awarded a grant.~~

(Source: Amended at 38 Ill. Reg. 3577, effective January 23, 2014)

Section 555.100 Allocation of Appropriations

Annual appropriations made by the General Assembly to the Department for the purpose of awarding~~making~~ grants under this Program may be used by the Department in any county in the State of Illinois.

a) *All of the amounts deposited into the Fund in Fiscal Year 2012 and thereafter shall be used for administrative expenses and grants authorized under* the Statute *and development of international tourism in areas outside of Chicago, of which not less than $1,000,000 shall be used annually to make grants to convention and tourism bureaus in cities other than Chicago that demonstrate their international tourism appeal and request to develop or expand their international tourism marketing program, and may also be used to provide grants for the development of or the enhancement of international tourism attractions.* [20 ILCS 605/605-707].~~The allocation of funds available for the fiscal year beginning July 1 and thereafter:~~

~~1) 27.5% shall be used for grants to the Chicago Convention and Tourism Bureau.~~

~~2) 27.5% shall be used for grants to the City of Chicago's Office of Tourism.~~

~~3) Of the remaining 45%, not less than $1,000,000 shall be used for grants to certified local tourism and convention bureaus outside of Chicago.~~

b) If sufficient local funds cannot be raised to match any grant issued under this Part, the appropriation may be allocated in whole or in part to any Applicants able to qualify for a grant or may be used by the Department to promote international tourism to the State of Illinois.

(Source: Amended at 38 Ill. Reg. 3577, effective January 23, 2014)

Section 555.110 Funding Limitation

The Department shall provide Grant Funds not to exceed 50% of the Total Project Cost~~The Department shall provide no more than 50% of the entire amount of eligible expenditures, as described in Section 555.40, for the project~~. Except that, during Fiscal Year 2013, the Department shall provide Grant Funds not to exceed two-thirds of the Total Project Cost.

(Source: Amended at 38 Ill. Reg. 3577, effective January 23, 2014)

Section 555.120 Grant Agreement

a) When an Application~~a grant~~ has been ~~a~~approved for funding~~warded~~, a grant award shall be made and the Grantee and the Department shall execute a Grant~~an~~ Agreement. If the Project is initiated and costs are incurred before the Department approves the Application, the Department bears no responsibility for those costs in the event the Application is denied or the grant is funded at less than the amount requested.~~The Agreement shall be executed by the Grantee and the Director of the Department or the Director's designee on behalf of the Department. The Project must not be initiated and costs shall not be incurred prior to the time the Department approves the Application in order for the costs to be eligible for funding.~~

b) The Agreement shall contain substantive provisions including, but not limited to, the following:

1) A recitation of legal authority pursuant to which the agreement is made;

2) An identification of the Project scope and schedule, and the work or services to be performed or conducted by the Grantee;

3) An identification of the Grant Amount or grant award~~grant amount~~;

4) The condition and manner by which the Department shall pay/distribute the grant award, which is at all times ~~amount~~ subject ~~at all times~~ to sufficient annual appropriations~~appropriation~~ by the Illinois General Assembly;

5) The irrevocable promise of the Grantee to pay the local match of the Total Project Cost~~total project cost~~;

6) A promise by the Grantee not to assign or transfer any of ~~the~~ its rights, duties or obligations ~~of the Grantee~~ without the Department's written acknowledgment~~consent of the Department~~;

7) A promise by the Grantee not to amend the Grant Agreement without the written consent of the Department. Failure to do so will result in a cost disallowance. The Project must be completed by the completion date on the notice of grant award, unless a written request for an extension is submitted no later than 30 days prior to the award completion date and thereafter approved by the Department;

8) A covenant that the Grantee shall expend the grant award and any accrued interest only for the purposes of the project as stated in the Application and approved by the Department; ~~and~~

9) A covenant that the Grantee shall refrain from entering into any written or oral agreement or understanding with any party that might be construed as an obligation of the State of Illinois or the Department for the payment of any funds under the Program; and~~.~~

10) A covenant that the Grantee agrees to acknowledge the Department's participation in the Project by displaying the Department's current logo and/or providing a statement that identifies the Project as being developed and/or funded in cooperation with the Illinois Office of Tourism. Grantee's failure to properly use the Department's current logo (e.g., size, placement, etc.) or failure to include the acknowledgment/recognition statement will result in a 10% deduction of the Total Project Cost. Failure to include the logo or acknowledgment/recognition statement will result in the entire Project being disallowed.

(Source: Amended at 38 Ill. Reg. 3577, effective January 23, 2014)

Section 555.130 Grant Administrative Requirements

a) Grant Termination

1) Termination Due to Loss of Funding. In the absence of State funding for a Fiscal Year, all grants for that year will be terminated in full. In the event of a partial loss of State funding, the Department will make proportionate

cuts to all Grants. In the event the Department suffers such a loss of funding in full or in part, the Department will give the Grantee written notice setting forth the effective date of full or partial termination or, if a change in funding is required, setting forth the change in funding and changes in the approved budget.

2) Termination for Cause

A) If the Department determines that the Grantee failed to comply with the terms and conditions of the Grant Agreement or this Part, the Department may terminate the grant in whole or in part at any time before the date of completion. Circumstances that will result in the termination of a grant include, but are not limited to: consistent failure to submit required reports; failure to maintain required books and records; evidence of fraud and/or abuse; and consistent failure to meet performance standards. These circumstances are further explained in the Grant Agreement.

B) The Department shall notify the Grantee in writing, within 10 working days after the determination to terminate is made, of the reasons for termination and the effective termination date. Distribution of Grant Funds or recovery of Grant Funds shall be made in accordance with the legal rights and liabilities in the Grant Agreement and the Illinois Grant Funds Recovery Act [30 ILCS 705].

3) Termination by Agreement. The Department and the Grantee may terminate the grant in whole or in part if the Department and the Grantee agree that continuation of the Program objectives would not produce beneficial results commensurate with the future expenditure of Grant Funds. The Department and the Grantee shall agree upon termination conditions, including the effective date and, in case of partial termination, the portion of funding to be terminated. The Grantee shall not incur new obligations for the terminated portion of the grant after the effective date, and shall cancel as many outstanding obligations as possible. The Department shall allow full credit to the Grantee for the Department's share of the noncancelable obligations properly incurred by the Grantee prior to termination.

b) Interest on Grant Funds. In accordance with Section 10 of the Illinois Grant Funds Recovery Act, all interest earned on Grant Funds held by the Grantee under the grant shall become part of the grant when earned. Any interest earned under the grant and not expended as grant principal during the term of the grant shall be returned to the Department as directed by the grant close-out process described in subsection (c).

c) Grant Close-out. In accordance with Section 5 of the Illinois Grant Funds Recovery Act, Grant Funds not expended or legally obligated, including any interest, remaining at the end of the grant term or upon termination of the grant shall be returned to the Department within 45 days after the end of the grant term or termination.

d) Audits. A Grantee shall be responsible for securing an audit for any grant award exceeding $500,000. Additionally, an audit may be required when certain risk conditions exist, including, but not limited to, a negative compliance history and previous material audit findings. The audit shall be performed by an independent certified public accountant, licensed by the authority of the State of Illinois pursuant to the Illinois Public Accounting Act [225 ILCS 450]. The audit shall be conducted in accordance with current generally accepted auditing standards as contained in the most current publication entitled AICPA Professional Standards, American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York NY 10036.

e) Special Audits. The Department reserves the right to conduct special audits, including but not limited to an agency wide audit of grant funds expended under any of the Department's grant programs. A special audit shall be conducted during normal working hours (8:30 a.m. to 5:00 p.m.) with at least 24 hours notice.

f) Monitoring and Evaluation. Grantee shall permit any agency authorized by the Department, the Office of Inspector General, the Auditor General of the State of Illinois, the Illinois Attorney General, or any of their duly authorized representatives, upon presentation of credentials, in accordance with the constitutional limitation on administrative searches, to have full access to and the right to examine any of the Grantee's documents, papers and records involving transactions related to a grant awarded by the Department. Once the Department concludes its monitoring activities, the Department will notify the Grantee of the Department's determination and findings, if any. If a determination contains a

finding of noncompliance, the Grantee will be allowed an opportunity to cure any and all noncompliance issues. If any noncompliance issues cannot be resolved, the Department will issue a final determination requesting the Grantee to repay any funds that the Department determined to have been spent in violation of the Grant Agreement. In the event the noncompliance issue pertains to a grant covenant that does not have a corresponding expenditure amount, the Department has the discretion to disallow all Grant Funds for the noncompliance. If the Grantee fails to comply with the Department's final determination, the Department shall issue a final notice to the Grantee providing it the opportunity to invoke its rights under the Illinois Grant Funds Recovery Act.

g) Complaint Process. An administrative hearing may be initiated by an Applicant or Grantee by serving a petition for hearing on the Department. The Department may initiate the administrative hearing process by serving a notice of charges on the Grantee. In any case, the Applicant, Grantee or Department shall follow the Department's administrative hearing rules set forth in 56 Ill. Adm. Code 2605.

h) Certifications. The Grantee shall certify that it has not been barred from contracting with a unit of local government or with any agency of the State of Illinois as a result of a violation of Sections 33E-3 or 33E-4 of the Criminal Code of 1961 (Bid-rigging or bid rotating) [720 ILCS 5/33E-3 or 33E-4].

i) Reports. The Grantee shall submit reports on the Project's financial status and outcome/results, as required by the Department in the Grant Agreement. The Grantee's failure to comply with any reporting requirements will be considered a violation of the Grant Agreement and the Department may seek recovery of all Grant Funds as described in subsection (f).

~~a) Grant Close-out – In accordance with Section 4 of the Illinois Grant Fund Recovery Act [30 ILCS 705/4], all funds, including any interest, remaining at the end of the grant period or at the expiration of the period of time grant funds are available for expenditures or obligation by the Grantee, shall be returned to the Department within 45 days after the end of the relevant period. The Grantee agrees to repay the Department for any funds that are determined by the Department to have been spent in violation of the grant Agreement.~~

~~b) Audits – The Grantee, at its own expense, shall be responsible for securing any compliance audit for a grant award exceeding $300,000. Such audit shall be performed by an independent certified public accountant, licensed by authority of~~

~~the State of Illinois pursuant to the Illinois Public Accounting Act [225 ILCS 450]. The audit shall be conducted in accordance with generally accepted auditing standards contained in the publication entitled AICPA Professional Standards, American Institute of Certified Public Accountants, Harborside Financial Center, 201 Plaza 3, Jersey City NJ 07311 (June 2000, no later editions are incorporated).~~

~~c) Special Audits – The Department reserves the right to conduct special audits, including, but not limited to, an agency-wide audit, at any time during normal working hours of the funds expended under Department grants.~~

~~d) Monitoring and Evaluation – Grantee shall permit any agent authorized by the Department, upon presentation of credentials, in accordance with the constitutional limitation on administrative searches, to have full access to and the right to examine any documents, papers, and records of the Grantee involving transactions related to a grant from the Department.~~

~~Once the Department has concluded its monitoring activities, the grantee will be notified of the Department's findings. If a determination of noncompliance has been made by the Department, the Grantee will be allowed an opportunity to cure any and all noncompliance issues. If any noncompliance issues cannot be resolved, the Department will issue a notice requesting that the Grantee repay any funds that are determined by the Department to have been spent in violation of the Agreement. If the Grantee fails to comply with the Department's notice, the Department shall issue a final notice providing the Grantee the opportunity to request an administrative hearing pursuant to the Department's Administrative Hearing Rules found at 56 Ill. Adm. Code 2605.~~

~~e) Complaint Process – An administrative hearing is initiated by a party serving a Petition for Hearing on the Department, or by the Department serving a Notice of Charges on the Grantee. In either case, the Department and the Grantee shall follow the Administrative Hearing Rules as set forth in 56 Ill. Adm. Code 2605.~~

~~f) Certification – The Grantee shall certify that it has not been barred from contracting with a unit of State or local government as a result of a violation of 720 ILCS 5/33E-3 and 33E-4.~~

(Source: Amended at 38 Ill. Reg. 3577, effective January 23, 2014)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: State Housing Appeals Board

2) Code Citation: 47 Ill. Adm. Code 395

3)

Section Numbers:	Adopted Action:
395.103	Amended
395.202	Amended
395.305	Amended
395.312	Amended
395.316	Amended
395.319	Amended

4) Statutory Authority: Implemented and authorized by Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and Section 60 of the Affordable Housing Planning and Appeal Act [310 ILCS 67/60]

5) Effective Date of Rule: January 21, 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 rulemaking, including any material incorporated by reference, is on file at the Illinois Housing Development Authority, located at 401 N. Michigan Ave., Ste. 700, Chicago, IL 60611, and is available for public inspection.

9) Notice of Proposal published in the Illinois Register: September 13, 2013; 37 Ill Reg 14392

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version:

In Section 395.202(c)1-4, "current or former" was deleted after "a".

In Section 395.202(c)5-6, "a current or former" was deleted and "an" was added before "affordable".

Section 395.312 was amended to replace "where" with "when" in the last sentence.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

Section 395.316 was amended to replace "where" with "when" in the second sentence.

Section 395.319 was amended to replace "such" with "these" in the second sentence.

Section 395.319 was amended to replace "Code of Civil Procedure" with "Administrative Review Law [735 ILCS 5/3-113]" in the last sentence.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace any emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: The rules are established to carry out the State Housing Appeal Board's responsibilities under the Affordable Housing Planning and Appeal Act and to provide direction to local governments and affordable housing developers.

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

Kristi S. Poskus
Deputy General Counsel
Legal Department
Illinois Housing Development Authority
401 N. Michigan Avenue, Suite 700
Chicago, Illinois 60611

17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? [30 ILCS 50/5-25] No.

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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 395
STATE HOUSING APPEALS BOARD

SUBPART A: GENERAL RULES

Section
395.101 Authority
395.102 Purpose and Objectives
395.103 Definitions
395.104 Compliance with Federal and State Law
395.105 Forms and Procedures for the Program
395.106 Fees and Charges
395.107 Amendment
395.108 Severability
395.109 Gender and Number
395.110 Titles and Captions

SUBPART B: ORGANIZATION

Section
395.201 Jurisdiction
395.202 Organization of the Board
395.203 Meetings of the Members
395.204 Conduct of the Board

SUBPART C: APPEALS TO THE BOARD BY
AFFORDABLE HOUSING DEVELOPERS

Section
395.301 Service of Documents
395.302 Computation of Time
395.303 Parties
395.304 Consolidation, Severance and Joinder
395.305 Initial Pleadings by Affordable Housing Developers
395.306 Notice of Appeal
395.307 Dismissal before Hearing

395.308 Reply to the Initial Pleading by Approving Authority
395.309 Prehearing Conferences, Settlement Conferences, Subpoenas and Depositions
395.310 Conduct of Hearings
395.311 Motions
395.312 Postponement or Continuance of Hearing
395.313 Evidence
395.314 Affordable Housing Developer's Burden of Proof
395.315 Standard of Proof
395.316 Decision
395.317 Enforcement
395.318 Motions to Reconsider the Board's Decision
395.319 Appeals of the Board's Decision

SUBPART D: APPEALS OF LOCAL GOVERNMENT EXEMPT STATUS

Section
395.401 Appeals of IHDA's Determination of a Local Government's Exempt Status

AUTHORITY: Authorized by Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and Section 60 of the Affordable Housing Planning and Appeal Act [310 ILCS 67/60].

SOURCE: Adopted at 37 Ill. Reg. 4901, effective March 29, 2013; amended at 38 Ill. Reg. 3596, effective January 21, 2014.

SUBPART A: GENERAL RULES

Section 395.103 Definitions

The following terms used in this Part shall have the following definitions:

"Act": The Affordable Housing Planning and Appeal Act [310 ILCS 67].

"Affordable Housing": Housing that has a value or cost~~sales price~~ or rental amount that is within the means of a household that may occupy Moderate-Income Housing or Low-Income Housing.

In the case of owner-occupied Dwelling Units~~ for sale~~, Affordable Housing means housing in which mortgage, amortization, taxes, insurance

and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a household of the size that may occupy the Dwelling Unit.

In the case of Dwelling Units for rent, Affordable Housing means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the Dwelling Unit.

"Affordable Housing Developer": A nonprofit entity, limited equity cooperative or public agency, or private individual, firm, corporation, or other entity seeking to build an Affordable Housing Development.

"Affordable Housing Development": Any housing that is subsidized by the federal or State government, or any housing in which at least 20% of the Dwelling Units are subject to covenants and restrictions that require the Dwelling Units to be sold or rented at prices that preserve them as Affordable Housing for a period of at least 15 years, in the case of owner-occupied housing ~~for sale~~, and at least 30 years, in the case of rental housing.

"Affordable Housing Plan": The Affordable Housing Plan to be approved by all Non-Exempt Local Governments as set forth in Section 25 of the Act.

"Approving Authority": The governing body of the Local Government.

"Area Median Household Income": The median household income adjusted for family size for applicable income limit areas as determined annually by HUD under Section 8 of the United States Housing Act of 1937 (42 USC 1437).

"Board": The State Housing Appeals Board.

"Chairman": The chairman of the Board.

"Contumacious Conduct": A willful disobedience of the Board's order.

"Days": Calendar days. Due dates under this Part falling on a Saturday, Sunday or a legal State or federal holiday shall be deemed to fall on the next calendar day that is not a Saturday, Sunday or a legal State or federal holiday.

"Development": Any building, construction, renovation or excavation, or any material change in any structure or land, or change in the use of a structure or land, that results in a net increase in the number of Dwelling Units in a structure or on a parcel of land by more than one Dwelling Unit.

"Dwelling Unit": Real property located within the State upon which there is located a structure or structures that are a single family home, a condominium or a multi-unit residential structure that is the principal residence of the Household that resides in the unit.

"Exempt Local Government": Any Local Government in which at least 10% of its total year-round housing units are Affordable Housing, as determined by the Authority pursuant to Section 20 of the Act, or any municipality whose population is less than 1,000.

"Household": The person or persons occupying a Dwelling Unit.

"HUD": The United States Department of Housing and Urban Development.

"IHDA": The Illinois Housing Development Authority.

"IHDA Act": The Illinois Housing Development Act [20 ILCS 3805].

"IHDA Chairman": The chairman of IHDA.

"Initial Pleading": The Initial Pleading submitted by an Affordable Housing Developer as set forth in Section 395.306.

"Local Government": A county or a municipality.

"Low-Income Housing": Housing that is affordable, according to HUD, for either home ownership or rental and that is occupied, reserved or marketed for occupancy by Households with a gross household income that does not exceed 50% of the Area Median Household Income.

"Member": A member of the State Housing Appeals Board.

"Moderate-Income Housing": Housing that is affordable, according to HUD, for either home ownership or rental, and that is occupied, reserved or marketed for

occupancy by Households with a gross household income that is greater than 50%, but does not exceed 80%, of the Area Median Income.

"Non-Appealable Local Government Requirements": All essential requirements that protect the public health and safety, including any local building, electrical, fire or plumbing code requirements or those requirements that are critical to the protection or preservation of the environment. Zoning, density and bulk restrictions may count as Non-Appealable Local Government Requirements if the Board finds that they qualify under the Act's definition of Non-Appealable Local Government Requirements.

"Non-Exempt Local Governments": All Local Governments that are not Exempt Local Governments.

"Notice of Appeal": The Notice of Appeal sent to an Approving Authority by the Board as set forth in Section 395.307.

"Offices of IHDA": 401 North Michigan Avenue, Suite 700, Chicago, Illinois 60611.

"Public Building": *Any building or portion thereof owned or leased by* a *Public Body*. [5 ILCS 120/2.01]

"Public Body": All legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts, and all other municipal corporations, boards, bureaus, committees or commissions of the State, and any subsidiary bodies of any of the foregoing, including, but not limited to, committees and subcommittees supported in whole or in part by tax revenue, or that expend tax revenue, except the General Assembly and committees or commissions of the General Assembly.

"Reply": The Reply sent by the Approving Authority in response to an Initial Pleading.

"State": The State of Illinois.

"Vice-Chairman": The Vice-Chairman of the State Housing Appeals Board.

(Source: Amended at 38 Ill. Reg. 3596, effective January 21, 2014)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

SUBPART B: ORGANIZATION

Section 395.202 Organization of the Board

The duties of the Board are governed by the Act and this Part. The Board shall consist of 7 Members appointed by the Governor.

a) Chairman: A retired Illinois circuit judge or retired Illinois appellate judge who is a Member and who is designated from time to time by the Governor is the chairperson of the Board.

b) Vice Chairman: The Board shall annually elect from its Members a Vice-Chairman. In the absence of the Chairman or in the event of his or her inability or refusal to act, the Vice-Chairman shall perform the duties of the Chairman. In the event of the absence of the Chairman or the Vice-Chairman from a meeting of the Board, or in the event of their inability or refusal to act, the Chairman shall designate some Member to act in his or her place and stead, and that designated Member shall have the powers of and be subject to all the restrictions upon the Chairman.

c) Other Members: Other Members, who are designated from time to time by the Governor, are as follows:

1) a zoning board of appeals member;

2) a planning board/commission member;

3) a mayor or municipal council or board member;

4) a county board member;

5) an affordable housing developer;

6) an affordable housing advocate.

d) Ex Officio Member: The IHDA Chairman, ex officio, shall serve as a non-voting Member.

e) No more than 4 of the appointed Members may be from the same political party. Appointments under subsections (c)(1), (c)(2), and (c)(3) shall be from Non-Exempt Local Governments.

f) Initial terms of 4 Members designated by the Governor shall be for 2 years. Initial terms of 3 Members designated by the Governor shall be for one year. Thereafter, Members shall be appointed for 2 years. After a Member's term expires, the Member shall continue to serve until a successor is appointed. There shall be no limit to the number of terms an appointee may serve.

g) A Member shall receive no compensation for his or her services; however, Members shall be reimbursed by the State for all reasonable travel and administrative expenses actually and necessarily incurred in the performance of their official duties.

h) The Board shall hear all petitions for review filed under the Act and shall conduct hearings in accordance with this Part.

i) The principal office of the Board shall be the Offices of IHDA with office hours that are coterminous with the office hours of IHDA. IHDA shall provide space, clerical assistance and other assistance that the Board may require.

(Source: Amended at 38 Ill. Reg. 3596, effective January 21, 2014)

SUBPART C: APPEALS TO THE BOARD BY
AFFORDABLE HOUSING DEVELOPERS

Section 395.305 Initial Pleadings by Affordable Housing Developers

Affordable Housing Developers must submit written Initial Pleadings to the Board and must serve written Initial Pleadings on the Approving Authority and all other parties within 45 Days after the final action or decision of an Approving Authority to deny an application for an Affordable Housing Development. In the case of Local Governments that are determined by IHDA to be a Non-Exempt Local Government for the first time after August 9, 2013~~2010~~, no Affordable Housing Developer shall appeal to the Board until 60 months after the Local Government has been notified of its non-exempt status. An Initial Pleading may be submitted in paper form or on compact disc. An Initial Pleading shall contain 3 copies of the following:

a) a clear and concise statement of the prior proceedings before all Approving Authorities, including the date of notice of the decision the Affordable Housing Developer is appealing;

b) a clear and concise statement of the Affordable Housing Developer's objections to the Approving Authority's decision, indicating why the Affordable Housing Developer believes the application to develop Affordable Housing was unfairly denied, which may include an appeal of IHDA's determination of the exempt status of the Local Government as set forth in Section 395.401, or what conditions, if any, were imposed that the Affordable Housing Developer believes were unreasonable;

c) a clear and concise statement setting forth the relief sought;

d) the complete name and address of the Affordable Housing Developer for the purpose of service of papers in connection with the appeal;

e) the name and address of the attorney or attorneys representing the Affordable Housing Developer, if any; and

f) a complete copy of the application for the Affordable Housing Development, as it was submitted to the Approving Authority, including sufficient information to determine whether the proposal that is the subject of the appeal is Affordable Housing.

(Source: Amended at 38 Ill. Reg. 3596, effective January 21, 2014)

Section 395.312 Postponement or Continuance of Hearing

Postponement or continuances of hearings shall be granted by order of the Board for good cause shown in writing. Good cause shall be the inability to attend the hearing at the date and time set by the Board for a cause beyond the control of the party, such as the unavoidable absence of a party, his or her attorney or material witness, or the serious illness or death of a witness or party. The Board shall re-set the hearing for a continued case unless the parties request that the Board decide the appeal based on the evidence in the record without a formal hearing. Notwithstanding any continuance, the Board shall issue, whenever possible, a final decision within 120 days after the Initial Pleading is filed. The Board may extend the time by which it will render a decision when circumstances outside the Board's control make it infeasible for the Board to render a decision within 120 days.

(Source: Amended at 38 Ill. Reg. 3596, effective January 21, 2014)

Section 395.316 Decision

a) The Board shall render a written decision within 120 Days after the Initial Pleading is filed. Notwithstanding the foregoing, the Board may extend the time by which it will render a decision when circumstances outside the Board's control make it infeasible for the Board to render a decision within 120 days. The written decision shall state the Board's findings of fact and conclusions of law.

b) The Board shall dismiss the appeal during or after the hearing if, based on all relevant evidence presented, it concludes that:

1) the Local Government was an Exempt Local Government in the year in which the appeal was filed; or

2) the Local Government has adopted an Affordable Housing Plan, has submitted that plan to IHDA within the required time-frame under the Act, and has submitted documentation to IHDA that evidences the Local Government has met its goal to provide Affordable Housing as required by the Act, subject to the written approval of IHDA in its discretion; or

3) the Approving Authority denied the Affordable Housing based upon Non-Appealable Local Government Requirements.

c) In the case of a denial, if the Board finds that the Affordable Housing Developer has met its burden of proof pursuant to Section 395.314(a), the Board shall vacate the decision of the Approving Authority and shall direct the Approving Authority to issue the appropriate permits to the Affordable Housing Developer.

d) In the case of conditions imposed by the Approving Authority, if the Board finds that the Affordable Housing Developer has met its burden of proof pursuant to Section 395.314(b):

1) the Board shall direct the Approving Authority to remove any such condition; or

2) if the Board finds that the conditions are unreasonable but can be modified to reasonably protect the health, safety, environmental design, open space, and other local concerns, the Board shall direct the Approving Authority to so modify the conditions.

(Source: Amended at 38 Ill. Reg. 3596, effective January 21, 2014)

Section 395.319 Appeals of the Board's Decision

The final decision and order of the Board, after all motions to reconsider have been exhausted, may be appealed by the party affected by the decision by bringing an action for review in the appellate court for the district in which the Local Government subject to the appeal is located. The appellate court shall apply the "clearly erroneous" standard when reviewing these appeals. An appeal of a final ruling of the Board shall be filed within 35 days after the Board's decision and in all respects shall be in accordance with Section 3-113 ~~(See, for example, Section 113~~ of the Administrative Review Law [735 ILCS 5/3-113].)

(Source: Amended at 38 Ill. Reg. 3596, effective January 21, 2014)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Primary Drinking Water Standards

2) Code citation: 35 Ill. Adm. Code 611

3)

Section Numbers:	Proposed action:
611.101	Amend
611.102	Amend
611.111	Amend
611.112	Amend
611.232	Amend
611.325	Amend
611.351	Amend
611.355	Amend
611.356	Amend
611.360	Amend
611.381	Amend
611.382	Amend
611.526	Amend
611.528	New
611.531	Amend
611.532	Amend
611.533	Amend
611.611	Amend
611.612	Amend
611.645	Amend
611.720	Amend
611.802	Amend
611.805	Amend
611.883	Amend
611.885	Amend
611.901	Amend
611.902	Amend
611.903	Amend
611.904	Amend
611.1007	Amend
611.1051	New
611.1052	New
611.1053	New
611.1054	New

611.1055	New
611.1056	New
611.1057	New
611.1058	New
611.1059	New
611.1060	New
611.1061	New
611.Appendix A	Amend
611.Appendix G	Amend
611.Appendix H	Amend
611.Table Z	Amend

4) Statutory authority: 415 ILCS 5/7.2, 17, 17.5, and 27

5) Effective date of Rule: January 27, 2014

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

7) Does this rulemaking contain incorporations by reference? Yes

8) Statement of availability: The adopted amendments, a copy of the Board's opinion and order adopted January 23, 2014 in docket R14-8, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.

9) Notice of Proposal published in the Illinois Register: November 22, 2013, 37 Ill. Reg. 18417

10) Has JCAR issued a statement of objection to this rulemaking? No

11) Differences between the Proposal and the Final Version: A table that appears in the Board's opinion and order of January 23, 2014 in docket R14-8 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated November 7, 2013, in docket R14-8. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

The differences are limited to minor corrections and format revisions that are intended to have no substantive effect including many corrections and revisions suggested by JCAR.

The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the November 22, 2013 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of January 23, 2014 in docket R14-8, as indicated in item 11 above. See the January 23, 2014 opinion and order in docket R14-8 for additional details on the JCAR suggestions and the Board actions with regard to each.

13) Will this rulemaking replace any emergency rule currently in effect? No

14) Are there any other rulemakings pending on this Part? Yes. Proposed amendments in the general rulemaking, Amendments to Primary Drinking Water Standards: 35 Ill. Adm. Code 611.490, R14-9 (December 19, 2013), which appeared in the January 10, 2014 issue of the *Illinois Register*, affect the text of Part 611.

Section Numbers:	Proposed Action:	*Illinois Register* Citation:
611.359	Amend	38 Ill. Reg. 693, January 10, 2014
611.381	Amend	38 Ill. Reg. 693, January 10, 2014
611.490	Amend	38 Ill. Reg. 693, January 10, 2014
611.531	Amend	38 Ill. Reg. 693, January 10, 2014
611.611	Amend	38 Ill. Reg. 693, January 10, 2014
611.646	Amend	38 Ill. Reg. 693, January 10, 2014
611.648	Amend	38 Ill. Reg. 693, January 10, 2014
611.971	Amend	38 Ill. Reg. 693, January 10, 2014
611.1005	Amend	38 Ill. Reg. 693, January 10, 2014

15) Summary and purpose of the rulemaking: The following briefly describes the subjects and issues involved in the docket R14-8 rulemaking, which amends 611. A

comprehensive description is contained in the Board's opinion and order of January 23, 2014, adopting amendments in docket R14-8, which opinion and order is available from the address below.

This proceeding updates the Illinois Safe Drinking Water Act (SDWA) rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) that appeared in the Federal Register during a single update period. The docket and time period that is involved in this proceeding is the following:

R14-8 Federal SDWA amendments that occurred during the period January 1, 2013 through June 30, 2013.

The following table briefly summarizes the federal actions in the update period:

February 13, 2013 (78 Fed. Reg. 10270)	USEPA revised the total coliform rule, which USEPA adopted in 1989. *See* 54 Fed. Reg. 27544 (June 29, 1989). The RTCR replaces the former maximum contaminant level (MCL) for total coliforms, fecal coliforms, and *Escherichia coli* (*E. coli*) with the requirement that the supplier assess the problem and take corrective action upon detection of contamination. Ancillary amendments update associated microbiological analytical methods and public notice requirements.
May 31, 2012 (78 Fed. Reg. 32558)	USEPA approved alternative equivalent analytical methods for use in demonstrating compliance with the drinking water standards. USEPA approved 84 equivalent methods for analyzing a variety of physical parameters and inorganic, radiological, and microbiological contaminants.
June 21, 2012 (78 Fed. Reg. 37463)	USEPA corrected errors in the May 31, 2013 summary approval of alternative equivalent methods.

In addition to the federal actions that fall within the timeframe of this R14-8, the Board has updated incorporations by reference to federal regulations and included a limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Tables appear in the Board's opinion and order of January 23, 2014 in docket R14-8 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the January 23, 2014 opinion and order in docket R14-8.

16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R14-8 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-6924

Request copies of the Board's opinion and order of January 23, 2014 at 312-814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at http://www.ipcb.state.il.us.

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 611
PRIMARY DRINKING WATER STANDARDS

SUBPART A: GENERAL

Section
611.100 Purpose, Scope, and Applicability
611.101 Definitions
611.102 Incorporations by Reference
611.103 Severability
611.105 Electronic Reporting
611.107 Agency Inspection of PWS Facilities
611.108 Delegation to Local Government
611.109 Enforcement
611.110 Special Exception Permits
611.111 Relief Equivalent to SDWA Section 1415(a) Variances
611.112 Relief Equivalent to SDWA Section 1416 Exemptions
611.113 Alternative Treatment Techniques
611.114 Siting Requirements
611.115 Source Water Quantity
611.120 Effective Dates
611.121 Maximum Contaminant Levels and Finished Water Quality
611.125 Fluoridation Requirement
611.126 Prohibition on Use of Lead
611.130 Special Requirements for Certain Variances and Adjusted Standards
611.131 Relief Equivalent to SDWA Section 1415(e) Small System Variance
611.160 Composite Correction Program
611.161 Case-by-Case Reduced Subpart Y Monitoring for Wholesale and Consecutive Systems

SUBPART B: FILTRATION AND DISINFECTION

Section
611.201 Requiring a Demonstration
611.202 Procedures for Agency Determinations

611.211 Filtration Required
611.212 Groundwater under Direct Influence of Surface Water
611.213 No Method of HPC Analysis
611.220 General Requirements
611.230 Filtration Effective Dates
611.231 Source Water Quality Conditions
611.232 Site-Specific Conditions
611.233 Treatment Technique Violations
611.240 Disinfection
611.241 Unfiltered PWSs
611.242 Filtered PWSs
611.250 Filtration
611.261 Unfiltered PWSs: Reporting and Recordkeeping
611.262 Filtered PWSs: Reporting and Recordkeeping
611.271 Protection during Repair Work
611.272 Disinfection Following Repair
611.276 Recycle Provisions

SUBPART C: USE OF NON-CENTRALIZED TREATMENT DEVICES

Section
611.280 Point-of-Entry Devices
611.290 Use of Point-of-Use Devices or Bottled Water

SUBPART D: TREATMENT TECHNIQUES

Section
611.295 General Requirements
611.296 Acrylamide and Epichlorohydrin
611.297 Corrosion Control

SUBPART F: MAXIMUM CONTAMINANT LEVELS (MCLs) AND MAXIMUM RESIDUAL DISINFECTANT LEVELS (MRDLs)

Section
611.300 Old MCLs for Inorganic Chemical Contaminants
611.301 Revised MCLs for Inorganic Chemical Contaminants
611.310 State-Only Maximum Contaminant Levels (MCLs) for Organic Chemical Contaminants

611.311 Revised MCLs for Organic Chemical Contaminants
611.312 Maximum Contaminant Levels (MCLs) for Disinfection Byproducts (DBPs)
611.313 Maximum Residual Disinfectant Levels (MRDLs)
611.320 Turbidity (Repealed)
611.325 Microbiological Contaminants
611.330 Maximum Contaminant Levels for Radionuclides
611.331 Beta Particle and Photon Radioactivity (Repealed)

SUBPART G: LEAD AND COPPER

Section
611.350 General Requirements
611.351 Applicability of Corrosion Control
611.352 Corrosion Control Treatment
611.353 Source Water Treatment
611.354 Lead Service Line Replacement
611.355 Public Education and Supplemental Monitoring
611.356 Tap Water Monitoring for Lead and Copper
611.357 Monitoring for Water Quality Parameters
611.358 Monitoring for Lead and Copper in Source Water
611.359 Analytical Methods
611.360 Reporting
611.361 Recordkeeping

SUBPART I: DISINFECTANT RESIDUALS, DISINFECTION BYPRODUCTS, AND DISINFECTION BYPRODUCT PRECURSORS

Section
611.380 General Requirements
611.381 Analytical Requirements
611.382 Monitoring Requirements
611.383 Compliance Requirements
611.384 Reporting and Recordkeeping Requirements
611.385 Treatment Technique for Control of Disinfection Byproduct (DBP) Precursors

SUBPART K: GENERAL MONITORING AND ANALYTICAL REQUIREMENTS

Section
611.480 Alternative Analytical Techniques

611.490 Certified Laboratories
611.491 Laboratory Testing Equipment
611.500 Consecutive PWSs
611.510 Special Monitoring for Unregulated Contaminants (Repealed)

SUBPART L: MICROBIOLOGICAL MONITORING AND ANALYTICAL REQUIREMENTS

Section
611.521 Routine Coliform Monitoring
611.522 Repeat Coliform Monitoring
611.523 Invalidation of Total Coliform Samples
611.524 Sanitary Surveys
611.525 Fecal Coliform and E. Coli Testing
611.526 Analytical Methodology
611.527 Response to Violation
611.528 Transition from Subpart L to Subpart AA Requirements
611.531 Analytical Requirements
611.532 Unfiltered PWSs
611.533 Filtered PWSs

SUBPART M: TURBIDITY MONITORING AND ANALYTICAL REQUIREMENTS

Section
611.560 Turbidity

SUBPART N: INORGANIC MONITORING AND ANALYTICAL REQUIREMENTS

Section
611.591 Violation of a State MCL
611.592 Frequency of State Monitoring
611.600 Applicability
611.601 Monitoring Frequency
611.602 Asbestos Monitoring Frequency
611.603 Inorganic Monitoring Frequency
611.604 Nitrate Monitoring
611.605 Nitrite Monitoring
611.606 Confirmation Samples
611.607 More Frequent Monitoring and Confirmation Sampling

611.608 Additional Optional Monitoring
611.609 Determining Compliance
611.610 Inorganic Monitoring Times
611.611 Inorganic Analysis
611.612 Monitoring Requirements for Old Inorganic MCLs
611.630 Special Monitoring for Sodium
611.631 Special Monitoring for Inorganic Chemicals (Repealed)

SUBPART O: ORGANIC MONITORING AND ANALYTICAL REQUIREMENTS

Section
611.640 Definitions
611.641 Old MCLs
611.645 Analytical Methods for Organic Chemical Contaminants
611.646 Phase I, Phase II, and Phase V Volatile Organic Contaminants
611.647 Sampling for Phase I Volatile Organic Contaminants (Repealed)
611.648 Phase II, Phase IIB, and Phase V Synthetic Organic Contaminants
611.650 Monitoring for 36 Contaminants (Repealed)
611.657 Analytical Methods for 36 Contaminants (Repealed)
611.658 Special Monitoring for Organic Chemicals (Repealed)

SUBPART P: THM MONITORING AND ANALYTICAL REQUIREMENTS

Section
611.680 Sampling, Analytical, and other Requirements (Repealed)
611.683 Reduced Monitoring Frequency (Repealed)
611.684 Averaging (Repealed)
611.685 Analytical Methods
611.686 Modification to System (Repealed)
611.687 Sampling for THM Potential (Repealed)
611.688 Applicability Dates (Repealed)

SUBPART Q: RADIOLOGICAL MONITORING AND ANALYTICAL REQUIREMENTS

Section
611.720 Analytical Methods
611.731 Gross Alpha
611.732 Beta Particle and Photon Radioactivity
611.733 General Monitoring and Compliance Requirements

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART R: ENHANCED FILTRATION AND DISINFECTION: SYSTEMS THAT SERVE 10,000 OR MORE PEOPLE

Section
611.740 General Requirements
611.741 Standards for Avoiding Filtration
611.742 Disinfection Profiling and Benchmarking
611.743 Filtration
611.744 Filtration Sampling Requirements
611.745 Reporting and Recordkeeping Requirements

SUBPART S: GROUNDWATER RULE

Section
611.800 General Requirements and Applicability
611.801 Sanitary Surveys for GWS Suppliers
611.802 Groundwater Source Microbial Monitoring and Analytical Methods
611.803 Treatment Technique Requirements for GWS Suppliers
611.804 Treatment Technique Violations for GWS Suppliers
611.805 Reporting and Recordkeeping for GWS Suppliers

SUBPART T: REPORTING AND RECORDKEEPING

Section
611.830 Applicability
611.831 Monthly Operating Report
611.832 Notice by Agency (Repealed)
611.833 Cross Connection Reporting
611.840 Reporting
611.851 Reporting MCL, MRDL, and other Violations (Repealed)
611.852 Reporting other Violations (Repealed)
611.853 Notice to New Billing Units (Repealed)
611.854 General Content of Public Notice (Repealed)
611.855 Mandatory Health Effects Language (Repealed)
611.856 Fluoride Notice (Repealed)
611.858 Fluoride Secondary Standard (Repealed)
611.860 Record Maintenance
611.870 List of 36 Contaminants (Repealed)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART U: CONSUMER CONFIDENCE REPORTS

Section
611.881 Purpose and Applicability
611.882 Compliance Dates
611.883 Content of the Reports
611.884 Required Additional Health Information
611.885 Report Delivery and Recordkeeping

SUBPART V: PUBLIC NOTIFICATION OF DRINKING WATER VIOLATIONS

Section
611.901 General Public Notification Requirements
611.902 Tier 1 Public Notice: Form, Manner, and Frequency of Notice
611.903 Tier 2 Public Notice: Form, Manner, and Frequency of Notice
611.904 Tier 3 Public Notice: Form, Manner, and Frequency of Notice
611.905 Content of the Public Notice
611.906 Notice to New Billing Units or New Customers
611.907 Special Notice of the Availability of Unregulated Contaminant Monitoring Results
611.908 Special Notice for Exceedence of the Fluoride Secondary Standard
611.909 Special Notice for Nitrate Exceedences above the MCL by a Non-Community Water System
611.910 Notice by the Agency on Behalf of a PWS
611.911 Special Notice for Cryptosporidium

SUBPART W: INITIAL DISTRIBUTION SYSTEM EVALUATIONS

Section
611.920 General Requirements
611.921 Standard Monitoring
611.922 System-Specific Studies
611.923 40/30 Certification
611.924 Very Small System Waivers
611.925 Subpart Y Compliance Monitoring Location Recommendations

SUBPART X: ENHANCED FILTRATION AND DISINFECTION –
SYSTEMS SERVING FEWER THAN 10,000 PEOPLE

Section
611.950 General Requirements
611.951 Finished Water Reservoirs
611.952 Additional Watershed Control Requirements for Unfiltered Systems
611.953 Disinfection Profile
611.954 Disinfection Benchmark
611.955 Combined Filter Effluent Turbidity Limits
611.956 Individual Filter Turbidity Requirements
611.957 Reporting and Recordkeeping Requirements

SUBPART Y: STAGE 2 DISINFECTION BYPRODUCTS REQUIREMENTS

Section
611.970 General Requirements
611.971 Routine Monitoring
611.972 Subpart Y Monitoring Plan
611.973 Reduced Monitoring
611.974 Additional Requirements for Consecutive Systems
611.975 Conditions Requiring Increased Monitoring
611.976 Operational Evaluation Levels
611.977 Requirements for Remaining on Reduced TTHM and HAA5 Monitoring Based on Subpart I Results
611.978 Requirements for Remaining on Increased TTHM and HAA5 Monitoring Based on Subpart I Results
611.979 Reporting and Recordkeeping Requirements

SUBPART Z: ENHANCED TREATMENT FOR CRYPTOSPORIDIUM

Section
611.1000 General Requirements
611.1001 Source Water Monitoring Requirements: Source Water Monitoring
611.1002 Source Water Monitoring Requirements: Sampling Schedules
611.1003 Source Water Monitoring Requirements: Sampling Locations
611.1004 Source Water Monitoring Requirements: Analytical Methods
611.1005 Source Water Monitoring Requirements: Approved Laboratories
611.1006 Source Water Monitoring Requirements: Reporting Source Water Monitoring Results
611.1007 Source Water Monitoring Requirements: Grandfathering Previously Collected Data

611.1008 Disinfection Profiling and Benchmarking Requirements: Requirements When Making a Significant Change in Disinfection Practice
611.1009 Disinfection Profiling and Benchmarking Requirements: Developing the Disinfection Profile and Benchmark
611.1010 Treatment Technique Requirements: Bin Classification for Filtered Systems
611.1011 Treatment Technique Requirements: Filtered System Additional Cryptosporidium Treatment Requirements
611.1012 Treatment Technique Requirements: Unfiltered System Cryptosporidium Treatment Requirements
611.1013 Treatment Technique Requirements: Schedule for Compliance with Cryptosporidium Treatment Requirements
611.1014 Treatment Technique Requirements: Requirements for Uncovered Finished Water Storage Facilities
611.1015 Requirements for Microbial Toolbox Components: Microbial Toolbox Options for Meeting Cryptosporidium Treatment Requirements
611.1016 Requirements for Microbial Toolbox Components: Source Toolbox Components
611.1017 Requirements for Microbial Toolbox Components: Pre-Filtration Treatment Toolbox Components
611.1018 Requirements for Microbial Toolbox Components: Treatment Performance Toolbox Components
611.1019 Requirements for Microbial Toolbox Components: Additional Filtration Toolbox Components
611.1020 Requirements for Microbial Toolbox Components: Inactivation Toolbox Components
611.1021 Reporting and Recordkeeping Requirements: Reporting Requirements
611.1022 Reporting and Recordkeeping Requirements: Recordkeeping Requirements
611.1023 Requirements to Respond to Significant Deficiencies Identified in Sanitary Surveys Performed by USEPA or the Agency

SUBPART AA: REVISED TOTAL COLIFORM RULE

Section
611.1051 General
611.1052 Analytical Methods and Laboratory Certification
611.1053 General Monitoring Requirements for all PWSs
611.1054 Routine Monitoring Requirements for Non-CWSs That Serve 1,000 or Fewer People Using Only Groundwater
611.1055 Routine Monitoring Requirements for CWSs That Serve 1,000 or Fewer People Using Only Groundwater

611.1056 Routine Monitoring Requirements for Subpart B Systems That Serve 1,000 or Fewer People
611.1057 Routine Monitoring Requirements for PWSs That Serve More Than 1,000 People
611.1058 Repeat Monitoring and E. coli Requirements
611.1059 Coliform Treatment Technique Triggers and Assessment Requirements for Protection Against Potential Fecal Contamination
611.1060 Violations
611.1061 Reporting and Recordkeeping

611.APPENDIX A Regulated Contaminants
611.APPENDIX B Percent Inactivation of G. Lamblia Cysts
611.APPENDIX C Common Names of Organic Chemicals
611.APPENDIX D Defined Substrate Method for the Simultaneous Detection of Total Coliforms and Eschericia Coli from Drinking Water
611.APPENDIX E Mandatory Lead Public Education Information for Community Water Systems
611.APPENDIX F Mandatory Lead Public Education Information for Non-Transient Non-Community Water Systems
611.APPENDIX G NPDWR Violations and Situations Requiring Public Notice
611.APPENDIX H Standard Health Effects Language for Public Notification
611.APPENDIX I Acronyms Used in Public Notification Regulation
611.TABLE A Total Coliform Monitoring Frequency
611.TABLE B Fecal or Total Coliform Density Measurements
611.TABLE C Frequency of RDC Measurement
611.TABLE D Number of Lead and Copper Monitoring Sites
611.TABLE E Lead and Copper Monitoring Start Dates
611.TABLE F Number of Water Quality Parameter Sampling Sites
611.TABLE G Summary of Section 611.357 Monitoring Requirements for Water Quality Parameters
611.TABLE H CT Values (mg·min/ℓ) for Cryptosporidium Inactivation by Chlorine Dioxide
611.TABLE I CT Values (mg·min/ℓ) for Cryptosporidium Inactivation by Ozone
611.TABLE J UV Dose Table for Cryptosporidium, Giardia lamblia, and Virus Inactivation Credit
611.TABLE Z Federal Effective Dates

AUTHORITY: Implementing Sections 7.2, 17, and 17.5 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 17, 17.5, and 27].

SOURCE: Adopted in R88-26 at 14 Ill. Reg. 16517, effective September 20, 1990; amended in R90-21 at 14 Ill. Reg. 20448, effective December 11, 1990; amended in R90-13 at 15 Ill. Reg. 1562, effective January 22, 1991; amended in R91-3 at 16 Ill. Reg. 19010, effective December 1, 1992; amended in R92-3 at 17 Ill. Reg. 7796, effective May 18, 1993; amended in R93-1 at 17 Ill. Reg. 12650, effective July 23, 1993; amended in R94-4 at 18 Ill. Reg. 12291, effective July 28, 1994; amended in R94-23 at 19 Ill. Reg. 8613, effective June 20, 1995; amended in R95-17 at 20 Ill. Reg. 14493, effective October 22, 1996; amended in R98-2 at 22 Ill. Reg. 5020, effective March 5, 1998; amended in R99-6 at 23 Ill. Reg. 2756, effective February 17, 1999; amended in R99-12 at 23 Ill. Reg. 10348, effective August 11, 1999; amended in R00-8 at 23 Ill. Reg. 14715, effective December 8, 1999; amended in R00-10 at 24 Ill. Reg. 14226, effective September 11, 2000; amended in R01-7 at 25 Ill. Reg. 1329, effective January 11, 2001; amended in R01-20 at 25 Ill. Reg. 13611, effective October 9, 2001; amended in R02-5 at 26 Ill. Reg. 3522, effective February 22, 2002; amended in R03-4 at 27 Ill. Reg. 1183, effective January 10, 2003; amended in R03-15 at 27 Ill. Reg. 16447, effective October 10, 2003; amended in R04-3 at 28 Ill. Reg. 5269, effective March 10, 2004; amended in R04-13 at 28 Ill. Reg. 12666, effective August 26, 2004; amended in R05-6 at 29 Ill. Reg. 2287, effective January 28, 2005; amended in R06-15 at 30 Ill. Reg. 17004, effective October 13, 2006; amended in R07-2/R07-11 at 31 Ill. Reg. 11757, effective July 27, 2007; amended in R08-7/R08-13 at 33 Ill. Reg. 633, effective December 30, 2008; amended in R10-1/R10-17/R11-6 at 34 Ill. Reg. 19848, effective December 7, 2010; amended in R12-4 at 36 Ill. Reg. 7110, effective April 25, 2012; amended in R13-2 at 37 Ill. Reg. 1978, effective February 4, 2013; amended in R14-8 at 38 Ill. Reg. 3608, effective January 27, 2014.

SUBPART A: GENERAL

Section 611.101 Definitions

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

"Act" means the Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.
BOARD NOTE: The Department of Public Health (Public Health or DPH) regulates non-community water supplies ("non-CWSs," including non-transient, non-community water supplies ("NTNCWSs") and transient non-community water supplies ("transient non-CWSs")). "Agency" will mean Public Health where implementation by Public Health occurs with regard to non-CWS suppliers.

"Approved source of bottled water", for the purposes of Section 611.130(d)(4),

means a source of water and the water therefrom, whether it be from a spring, artesian well, drilled well, municipal water supply, or any other source, that has been inspected and the water sampled, analyzed, and found to be a safe and sanitary quality according to applicable laws and regulations of State and local government agencies having jurisdiction, as evidenced by the presence in the plant of current certificates or notations of approval from each government agency or agencies having jurisdiction over the source, the water it bottles, and the distribution of the water in commerce.
BOARD NOTE: Derived from 40 CFR 142.62(g)(2) and 21 CFR 129.3(a) (2013)~~(2009)~~. The Board cannot compile an exhaustive listing of all federal, State, and local laws to which bottled water and bottling water may be subjected. However, the statutes and regulations of which the Board is aware are the following: the Illinois Food, Drug and Cosmetic Act [410 ILCS 620], the Bottled Water Act [815 ILCS 310], the DPH Water Well Construction Code (77 Ill. Adm. Code 920), the DPH Water Well Pump Installation Code (77 Ill. Adm. Code 925), the federal bottled water quality standards (21 CFR 103.35), the federal drinking water processing and bottling standards (21 CFR 129), the federal Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food (21 CFR 110), the federal Fair Packaging and Labeling Act (15 USC 1451 et seq.), and the federal Fair Packaging and Labeling regulations (21 CFR 201).

"Bag filters" means pressure-driven separation devices that remove particulate matter larger than one micrometer using an engineered porous filtration media. They are typically constructed of a non-rigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to outside.

"Bank filtration" means a water treatment process that uses a well to recover surface water that has naturally infiltrated into groundwater through a river bed or banks. Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other wells.

"Best available technology" or "BAT" means the best technology, treatment techniques, or other means that USEPA has found are available for the contaminant in question. BAT is specified in Subpart F of this Part.

"Bin classification" or "bin" means, for the purposes of Subpart Z of this Part, the appropriate of the four treatment categories (Bin 1, Bin 2, Bin 3, or Bin 4) that is assigned to a filtered system supplier pursuant to Section 611.1010 based on the

results of the source water Cryptosporidium monitoring described in the previous section. This bin classification determines the degree of additional Cryptosporidium treatment, if any, the filtered PWS must provide.
BOARD NOTE: Derived from 40 CFR 141.710 (2013) and the preamble discussion at 71 Fed. Reg. 654, 657 (Jan. 5, 2006).

"Board" means the Illinois Pollution Control Board.

"Cartridge filters" means pressure-driven separation devices that remove particulate matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside.

"CAS No." means "Chemical Abstracts Services Number."

"Clean compliance history" means, for the purposes of Subpart AA, a record of no MCL violations under Section 611.325; no monitoring violations under Subpart L or Subpart AA; and no coliform treatment technique trigger exceedances or treatment technique violations under Subpart AA.

"CT" or "CT_{calc}" is the product of "residual disinfectant concentration" (RDC or C) in mg/ℓ determined before or at the first customer, and the corresponding "disinfectant contact time" (T) in minutes. If a supplier applies disinfectants at more than one point prior to the first customer, it must determine the CT of each disinfectant sequence before or at the first customer to determine the total percent inactivation or "total inactivation ratio." In determining the total inactivation ratio, the supplier must determine the RDC of each disinfection sequence and corresponding contact time before any subsequent disinfection application points. (See "$CT_{99.9}$.")

"$CT_{99.9}$" is the CT value required for 99.9 percent (3-log) inactivation of Giardia lamblia cysts. $CT_{99.9}$ for a variety of disinfectants and conditions appear in Tables 1.1-1.6, 2.1 and 3.1 of Appendix B of this Part. (See "Inactivation Ratio.")
BOARD NOTE: Derived from the definition of "CT" in 40 CFR 141.2 (2013)~~(2010)~~.

"Coagulation" means a process using coagulant chemicals and mixing by which colloidal and suspended materials are destabilized and agglomerated into flocs.

"Combined distribution system" means the interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water.

"Community water system" or "CWS" means a public water system (PWS) that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
BOARD NOTE: This definition differs slightly from that of Section 3.05 of the Act.

"Compliance cycle" means the nine-year calendar year cycle during which public water systems (PWSs) must monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar cycle began January 1, 1993, and ended December 31, 2001; the second began January 1, 2002, and ends December 31, 2010; the third begins January 1, 2011, and ends December 31, 2019.

"Compliance period" means a three-year calendar year period within a compliance cycle. Each compliance cycle has three three-year compliance periods. Within the first compliance cycle, the first compliance period ran from January 1, 1993to December 31, 1995; the second from January 1, 1996 to December 31, 1998; the third from January 1, 1999to December 31, 2001.

"Comprehensive performance evaluation" or "CPE" is a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements.
BOARD NOTE: The final sentence of the definition of "comprehensive performance evaluation" in 40 CFR 141.2 is codified as Section 611.160(a)(2), since it contains substantive elements that are more appropriately codified in a substantive provision.

"Confluent growth" means a continuous bacterial growth covering the entire filtration area of a membrane filter or a portion thereof, in which bacterial colonies are not discrete.

"Consecutive system" means a public water system that receives some or all of its finished water from one or more wholesale systems. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

"Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

"Conventional filtration treatment" means a series of processes including coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

"Diatomaceous earth filtration" means a process resulting in substantial particulate removal in which the following occur:

A precoat cake of diatomaceous earth filter media is deposited on a support membrane (septum); and

While the water is filtered by passing through the cake on the septum, additional filter media known as body feed is continuously added to the feed water to maintain the permeability of the filter cake.

"Direct filtration" means a series of processes including coagulation and filtration but excluding sedimentation resulting in substantial particulate removal.

"Disinfectant" means any oxidant, including but not limited to chlorine, chlorine dioxide, chloramines, and ozone added to water in any part of the treatment or distribution process, that is intended to kill or inactivate pathogenic microorganisms.

"Disinfectant contact time" or "T" means the time in minutes that it takes for water to move from the point of disinfectant application or the previous point of RDC measurement to a point before or at the point where RDC is measured.

Where only one RDC is measured, T is the time in minutes that it takes for water to move from the point of disinfectant application to a point before or at the point where RDC is measured.

Where more than one RDC is measured, T is as follows:

For the first measurement of RDC, the time in minutes that it takes for water to move from the first or only point of disinfectant application to a point before or at the point where the first RDC is measured; and

For subsequent measurements of RDC, the time in minutes that it takes for water to move from the previous RDC measurement point to the RDC measurement point for which the particular T is being calculated.

T in pipelines must be calculated based on "plug flow" by dividing the internal volume of the pipe by the maximum hourly flow rate through that pipe.

T within mixing basins and storage reservoirs must be determined by tracer studies or an equivalent demonstration.

"Disinfection" means a process that inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

"Disinfection byproduct" or "DBP" means a chemical byproduct that forms when disinfectants used for microbial control react with naturally occurring compounds already present in source water. DBPs include, but are not limited to, bromodichloromethane, bromoform, chloroform, dichloroacetic acid, bromate, chlorite, dibromochloromethane, and certain haloacetic acids.

"Disinfection profile" is a summary of daily Giardia lamblia inactivation through the treatment plant. The procedure for developing a disinfection profile is contained in Section 611.742.

"Distribution system" includes all points downstream of an "entry point" to the point of consumer ownership.

"Domestic or other non-distribution system plumbing problem" means a coliform contamination problem in a PWS with more than one service connection that is limited to the specific service connection from which the coliform-positive sample was taken.

"Dose equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission on Radiological Units and Measurements (ICRU).

"Dual sample set" means a set of two samples collected at the same time and same location, with one sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purposes of conducting an IDSE under Subpart W of this Part and determining compliance with the TTHM and HAA5 MCLs under Subpart Y of this Part.

"E. coli" means Escherichia coli, a species of bacteria used as a specific indicator of fecal contamination and potential harmful pathogens.
BOARD NOTE: Derived from the discussion at 78 Fed. Reg. 10270, 10271 (Feb. 13, 2013).

"Enhanced coagulation" means the addition of sufficient coagulant for improved removal of disinfection byproduct (DBP) precursors by conventional filtration treatment.

"Enhanced softening" means the improved removal of disinfection byproduct (DBP) precursors by precipitative softening.

"Entry point" means a point just downstream of the final treatment operation, but upstream of the first user and upstream of any mixing with other water. If raw water is used without treatment, the "entry point" is the raw water source. If a PWS receives treated water from another PWS, the "entry point" is a point just downstream of the other PWS, but upstream of the first user on the receiving PWS, and upstream of any mixing with other water.

"Filter profile" is a graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

"Filtration" means a process for removing particulate matter from water by passage through porous media.

"Finished water" means water that is introduced into the distribution system of a public water system which is intended for distribution and consumption without further treatment, except that treatment which is necessary to maintain water quality in the distribution system (e.g., booster disinfection, addition of corrosion control chemicals, etc.).

"Flocculation" means a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable particles through gentle stirring by hydraulic or mechanical means.

"Flowing stream" means a course of running water flowing in a definite channel.

"40/30 certification" means the certification, submitted by the supplier to the Agency pursuant to Section 611.923, that the supplier had no TTHM or HAA5 monitoring violations, and that no individual sample from its system exceeded 0.040 mg/ℓ TTHM or 0.030 mg/ℓ HAA5 during eight consecutive calendar quarters.
BOARD NOTE: Derived from 40 CFR 141.603(a) (2013)~~(2010)~~.

"GAC10" means granular activated carbon (GAC) filter beds with an empty-bed contact time of 10 minutes based on average daily flow and a carbon reactivation frequency of every 180 days, except that the reactivation frequency for GAC10 that is used as a best available technology for compliance with the MCLs set forth in Subpart Y of this Part pursuant to Section 611.312(b)(2) is 120 days.

"GAC20" means granular activated carbon filter beds with an empty-bed contact time of 20 minutes based on average daily flow and a carbon reactivation frequency of every 240 days.

"GC" means "gas chromatography" or "gas-liquid phase chromatography."

"GC/MS" means gas chromatography (GC) followed by mass spectrometry (MS).

"Gross alpha particle activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

"Gross beta particle activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

"Groundwater system" or "GWS" means a public water supply (PWS) that uses only groundwater sources, including a consecutive system that receives finished groundwater.
BOARD NOTE: Derived from 40 CFR 141.23(b)(2) and 141.24(f)(2) note and 40 CFR 141.400(b) (2013)~~(2010)~~.

"Groundwater under the direct influence of surface water" means any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens, such as Giardia lamblia or Cryptosporidium, or significant and relatively rapid shifts in water characteristics, such as turbidity, temperature, conductivity, or pH, that closely correlate to climatological or surface water conditions. "Groundwater under the direct influence of surface water" is as determined in Section 611.212.

"Haloacetic acids (five)" or "HAA5" means the sum of the concentrations in milligrams per liter (mg/ℓ) of five haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid), rounded to two significant figures after addition.

"Halogen" means one of the chemical elements chlorine, bromine, or iodine.

"HPC" means "heterotrophic plate count," measured as specified in Section 611.531(a)(2)(C)~~611.531(c)~~.

"Hydrogeologic sensitivity assessment," for the purposes of Subpart S of this Part, means a determination of whether a GWS supplier obtains water from a hydrogeologically sensitive setting.
BOARD NOTE: Derived from 40 CFR 141.400(c)(5) (2013)~~(2010)~~.

"Inactivation ratio" or "Ai" means as follows:

$$Ai = CT_{calc}/CT_{99.9}$$

The sum of the inactivation ratios or "total inactivation ratio" (B), is calculated by adding together the inactivation ratio for each disinfection sequence as follows:

$$B = \Sigma(Ai)$$

A total inactivation ratio equal to or greater than 1.0 is assumed to provide a 3-log inactivation of Giardia lamblia cysts.

BOARD NOTE: Derived from the definition of "CT" in 40 CFR 141.2 (2013) ~~(2010)~~.

"Initial compliance period" means the three-year compliance period that begins January 1, 1993, except for the MCLs for dichloromethane, 1,2,4-trichlorobenzene, 1,1,2-trichloroethane, benzo(a)pyrene, dalapon, di(2-ethylhexyl)adipate, di(2-ethylhexyl)phthalate, dinoseb, diquat, endothall, endrin, glyphosate, hexachlorobenzene, hexachlorocyclopentadiene, oxamyl, picloram, simazine, 2,3,7,8-TCDD, antimony, beryllium, cyanide, nickel, and thallium, as they apply to a supplier whose system has fewer than 150 service connections, for which it means the three-year compliance period that began on January 1, 1996.

"Initial distribution system evaluation" or "IDSE" means the evaluation, performed by the supplier pursuant to Section 611.921(c), to determine the locations in a distribution system that are representative of high TTHM and HAA5 concentrations throughout the distribution system. An IDSE is used in conjunction with, but is distinct from, the compliance monitoring undertaken to identify and select monitoring locations used to determine compliance with Subpart I of this Part.
BOARD NOTE: Derived from 40 CFR 141.601(c) (2013)~~(2010)~~.

"Inorganic contaminants" or "IOCs" refers to that group of contaminants designated as such in United States Environmental Protection Agency (USEPA) regulatory discussions and guidance documents. IOCs include antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, mercury, nickel, nitrate, nitrite, selenium, and thallium.
BOARD NOTE: The IOCs are derived from 40 CFR 141.23(a)(4) (2013)~~(2010)~~.

"ℓ" means "liter."

"Lake or reservoir" means a natural or man made basin or hollow on the Earth's surface in which water collects or is stored that may or may not have a current or single direction of flow.

"Legionella" means a genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires Disease.

"Level 1 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. A Level 1 assessment is conducted by the system operator or owner. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a groundwater system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The supplier must conduct the assessment consistent with any Agency-imposed permit conditions that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

"Level 2 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. A Level 2 assessment provides a more detailed examination of the system (including the system's monitoring and operational practices) than does a Level 1 assessment through the use of more comprehensive investigation and review of available information, additional internal and external resources, and other relevant practices. A Level 2 assessment is conducted by a person approved by a SEP granted by the Agency pursuant to Section 611.130, and that person may include the system operator. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a groundwater system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The supplier must conduct the assessment consistent with any Agency-imposed permit conditions that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system. The supplier must comply with any expedited actions or additional actions required by a SEP granted by the Agency pursuant to Section 611.130 in the instance of an E. coli MCL violation.

"Locational running annual average" or "LRAA" means the average of sample analytical results for samples taken at a particular monitoring location during the previous four calendar quarters.

"Man-made beta particle and photon emitters" means all radionuclides emitting beta particles or photons listed in "Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure," NCRP Report Number 22, incorporated by reference in Section 611.102, except the daughter products of thorium-232, uranium-235 and uranium-238.

"Maximum contaminant level" or "MCL" means the maximum permissible level of a contaminant in water that is delivered to any user of a public water system. (See Section 611.121.)

"Maximum contaminant level goal" or "MCLG" means the maximum level of a contaminant in drinking water at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MCLGs are nonenforceable health goals.
BOARD NOTE: The Board has not routinely adopted the regulations relating to the federal MCLGs because they are outside the scope of the Board's identical-in-substance mandate under Section 17.5 of the Act [415 ILCS 5/17.5].

"Maximum residual disinfectant level" or "MRDL" means the maximum permissible level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. MRDLs are enforceable in the same manner as are MCLs. (See Section 611.313 and Section 611.383.)

"Maximum residual disinfectant level goal" or "MRDLG" means the maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants.

"Maximum total trihalomethane potential" or "MTP" means the maximum concentration of total trihalomethanes (TTHMs) produced in a given water

containing a disinfectant residual after seven days at a temperature of 25˚ C or above.

"Membrane filtration" means a pressure or vacuum driven separation process in which particulate matter larger than one micrometer is rejected by an engineered barrier, primarily through a size exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test. This definition includes the common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis.

"MFL" means millions of fibers per liter larger than 10 micrometers.
BOARD NOTE: Derived from 40 CFR 141.23(a)(4)(i) (2013)~~(2010)~~.

"mg" means milligrams (1/1000 of a gram).

"mg/ℓ " means milligrams per liter.

"Mixed system" means a PWS that uses both groundwater and surface water sources.
BOARD NOTE: Derived~~Drawn~~ from 40 CFR 141.23(b)(2) and 141.24(f)(2) note (2013)~~(2010)~~.

"MUG" means 4-methyl-umbelliferyl-beta-d-glucuronide.

"Near the first service connection" means at one of the 20 percent of all service connections in the entire system that are nearest the public water system (PWS) treatment facility, as measured by water transport time within the distribution system.

"nm" means nanometer (1/1,000,000,000 of a meter).

"Non-community water system" or "NCWS" or "non-CWS" means a public water system (PWS) that is not a community water system (CWS). A non-community water system is either a "transient non-community water system (TWS)" or a "non-transient non-community water system (NTNCWS)."

"Non-transient, non-community water system" or "non-transient, non-CWS" or "NTNCWS" means a public water system (PWS) that is not a community water

system (CWS) and that regularly serves at least 25 of the same persons over six months per year.

"NPDWR" means "national primary drinking water regulation."

"NTU" means "nephelometric turbidity units."

"Old MCL" means one of the inorganic maximum contaminant levels (MCLs), codified at Section 611.300, or organic MCLs, codified at Section 611.310, including any marked as "additional State requirements."
BOARD NOTE: Old MCLs are those derived prior to the implementation of the USEPA "Phase II" regulations. The Section 611.640 definition of this term, which applies only to Subpart O of this Part, differs from this definition in that the definition does not include the Section 611.300 inorganic MCLs.

"P-A Coliform Test" means "Presence-Absence Coliform Test."

"Paired sample" means two samples of water for Total Organic Carbon (TOC). One sample is of raw water taken prior to any treatment. The other sample is taken after the point of combined filter effluent and is representative of the treated water. These samples are taken at the same time. (See Section 611.382.)

"Performance evaluation sample" or "PE sample" means a reference sample provided to a laboratory for the purpose of demonstrating that the laboratory can successfully analyze the sample within limits of performance specified by the Agency; or, for bacteriological laboratories, Public Health; or, for radiological laboratories, the Illinois Department of Nuclear Safety. The true value of the concentration of the reference material is unknown to the laboratory at the time of the analysis.

"Person" means an individual, corporation, company, association, partnership, state, unit of local government, or federal agency.

"Phase I" refers to that group of chemical contaminants and the accompanying regulations promulgated by USEPA on July 8, 1987, at 52 Fed. Reg. 25712.

"Phase II" refers to that group of chemical contaminants and the accompanying regulations promulgated by USEPA on January 30, 1991, at 56 Fed. Reg. 3578.

"Phase IIB" refers to that group of chemical contaminants and the accompanying regulations promulgated by USEPA on July 1, 1991, at 56 Fed. Reg. 30266.

"Phase V" refers to that group of chemical contaminants promulgated by USEPA on July 17, 1992, at 57 Fed. Reg. 31776.

"Picocurie" or "pCi" means the quantity of radioactive material producing 2.22 nuclear transformations per minute.

"Plant intake" means the works or structures at the head of a conduit through which water is diverted from a source (e.g., a river or lake) into the treatment plant.

"Point of disinfectant application" is the point at which the disinfectant is applied and downstream of which water is not subject to recontamination by surface water runoff.

"Point-of-entry treatment device" or "POE" is a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building.

"Point-of-use treatment device" or "POU" is a treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap.

"Presedimentation" means a preliminary treatment process used to remove gravel, sand, and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant.

"Public Health" or "DPH" means the Illinois Department of Public Health.
BOARD NOTE: See the definition of"Agency" in this Section.

"Public water system" or "PWS" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. A PWS is either a community water system (CWS) or a non-community water system (non-CWS). A PWS does not include any facility defined as "special irrigation district." Such

term includes the following:

Any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and

Any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system.

BOARD NOTE: Where used in Subpart F of this Part, "public water supply" means the same as "public water system."

"Radioactive contaminants" refers to that group of contaminants designated "radioactive contaminants" in USEPA regulatory discussions and guidance documents. "Radioactive contaminants" include tritium, strontium-89, strontium-90, iodine-131, cesium-134, gross beta emitters, and other nuclides.
BOARD NOTE: Derived from 40 CFR 141.25(c) Table B (2013)~~(2010)~~. These radioactive contaminants must be reported in Consumer Confidence Reports under Subpart U of this Part when they are detected above the levels indicated in Section 611.720(c)(3).

"Reliably and consistently" below a specified level for a contaminant means an Agency determination based on analytical results following the initial detection of a contaminant to determine the qualitative condition of water from an individual sampling point or source. The Agency must base this determination on the consistency of analytical results, the degree below the MCL, the susceptibility of source water to variation, and other vulnerability factors pertinent to the contaminant detected that may influence the quality of water.
BOARD NOTE: Derived from 40 CFR 141.23(b)(9), 141.24(f)(11)(ii), and 141.24(f)(11)(iii) (2013)~~(2010)~~.

"Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem (mrem)" is 1/1000 of a rem.

"Repeat compliance period" means a compliance period that begins after the initial compliance period.

"Representative" means that a sample must reflect the quality of water that is delivered to consumers under conditions when all sources required to supply

water under normal conditions are in use and all treatment is properly operating.

"Residual disinfectant concentration" ("RDC" or "C" in CT calculations) means the concentration of disinfectant measured in mg/ℓ in a representative sample of water. For purposes of the requirement of Section 611.241(d) of maintaining a detectable RDC in the distribution system, "RDC" means a residual of free or combined chlorine.

"Safe Drinking Water Act" or "SDWA" means the Public Health Service Act, as amended by the Safe Drinking Water Act, Pub. L. 93-523, 42 USC 300f et seq.

"Sanitary defect" means a defect that could provide a pathway of entry for microbial contamination into the distribution system or which is indicative of a failure or imminent failure in a barrier to microbial contamination that is already in place.

"Sanitary survey" means an onsite review of the delineated WHPAs (identifying sources of contamination within the WHPAs and evaluations or the hydrogeologic sensitivity of the delineated WHPAs conducted under source water assessments or utilizing other relevant information where available), facilities, equipment, operation, maintenance, and monitoring compliance of a public water system (PWS) to evaluate the adequacy of the system, its sources, and operations for the production and distribution of safe drinking water.
BOARD NOTE: Derived from 40 CFR 141.2 and 40 CFR 142.16(o)(2) (2013)~~(2010)~~.

"Seasonal system" means a non-CWS that is not operated as a PWS on a year-round basis and which starts up and shuts down at the beginning and end of each operating season.

"Sedimentation" means a process for removal of solids before filtration by gravity or separation.

"SEP" means special exception permit (Section 611.110).

"Service connection," as used in the definition of public water system, does not include a connection to a system that delivers water by a constructed conveyance other than a pipe if any of the following is true:

The water is used exclusively for purposes other than residential use (consisting of drinking, bathing, and cooking, or other similar uses);

The Agency determines by issuing a SEP that alternative water for residential use or similar uses for drinking and cooking is provided to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulations; or

The Agency determines by issuing a SEP that the water provided for residential use or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

BOARD NOTE: See sections 1401(4)(B)(i)(II) and (4)(B)(i)(III) of SDWA (42 USC 300f(4)(B)(i)(II) and (4)(B)(i)(III) (2011)~~(2000)~~).

"Significant deficiency" means a deficiency identified by the Agency in a groundwater system pursuant to Section 611.803. A significant deficiency might include, but is not limited to, a defect in system design, operation, or maintenance or a failure or malfunction of the sources, treatment, storage, or distribution system that the Agency determines to be causing or have potential for causing the introduction of contamination into the water delivered to consumers.

BOARD NOTE: Derived from 40 CFR 142.16(o)(2)(iv) (2013)~~(2010)~~. The Agency must submit to USEPA a definition and description of at least one significant deficiency in each of the eight sanitary survey elements listed in Section 611.801(c) as part of the federal primacy requirements. The Board added the general description of what a significant deficiency might include in non-limiting terms, in order to provide this important definition within the body of the Illinois rules. No Agency submission to USEPA can provide definition within the context of Board regulations.

"Slow sand filtration" means a process involving passage of raw water through a bed of sand at low velocity (generally less than 0.4 meters per hour (m/h)) resulting in substantial particulate removal by physical and biological mechanisms.

"SOC" or "Synthetic organic chemical contaminant" refers to that group of contaminants designated as "SOCs," or "synthetic organic chemicals" or "synthetic organic contaminants," in USEPA regulatory discussions and guidance

documents. "SOCs" include alachlor, aldicarb, aldicarb sulfone, aldicarb sulfoxide, atrazine, benzo(a)pyrene, carbofuran, chlordane, dalapon, dibromoethylene (ethylene dibromide or EDB), dibromochloropropane (DBCP), di(2-ethylhexyl)adipate, di(2-ethylhexyl)phthalate, dinoseb, diquat, endothall, endrin, glyphosate, heptachlor, heptachlor epoxide, hexachlorobenzene, hexachlorocyclopentadiene, lindane, methoxychlor, oxamyl, pentachlorophenol, picloram, simazine, toxaphene, polychlorinated biphenyls (PCBs), 2,4-D, 2,3,7,8-TCDD, and 2,4,5-TP.
BOARD NOTE: See the Board note appended to Section 611.311 for information relating to implementation of requirements relating to aldicarb, aldicarb sulfone, and aldicarb sulfoxide.

"Source" means a well, reservoir, or other source of raw water.

"Special irrigation district" means an irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped water system with only incidental residential use or similar use, where the system or the residential users or similar users of the system comply with either of the following exclusion conditions:

The Agency determines by issuing a SEP that alternative water is provided for residential use or similar uses for drinking or cooking to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulations; or

The Agency determines by issuing a SEP that the water provided for residential use or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

BOARD NOTE: Derived from 40 CFR 141.2 (2013)~~(2010)~~ and sections 1401(4)(B)(i)(II) and (4)(B)(i)(III) of SDWA (42 USC 300f(4)(B)(i)(II) and (4)(B)(i)(III) (2011)~~(2006)~~).

"Standard monitoring" means the monitoring, performed by the supplier pursuant to Section 611.921(a) and (b), at various specified locations in a distribution system including near entry points, at points that represent the average residence time in the distribution system, and at points in the distribution system that are

representative of high TTHM and HAA5 concentrations throughout the distribution system.
BOARD NOTE: Derived from 40 CFR 141.601(a) and (b) (2013)~~(2010)~~.

"Standard sample" means the aliquot of finished drinking water that is examined for the presence of coliform bacteria.

"Subpart B system" means a public water system that uses surface water or groundwater under the direct influence of surface water as a source and which is subject to the requirements of Subpart B of this Part and the analytical and monitoring requirements of Sections 611.531, 611.532, 611.533, Appendix B of this Part, and Appendix C of this Part.

"Subpart I compliance monitoring" means monitoring required to demonstrate compliance with disinfectant residuals, disinfection byproducts, and disinfection byproduct precursors requirements of Subpart I of this Part.

"Subpart I system" means a public water system that uses surface water or groundwater as a source and which is subject to the disinfectant residuals, disinfection byproducts, and disinfection byproduct precursors requirements of Subpart I of this Part.

"Subpart Y compliance monitoring" means monitoring required to demonstrate compliance with Stage 2 disinfection byproducts requirements of Subpart Y of this Part.

"Supplier of water" or "supplier" means any person who owns or operates a public water system (PWS). This term includes the "official custodian."

"Surface water" means all water that is open to the atmosphere and subject to surface runoff.

"SUVA" means specific ultraviolet absorption at 254 nanometers (nm), which is an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wavelength of 254 nm (UV_{254}) (in m^{-1}) by its concentration of dissolved organic carbon (in mg/ℓ).

"SWS" means "surface water system," a public water supply (PWS) that uses only surface water sources, including "groundwater under the direct influence of

surface water."
BOARD NOTE: Derived from 40 CFR 141.23(b)(2) and 141.24(f)(2) note (2013)~~(2010)~~.

"System-specific study plan" means the plan, submitted by the supplier to the Agency pursuant to Section 611.922, for studying the occurrence of TTHM and HAA5 in a supplier's distribution system based on either monitoring results or modelling of the system.
BOARD NOTE: Derived from 40 CFR 141.602 (2013)~~(2010)~~.

"System with a single service connection" means a system that supplies drinking water to consumers via a single service line.

"Too numerous to count" means that the total number of bacterial colonies exceeds 200 on a 47-mm diameter membrane filter used for coliform detection.

"Total organic carbon" or "TOC" means total organic carbon (in mg/ℓ) measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two significant figures.

"Total trihalomethanes" or "TTHM" means the sum of the concentration of trihalomethanes (THMs), in milligrams per liter (mg/ℓ), rounded to two significant figures.
BOARD NOTE: See the definition of " trihalomethanes" for a listing of the four compounds that USEPA considers TTHMs to comprise.

"Transient, non-community water system" or "transient non-CWS" means a non-CWS that does not regularly serve at least 25 of the same persons over six months of the year.
BOARD NOTE: The federal regulations apply to all "public water systems," which are defined as all systems that have at least 15 service connections or which regularly serve water to at least 25 persons. (See 42 USC 300f(4).) The Act mandates that the Board and the Agency regulate "public water supplies," which it defines as having at least 15 service connections or regularly serving 25 persons daily at least 60 days per year. (See Section 3.28 of the Act [415 ILCS 5/3.28].) The Department of Public Health regulates transient, non-community water systems.

"Treatment" means any process that changes the physical, chemical, microbiological, or radiological properties of water, is under the control of the supplier, and is not a point-of-use treatment device or a point-of-entry treatment device as defined in this Section. Treatment includes, but is not limited to, aeration, coagulation, sedimentation, filtration, activated carbon treatment, disinfection, and fluoridation.

"Trihalomethane" or "THM" means one of the family of organic compounds, named as derivatives of methane, in which three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure. The THMs are the following compounds:

Trichloromethane (chloroform),
Dibromochloromethane,
Bromodichloromethane, and
Tribromomethane (bromoform)

"Two-stage lime softening" means a process in which chemical addition and hardness precipitation occur in each of two distinct unit clarification processes in series prior to filtration.

"µg" means micrograms (1/1,000,000 of a gram).

"USEPA" means the U.S. Environmental Protection Agency.

"Uncovered finished water storage facility" is a tank, reservoir, or other facility that is used to store water which will undergo no further treatment to reduce microbial pathogens except residual disinfection and which is directly open to the atmosphere.

"Very small system waiver" means the conditional waiver from the requirements of Subpart W of this Part applicable to a supplier that serves fewer than 500 persons and which has taken TTHM and HAA5 samples pursuant to Subpart I of this Part.
BOARD NOTE: Derived from 40 CFR 141.604 (2013)~~(2010)~~.

"Virus" means a virus of fecal origin that is infectious to humans by waterborne transmission.

"VOC" or "volatile organic chemical contaminant" refers to that group of contaminants designated as "VOCs," "volatile organic chemicals," or "volatile organic contaminants," in USEPA regulatory discussions and guidance documents. "VOCs" include benzene, dichloromethane, tetrachloromethane (carbon tetrachloride), trichloroethylene, vinyl chloride, 1,1,1-trichloroethane (methyl chloroform), 1,1-dichloroethylene, 1,2-dichloroethane, cis-1,2-dichloroethylene, ethylbenzene, monochlorobenzene, o-dichlorobenzene, styrene, 1,2,4-trichlorobenzene, 1,1,2-trichloroethane, tetrachloroethylene, toluene, trans-1,2-dichloroethylene, xylene, and 1,2-dichloropropane.

"Waterborne disease outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a public water system (PWS) that is deficient in treatment, as determined by the appropriate local or State agency.

"Wellhead protection area" or "WHPA" means the surface and subsurface recharge area surrounding a community water supply well or well field, delineated outside of any applicable setback zones (pursuant to Section 17.1 of the Act [415 ILCS 5/17.1]) pursuant to Illinois' Wellhead Protection Program, through which contaminants are reasonably likely to move toward such well or well field.
BOARD NOTE: The Agency uses two guidance documents for identification of WHPAs:

> "Guidance Document for Groundwater Protection Needs Assessments," Illinois Environmental Protection Agency, Illinois State Water Survey, and Illinois State Geologic Survey joint report, January 1995; and
>
> "The Illinois Wellhead Protection Program Pursuant to Section 1428 of the Federal Safe Drinking Water Act," Illinois Environmental Protection Agency, No. 22480, October 1992.

"Wellhead protection program" means the wellhead protection program for the State of Illinois, approved by USEPA under Section 1428 of the SDWA, 42 USC 300h-7.
BOARD NOTE: Derived from 40 CFR 141.71(b) (2013)~~(2010)~~. The wellhead protection program includes the "groundwater protection needs assessment" under Section 17.1 of the Act [415 ILCS 5/17.1] and 35 Ill. Adm. Code 615-617.

"Wholesale system" means a public water system that treats source water as necessary to produce finished water, which then delivers some or all of that finished water to another public water system. Delivery by a wholesale system may be through a direct connection or through the distribution system of one or more consecutive systems.

BOARD NOTE: Derived from 40 CFR 141.2 (2013)~~(2010)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.102 Incorporations by Reference

a) Abbreviations and short-name listing of references. The following names and abbreviated names, presented in alphabetical order, are used in this Part to refer to materials incorporated by reference:

"AMI Turbiwell Method" means "Continuous Measurement of Turbidity Using a SWAN AMI Turbiwell Turbidimeter," available from NEMI or from SWAN Analytische Instrumente AG.

"ASTM Method" means a method published by and available from the American Society for Testing and Materials (ASTM).

"Charm Fast Phage" means "Fast Phage Test Procedure. Presence/Absence for Coliphage in Ground Water with Same Day Positive Prediction," version 009 (Nov. 2012), available from Charm Sciences, Inc.

"Colisure Test" means "Colisure Presence/Absence Test for Detection and Identification of Coliform Bacteria and Escherichia Coli in Drinking Water," available from IDEXX Laboratories, Inc~~Millipore Corporation, Technical Services Department~~.

"Colitag® Test" means "Colitag® Product as a Test for Detection and Identification of Coliforms and E. coli Bacteria in Drinking Water and Source Water as Required in National Primary Drinking Water Regulations," available from CPI International.

"Chromocult® Method" means "Chromocult® Coliform Agar Presence/Absence Membrane Filter Test Method for Detection and

Identification of Coliform Bacteria and Escherichia coli in Finished Waters," available from EMD Millipore~~Chemicals Inc~~.

"Determination of Inorganic Oxyhalide" means "Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography with the Addition of a Postcolumn Reagent for Trace Bromate Analysis," available from NTIS.

"Dioxin and Furan Method 1613" means "Tetra- through Octa-Chlorinated Dioxins and Furans by Isotope-Dilution HRGC/HRMS," available from NTIS.

"E*Colite Test" means "Charm E*Colite Presence/Absence Test for Detection and Identification of Coliform Bacteria and Escherichia coli in Drinking Water," available from Charm Sciences, Inc. and USEPA, Water Resource Center.

"EC-MUG" means "Method 9221 F: Multiple-Tube Fermentation Technique for Members of the Coliform Group, Escherichia coli Procedure (Proposed)," available from American Public Health Association and American Waterworks Association.

"EML Procedures Manual" means "EML Procedures Manual, HASL 300," available from USDOE, EML.

"Enterolert" means "Evaluation of Enterolert for Enumeration of Enterococci in Recreational Waters," available from American Society for Microbiology.

"Georgia Radium Method" means "The Determination of Radium-226 and Radium-228 in Drinking Water by Gamma-ray Spectrometry Using HPGE or Ge(Li) Detectors," Revision 1.2, December 2004, available from the Georgia Tech Research Institute.

"GLI Method 2" means GLI Method 2, "Turbidity," Nov. 2, 1992, available from Great Lakes Instruments, Inc.

"Guidance Manual for Filtration and Disinfection" means "Guidance Manual for Compliance with the Filtration and Disinfection Requirements

for Public Water Systems using Surface Water Sources," March 1991, available from USEPA, NSCEP.

"Hach FilterTrak Method 10133" means "Determination of Turbidity by Laser Nephelometry," available from Hach Co.

"Hach SPDANS 2 Method 10225" means "Hach Company SPADNS 2 (Arsenic-free) Fluoride Method 10225 − Spectrophotometric Measurement of Fluoride in Water and Wastewater," available from the Hach Co.

"Hach TNTplus 835/836 Method 10206" means "Hach Company TNTplus 835/836 Nitrate Method 10206 − Spectrophotometric Measurement of Nitrate in Water and Wastewater," available from the Hach Co.

"ITS Method D99-003" means Method D99-003, Revision 3.0, "Free Chlorine Species ($HOCl^-$ and OCl^-) by Test Strip," available from Industrial Test Systems, Inc.

"Kelada 01" means "Kelada Automated Test Methods for Total Cyanide, Acid Dissociable Cyanide, And Thiocyanate," Revision 1.2, available from NTIS.

"m-ColiBlue24 Test" means "Total Coliforms and E. coli Membrane Filtration Method with m-ColiBlue24® Broth," available from USEPA, Water Resource Center and Hach Company.

"Method ME355.01" means "Determination of Cyanide in Drinking Water by GC/MS Headspace Analysis," available from NEMI or from H&E Testing Laboratory.

"Mitchell Method M5271" means "Determination of Turbidity by Laser Nephelometry," available from NEMI and Leck Mitchell, PhD.

"Mitchell Method M5331" means "Determination of Turbidity by LED Nephelometry," available from NEMI and Leck Mitchell, PhD.

"Modified Colitag™ Method" means "Modified Colitag™ Test Method for Simultaneous Detection of E. coli and other Total Coliforms in Water," available from NEMI and CPI International.

"NA-MUG" means "Method 9222 G: Membrane Filter Technique for Members of the Coliform Group, MF Partition Procedures," available from American Public Health Association and American Waterworks Association.

"NCRP Report Number 22" means "Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure," available from NCRP.

"New Jersey Radium Method" means "Determination of Radium 228 in Drinking Water," available from the New Jersey Department of Environmental Protection.

"New York Radium Method" means "Determination of Ra-226 and Ra-228 (Ra-02)," available from the New York Department of Public Health.

"OI Analytical Method OIA-1677" means "Method OIA-1677, DW Available Cyanide by Flow Injection, Ligand Exchange, and Amperometry," available from ALPKEM, Division of OI Analytical.

"ONPG-MUG Test" (meaning "minimal medium ortho-nitrophenyl-beta-d-galactopyranoside-4-methyl-umbelliferyl -beta-d-glucuronide test"), also called the "Autoanalysis Colilert System," is Method 9223, available in "Standard Methods for the Examination of Water and Wastewater," 18th, 19th, 20th, or 21st ed., from American Public Health Association and the American Water Works Association.

"Orion Method AQ4500" means "Determination of Turbidity by LED Nephelometry," available from Thermo Scientific.

"Palintest ChloroSense" means "Measurement of Free and Total Chlorine in Drinking Water by Palintest ChloroSense," available from NEMI or Palintest Ltd.

"Palintest Method 1001" means "Lead in Drinking Water by Differential

Pulse Anodic Stripping Voltammetry', Method Number 1001," available from Palintest, Ltd. or the Hach Company.

"QuikChem Method 10-204-00-1-X" means "Digestion and distillation of total cyanide in drinking and wastewaters using MICRO DIST and determination of cyanide by flow injection analysis," available from Lachat Instruments.

"Readycult® 2000" means "Readycult Coliforms 100 Presence/Absence Test for Detection and Identification of Coliform Bacteria and Escherichia coli in Finished Waters," v. 1.0, available from EMD Millipore~~Chemicals Inc~~.

"Readycult® 2007" means "Readycult® Coliforms 100 Presence/Absence Test for Detection and Identification of Coliform Bacteria and Escherichia coli in Finished Waters," v. 1.1, available from EMD Millipore~~Chemicals Inc~~.

"SimPlate Method" means "IDEXX SimPlate TM HPC Test Method for Heterotrophs in Water," available from IDEXX Laboratories, Inc.

"Standard Methods" means "Standard Methods for the Examination of Water and Wastewater," available from the American Public Health Association or the American Waterworks Association.

"Standard Methods Online" means the website maintained by the Standard Methods Organization (at www.standardmethods.org) for purchase of the latest versions of methods in an electronic format.

"Syngenta AG-625" means "Atrazine in Drinking Water by Immunoassay," February 2001 is available from Syngenta Crop Protection, Inc.

"Systea Easy (1-Reagent)" means "Systea Easy (1-Reagent) Nitrate Method," available from NEMI or Systea Scientific LLC.

"Technical Bulletin 601" means "Technical Bulletin 601, Standard Method of Testing for Nitrate in Drinking Water," July 1994, available from Thermo Scientific~~Analytical Technology, Inc~~.

"Technicon Methods" means "Fluoride in Water and Wastewater," available from Bran & Luebbe.

"USEPA Asbestos Method 100.1" means Method 100.1, "Analytical Method for Determination of Asbestos Fibers in Water," September 1983, available from NTIS.

"USEPA Asbestos Method 100.2" means Method 100.2, "Determination of Asbestos Structures over 10-mm in Length in Drinking Water," June 1994, available from NTIS.

"USEPA Environmental Inorganic Methods" means "Methods for the Determination of Inorganic Substances in Environmental Samples," August 1993, available from NTIS.

"USEPA Environmental Metals Methods" means "Methods for the Determination of Metals in Environmental Samples," available from NTIS.

"USEPA Inorganic Methods" means "Methods for Chemical Analysis of Water and Wastes," March 1983, available from NTIS.

"USEPA Interim Radiochemical Methods" means "Interim Radiochemical Methodology for Drinking Water," EPA 600/4-75/008 (revised), March 1976. Available from NTIS.

"USEPA Method 1600" means "Method 1600: Enterococci in Water by Membrane Filtration Using Membrane-Enterococcus Indoxyl-b-D-Glucoside Agar (mEI)," available from USEPA, Water Resource Center.

"USEPA Method 1601" means "Method 1601: Male-specific (F^+) and Somatic Coliphage in Water by Two-step Enrichment Procedure," available from USEPA, Water Resource Center.

"USEPA Method 1602" means "Method 1602: Male-specific (F^+) and Somatic Coliphage in Water by Single Agar Layer (SAL) Procedure," available from USEPA, Water Resource Center.

"USEPA Method 1604" means "Method 1604: Total Coliforms and Escherichia coli in Water by Membrane Filtration Using a Simultaneous Detection Technique (MI Medium)," available from USEPA, Water Resource Center.

"USEPA NERL Method 200.5 (rev. 4.2)" means Method 200.5, Revision 4.2, "Determination of Trace Elements in Drinking Water by Axially Viewed Inductively Coupled Plasma − Atomic Emission Spectrometry," October 2003, EPA 600/R-06/115. Available from USEPA, Office of Research and Development.

"USEPA NERL Method 415.3 (rev. 1.1)" means Method 415.3, Revision 1.1, "Determination of Total Organic Carbon and Specific UV Absorbance at 254 nm in Source Water and Drinking Water," USEPA, February 2005, EPA 600/R-05/055. Available from USEPA, Office of Research and Development.

"USEPA NERL Method 415.3 (rev. 1.2)" means Method 415.3, Revision 1.2, "Determination of Total Organic Carbon and Specific UV Absorbance at 254 nm in Source Water and Drinking Water," USEPA, September 2009~~August 2009~~, EPA 600/R-09/122. Available from USEPA, Office of Research and Development.

"USEPA NERL Method 549.2" means Method 549.2, Revision 1.0, "Determination of Diquat and Paraquat in Drinking Water by Liquid-Solid Extraction and High Performance Liquid Chromatography with Ultraviolet Detection," June 1997. Available from USEPA, Office of Research and Development.

"USEPA OGWDW Methods" means the methods listed as available from the USEPA, Office of Ground Water and Drinking Water (Methods 302.0, 317.0 (rev. 2.0), 326.0 (rev. 1.0), 327.0 (rev. 1.1), 334.0, 515.4 (rev. 1.0), 524.3 (rev. 1.0), 524.4, 531.2 (rev. 1.0), 536 (rev. 1.0) 552.3 (rev. 1.0), 557, 1622 (99), 1622 (01), 1622 (05), 1623 (99), 1623 (01), ~~and~~ 1623 (05)), and 1623.1. Available from NTIS; USEPA, NSCEP; or USEPA, OGWDW.

"USEPA Organic Methods" means "Methods for the Determination of Organic Compounds in Drinking Water," December 1988 (revised July

1991) (Methods 508A (rev. 1.0) and 515.1 (rev. 4.0)); "Methods for the Determination of Organic Compounds in Drinking Water − Supplement I," July 1990 (Methods 547, 550, and 550.1); "Methods for the Determination of Organic Compounds in Drinking Water − Supplement II," August 1992 (Methods 548.1 (rev. 1.0), 552.1 (rev. 1.0), and 555 (rev. 1.0)); and "Methods for the Determination of Organic Compounds in Drinking Water − Supplement III," August 1995 (Methods 502.2 (rev. 2.1), 504.1 (rev. 1.1), 505 (rev. 2.1), 506 (rev. 1.1), 507 (rev. 2.1), 508 (rev. 3.1), 508.1 (rev. 2.0), 515.2 (rev. 1.1), 524.2 (rev. 4.1), 525.2 (rev. 2.0), 531.1 (rev. 3.1), 551.1 (rev. 1.0), and 552.2 (rev. 1.0)). Available from NTIS; USEPA, NSCEP; or USEPA, EMSL.

"USEPA Organic and Inorganic Methods" means "Methods for the Determination of Organic and Inorganic Compounds in Drinking Water, Volume 1," EPA 815/R-00/014, PB2000-106981, August 2000. Available from NTIS.

"USEPA Radioactivity Methods" means "Prescribed Procedures for Measurement of Radioactivity in Drinking Water," EPA 600/4-80/032, August 1980. Available from NTIS.

"USEPA Radiochemical Analyses" means "Radiochemical Analytical Procedures for Analysis of Environmental Samples," March 1979. Available from NTIS.

"USEPA Radiochemistry Procedures" means "Radiochemistry Procedures Manual," EPA 520/5-84/006, December 1987. Available from NTIS.

"USEPA Technical Notes" means "Technical Notes on Drinking Water Methods," available from NTIS and USEPA, NSCEP.

"USGS Methods" means "Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory − Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments," available from NTIS and USGS.

"Waters Method B-1011" means "Waters Test Method for the Determination of Nitrite/Nitrate in Water Using Single Column Ion Chromatography," available from Waters Corporation, Technical Services

Division.

b) The Board incorporates the following publications by reference:

ALPKEM, Division of OI Analytical, P.O. Box 9010, College Station, TX 77842-9010, telephone: 979-690-1711, Internet: www.oico.com.

"Method OIA-1677 DW, Available Cyanide by Flow Injection, Ligand Exchange, and Amperometry," EPA 821/R-04/001, January 2004 (referred to as "OI Analytical Method OIA-1677"), referenced in Section 611.611.
BOARD NOTE: Also available online for download from www.epa.gov/waterscience/methods/method/cyanide/1677-2004.pdf.

APHA. American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005 202-777-2742.

"Standard Methods for the Examination of Water and Wastewater," 16th Edition, 1985 (referred to as "Standard Methods, 16th ed."). See the methods listed separately for the same references under American Waterworks Association.

"Standard Methods for the Examination of Water and Wastewater," 17th Edition, 1989 (referred to as "Standard Methods, 17th ed."). See the methods listed separately for the same references under American Waterworks Association.

"Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, including "Supplement to the 18th Edition of Standard Methods for the Examination of Water and Wastewater," 1994 (collectively referred to as "Standard Methods, 18th ed."). See the methods listed separately for the same references under American Waterworks Association.

"Standard Methods for the Examination of Water and Wastewater," 19th Edition, 1995 (referred to as "Standard Methods, 19th ed."). See the methods listed separately for the same references under American Waterworks Association.

"Standard Methods for the Examination of Water and Wastewater," 20th Edition, 1998 (referred to as "Standard Methods, 20th ed."). See the methods listed separately for the same references under American Waterworks Association.

"Standard Methods for the Examination of Water and Wastewater," 21st Edition, 2005 (referred to as "Standard Methods, 21st ed."). See the methods listed separately for the same references under American Waterworks Association.

American Society for Microbiology, 1752 N Street N.W., Washington, DC 20036, 202-737-3600:

"Evaluation of Enterolert for Enumeration of Enterococci in Recreational Waters," Applied and Environmental Microbiology, Oct. 1996, vol. 62, no. 10, p. 3881 (referred to as "Enterolert"), referenced in Section 611.802.

BOARD NOTE: At the table to 40 CFR 141.402(c)(2), USEPA approved the method as described in the above literature review. The method itself is embodied in the printed instructions to the proprietary kit available from IDEXX Laboratories, Inc. (accessible on-line and available by download from www.asm.org, as "Enterolert™ Procedure"). ASTM approved the method as "Standard Test Method for Enterococci in Water Using Enterolert™," which is available in two versions from ASTM: ASTM Method D6503-99 (superceded) and ASTM Method D6503-99. While it is more conventional to incorporate the method as presented in the kit instructions or as approved by ASTM by reference, the Board is constrained to incorporate the version that appears in the technical literature by reference, which is the version that USEPA has explicitly approved.

AWWA. American Water Works Association et al., 6666 West Quincy Ave., Denver, CO 80235 (303-794-7711).

"National Field Evaluation of a Defined Substrate Method for the Simultaneous Enumeration of Total Coliforms and Escherichia coli

for Drinking Water: Comparison with the Standard Multiple Tube Fermentation Method," S.C. Edberg, M.J. Allen & D.B. Smith, Applied Environmental Microbiology, vol. 54, iss. 6, pp 1595-1601 (1988), referenced in Appendix D to this Part.

"Standard Methods for the Examination of Water and Wastewater," 13th Edition, 1971 (referred to as "Standard Methods, 13th ed.").

Method 302, Gross Alpha and Gross Beta Radioactivity in Water (Total, Suspended, and Dissolved), referenced in Section 611.720.

Method 303, Total Radioactive Strontium and Strontium 90 in Water, referenced in Section 611.720.

Method 304, Radium in Water by Precipitation, referenced in Section 611.720.

Method 305, Radium 226 by Radon in Water (Soluble, Suspended, and Total), referenced in Section 611.720.

Method 306, Tritium in Water, referenced in Section 611.720.

"Standard Methods for the Examination of Water and Wastewater," 16th Edition, 1985 (referred to as "Standard Methods, 16th ed.").

Method 907A, Heterotrophic Plate Count, Pour Plate Method, referenced in Section 611.213.

"Standard Methods for the Examination of Water and Wastewater," 17th Edition, 1989 (referred to as "Standard Methods, 17th ed.").

Method 7110 B, Gross Alpha and Gross Beta Radioactivity in Water (Total, Suspended, and Dissolved), referenced in Section 611.720.

Method 7500-Cs B, Radioactive Cesium, Precipitation Method, referenced in Section 611.720.

Method 7500-^{3}H B, Tritium in Water, referenced in Section 611.720.

Method 7500-I B, Radioactive Iodine, Precipitation Method, referenced in Section 611.720.

Method 7500-I C, Radioactive Iodine, Ion-Exchange Method, referenced in Section 611.720.

Method 7500-I D, Radioactive Iodine, Distillation Method, referenced in Section 611.720.

Method 7500-Ra B, Radium in Water by Precipitation, referenced in Section 611.720.

Method 7500-Ra C, Radium 226 by Radon in Water (Soluble, Suspended, and Total), referenced in Section 611.720.

Method 7500-Ra D, Radium, Sequential Precipitation Method (Proposed), referenced in Section 611.720.

Method 7500-Sr B, Total Radioactive Strontium and Strontium 90 in Water, referenced in Section 611.720.

Method 7500-U B, Uranium, Radiochemical Method (Proposed), referenced in Section 611.720.

Method 7500-U C, Uranium, Isotopic Method (Proposed), referenced in Section 611.720.

"Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992 (referred to as "Standard Methods, 18th ed.").

Method 2130 B, Turbidity, Nephelometric Method, referenced in Section 611.531.

Method 2320 B, Alkalinity, Titration Method, referenced in Section 611.611.

Method 2510 B, Conductivity, Laboratory Method, referenced in Section 611.611.

Method 2550, Temperature, Laboratory and Field Methods, referenced in Section 611.611.

Method 3111 B, Metals by Flame Atomic Absorption Spectrometry, Direct Air-Acetylene Flame Method, referenced in Sections 611.611 and 611.612.

Method 3111 D, Metals by Flame Atomic Absorption Spectrometry, Direct Nitrous Oxide-Acetylene Flame Method, referenced in Section 611.611.

Method 3112 B, Metals by Cold-Vapor Atomic Absorption Spectrometry, Cold-Vapor Atomic Absorption Spectrometric Method, referenced in Section 611.611.

Method 3113 B, Metals by Electrothermal Atomic Absorption Spectrometry, Electrothermal Atomic Absorption Spectrometric Method, referenced in Sections 611.611 and 611.612.

Method 3114 B, Metals by Hydride Generation/Atomic Absorption Spectrometry, Manual Hydride Generation/Atomic Absorption Spectrometric Method, referenced in Section 611.611.

Method 3120 B, Metals by Plasma Emission Spectroscopy, Inductively Coupled Plasma (ICP) Method, referenced in Sections 611.611 and 611.612.

Method 3500-Ca D, Calcium, EDTA Titrimetric Method,

referenced in Section 611.611.

Method 3500-Mg E, Magnesium, Calculation Method, referenced in Section 611.611.

Method 4110 B, Determination of Anions by Ion Chromatography, Ion Chromatography with Chemical Suppression of Eluent Conductivity, referenced in Section 611.611.

Method 4500-CN^- C, Cyanide, Total Cyanide after Distillation, referenced in Section 611.611.

Method 4500-CN^- E, Cyanide, Colorimetric Method, referenced in Section 611.611.

Method 4500-CN^- F, Cyanide, Cyanide-Selective Electrode Method, referenced in Section 611.611.

Method 4500-CN^- G, Cyanide, Cyanides Amenable to Chlorination after Distillation, referenced in Section 611.611.

Method 4500-Cl D, Chlorine, Amperometric Titration Method, referenced in Section 611.531.

Method 4500-Cl E, Chlorine, Low-Level Amperometric Titration Method, referenced in Section 611.531.

Method 4500-Cl F, Chlorine, DPD Ferrous Titrimetric Method, referenced in Section 611.531.

Method 4500-Cl G, Chlorine, DPD Colorimetric Method, referenced in Section 611.531.

Method 4500-Cl H, Chlorine, Syringaldazine (FACTS) Method, referenced in Section 611.531.

Method 4500-Cl I, Chlorine, Iodometric Electrode Method,

referenced in Section 611.531.

Method 4500-ClO_2 C, Chlorine Dioxide, Amperometric Method I, referenced in Section 611.531.

Method 4500-ClO_2 D, Chlorine Dioxide, DPD Method, referenced in Section 611.531.

Method 4500-ClO_2 E, Chlorine Dioxide, Amperometric Method II (Proposed), referenced in Section 611.531.

Method 4500-F^- B, Fluoride, Preliminary Distillation Step, referenced in Section 611.611.

Method 4500-F^- C, Fluoride, Ion-Selective Electrode Method, referenced in Section 611.611.

Method 4500-F^- D, Fluoride, SPADNS Method, referenced in Section 611.611.

Method 4500-F^- E, Fluoride, Complexone Method, referenced in Section 611.611.

Method 4500-H^+ B, pH Value, Electrometric Method, referenced in Section 611.611.

Method 4500-NO_2^- B, Nitrogen (Nitrite), Colorimetric Method, referenced in Section 611.611.

Method 4500-NO_3^- D**,** Nitrogen (Nitrate), Nitrate Electrode Method, referenced in Section 611.611.

Method 4500-NO_3^- E, Nitrogen (Nitrate), Cadmium Reduction Method, referenced in Section 611.611.

Method 4500-NO_3^- F, Nitrogen (Nitrate), Automated Cadmium Reduction Method, referenced in Section 611.611.

Method 4500-O_3 B, Ozone (Residual) (Proposed), Indigo Colorimetric Method, referenced in Section 611.531.

Method 4500-P E, Phosphorus, Ascorbic Acid Method, referenced in Section 611.611.

Method 4500-P F, Phosphorus, Automated Ascorbic Acid Reduction Method, referenced in Section 611.611.

Method 4500-Si D, Silica, Molybdosilicate Method, referenced in Section 611.611.

Method 4500-Si E, Silica, Heteropoly Blue Method, referenced in Section 611.611.

Method 4500-Si F, Silica, Automated Method for Molybdate-Reactive Silica, referenced in Section 611.611.

Method 6651, Glyphosate Herbicide (Proposed), referenced in Section 611.645.

Method 7110 B, Gross Alpha and Beta Radioactivity (Total, Suspended, and Dissolved), Evaporation Method for Gross Alpha-Beta, referenced in Section 611.720.

Method 7110 C, Gross Alpha and Beta Radioactivity (Total, Suspended, and Dissolved), Coprecipitation Method for Gross Alpha Radioactivity in Drinking Water (Proposed), referenced in Section 611.720.

Method 7500-Cs B, Radioactive Cesium, Precipitation Method, referenced in Section 611.720.

Method 7500-^{3}H B, Tritium, Liquid Scintillation Spectrometric Method, referenced in Section 611.720.

Method 7500-I B, Radioactive Iodine, Precipitation Method, referenced in Section 611.720.

Method 7500-I C, Radioactive Iodine, Ion-Exchange Method, referenced in Section 611.720.

Method 7500-I D, Radioactive Iodine, Distillation Method, referenced in Section 611.720.

Method 7500-Ra B, Radium, Precipitation Method, referenced in Section 611.720.

Method 7500-Ra C, Radium, Emanation Method, referenced in Section 611.720.

Method 7500-Ra D, Radium, Sequential Precipitation Method (Proposed), referenced in Section 611.720.

Method 7500-Sr B, Total Radioactive Strontium and Strontium 90, Precipitation Method, referenced in Section 611.720.

Method 7500-U B, Uranium, Radiochemical Method (Proposed), referenced in Section 611.720.

Method 7500-U C, Uranium, Isotopic Method (Proposed), referenced in Section 611.720.

Method 9215 B, Heterotrophic Plate Count, Pour Plate Method, referenced in Section 611.531.

Method 9221 A, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Introduction, referenced in Sections 611.526 and 611.531.

Method 9221 B, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Standard Total Coliform Fermentation Technique, referenced in Sections 611.526 and 611.531.

Method 9221 C, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Estimation of

Bacterial Density, referenced in Sections 611.526 and 611.531.

Method 9221 D, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Presence-Absence (P-A) Coliform Test, referenced in Section 611.526.

Method 9221 E, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Fecal Coliform Procedure, referenced in Sections 611.526 and 611.531.

Method 9222 A, Membrane Filter Technique for Members of the Coliform Group, Introduction, referenced in Sections 611.526 and 611.531.

Method 9222 B, Membrane Filter Technique for Members of the Coliform Group, Standard Total Coliform Membrane Filter Procedure, referenced in Sections 611.526 and 611.531.

Method 9222 C, Membrane Filter Technique for Members of the Coliform Group, Delayed-Incubation Total Coliform Procedure, referenced in Sections 611.526 and 611.531.

Method 9222 D, Membrane Filter Technique for Members of the Coliform Group, Fecal Coliform Membrane Filter Procedure, referenced in Section 611.531.

Method 9223, Chromogenic Substrate Coliform Test (Proposed) (also referred to as the variations "Autoanalysis Colilert System" and "Colisure Test"), referenced in Sections 611.526 and 611.531.

Method 9223 B, Chromogenic Substrate Coliform Test (Proposed), referenced in Section 611.1004.

"Supplement to the 18th Edition of Standard Methods for the Examination of Water and Wastewater," American Public Health Association, 1994.

Method 6610, Carbamate Pesticide Method, referenced in Section 611.645.

"Standard Methods for the Examination of Water and Wastewater," 19th Edition, 1995 (referred to as "Standard Methods, 19th ed.").

Method 2130 B, Turbidity, Nephelometric Method, referenced in Section 611.531.

Method 2320 B, Alkalinity, Titration Method, referenced in Section 611.611.

Method 2510 B, Conductivity, Laboratory Method, referenced in Section 611.611.

Method 2550, Temperature, Laboratory, and Field Methods, referenced in Section 611.611.

Method 3111 B, Metals by Flame Atomic Absorption Spectrometry, Direct Air-Acetylene Flame Method, referenced in Sections 611.611 and 611.612.

Method 3111 D, Metals by Flame Atomic Absorption Spectrometry, Direct Nitrous Oxide-Acetylene Flame Method, referenced in Section 611.611.

Method 3112 B, Metals by Cold-Vapor Atomic Absorption Spectrometry, Cold-Vapor Atomic Absorption Spectrometric Method, referenced in Section 611.611.

Method 3113 B, Metals by Electrothermal Atomic Absorption Spectrometry, Electrothermal Atomic Absorption Spectrometric Method, referenced in Sections 611.611 and 611.612.

Method 3114 B, Metals by Hydride Generation/Atomic Absorption Spectrometry, Manual Hydride

Generation/Atomic Absorption Spectrometric Method, referenced in Section 611.611.

Method 3120 B, Metals by Plasma Emission Spectroscopy, Inductively Coupled Plasma (ICP) Method, referenced in Sections 611.611 and 611.612.

Method 3500-Ca D, Calcium, EDTA Titrimetric Method, referenced in Section 611.611.

Method 3500-Mg E, Magnesium, Calculation Method, referenced in Section 611.611.

Method 4110 B, Determination of Anions by Ion Chromatography, Ion Chromatography with Chemical Suppression of Eluent Conductivity, referenced in Section 611.611.

Method 4500-Cl D, Chlorine, Amperometric Titration Method, referenced in Sections 611.381 and 611.531.

Method 4500-Cl E, Chlorine, Low-Level Amperometric Titration Method, referenced in Sections 611.381 and 611.531.

Method 4500-Cl F, Chlorine, DPD Ferrous Titrimetric Method, referenced in Sections 611.381 and 611.531.

Method 4500-Cl G, Chlorine, DPD Colorimetric Method, referenced in Sections 611.381 and 611.531.

Method 4500-Cl H, Chlorine, Syringaldazine (FACTS) Method, referenced in Sections 611.381 and 611.531.

Method 4500-Cl I, Chlorine, Iodometric Electrode Method, referenced in Sections 611.381 and 611.531.

Method 4500-ClO_2 C, Chlorine Dioxide, Amperometric Method I, referenced in Section 611.531.

Method 4500-ClO_2 D, Chlorine Dioxide, DPD Method, referenced in Sections 611.381 and 611.531.

Method 4500-ClO_2 E, Chlorine Dioxide, Amperometric Method II, referenced in Sections 611.381 and 611.531.

Method 4500-CN^- C, Cyanide, Total Cyanide after Distillation, referenced in Section 611.611.

Method 4500-CN^- E, Cyanide, Colorimetric Method, referenced in Section 611.611.

Method 4500-CN^- F, Cyanide, Cyanide-Selective Electrode Method, referenced in Section 611.611.

Method 4500-CN^- G, Cyanide, Cyanides Amenable to Chlorination after Distillation, referenced in Section 611.611.

Method 4500-F^- B, Fluoride, Preliminary Distillation Step, referenced in Section 611.611.

Method 4500-F^- C, Fluoride, Ion-Selective Electrode Method, referenced in Section 611.611.

Method 4500-F^- D, Fluoride, SPADNS Method, referenced in Section 611.611.

Method 4500-F^- E, Fluoride, Complexone Method, referenced in Section 611.611.

Method 4500-H^+ B, pH Value, Electrometric Method, referenced in Section 611.611.

Method 4500-NO_2^- B, Nitrogen (Nitrite), Colorimetric Method, referenced in Section 611.611.

Method 4500-NO_3^- D, Nitrogen (Nitrate), Nitrate Electrode

Method, referenced in Section 611.611.

Method 4500-NO_3^- E, Nitrogen (Nitrate), Cadmium Reduction Method, referenced in Section 611.611.

Method 4500-NO_3^- F, Nitrogen (Nitrate), Automated Cadmium Reduction Method, referenced in Section 611.611.

Method 4500-O_3 B, Ozone (Residual) (Proposed), Indigo Colorimetric Method, referenced in Section 611.531.

Method 4500-P E, Phosphorus, Ascorbic Acid Method, referenced in Section 611.611.

Method 4500-P F, Phosphorus, Automated Ascorbic Acid Reduction Method, referenced in Section 611.611.

Method 4500-Si D, Silica, Molybdosilicate Method, referenced in Section 611.611.

Method 4500-Si E, Silica, Heteropoly Blue Method, referenced in Section 611.611.

Method 4500-Si F, Silica, Automated Method for Molybdate-Reactive Silica, referenced in Section 611.611.

~~Method 5310 B, TOC, Combustion-Infrared Method, referenced in Section 611.381.~~

~~Method 5310 C, TOC, Persulfate-Ultraviolet Oxidation Method, referenced in Section 611.381.~~

~~Method 5310 D, TOC, Wet-Oxidation Method, referenced in Section 611.381.~~

Method 5910 B, UV Absorbing Organic Constituents, Ultraviolet Absorption Method, referenced in Section 611.381.

Method 6251 B, Disinfection Byproducts: Haloacetic Acids and Trichlorophenol, Micro Liquid-Liquid Extraction Gas Chromatographic Method, referenced in Section 611.381.

Method 6610, Carbamate Pesticide Method, referenced in Section 611.645.

Method 6651, Glyphosate Herbicide ~~(Proposed)~~, referenced in Section 611.645.

Method 7110 B, Gross Alpha and Gross Beta Radioactivity, Evaporation Method for Gross Alpha-Beta, referenced in Section 611.720.

Method 7110 C, Gross Alpha and Beta Radioactivity (Total, Suspended, and Dissolved), Coprecipitation Method for Gross Alpha Radioactivity in Drinking Water (Proposed), referenced in Section 611.720.

Method 7120 ~~B~~, Gamma-Emitting Radionuclides, ~~Gamma Spectrometric Method,~~ referenced in Section 611.720.

Method 7500-Cs B, Radioactive Cesium, Precipitation Method, referenced in Section 611.720.

Method 7500-^{3}H B, Tritium, Liquid Scintillation Spectrometric Method, referenced in Section 611.720.

Method 7500-I B, Radioactive Iodine, Precipitation Method, referenced in Section 611.720.

Method 7500-I C, Radioactive Iodine, Ion-Exchange Method, referenced in Section 611.720.

Method 7500-I D, Radioactive Iodine, Distillation Method, referenced in Section 611.720.

Method 7500-Ra B, Radium, Precipitation Method, referenced in Section 611.720.

Method 7500-Ra C, Radium, Emanation Method, referenced in Section 611.720.

Method 7500-Ra D, Radium, Sequential Precipitation Method, referenced in Section 611.720.

Method 7500-Sr B, Total Radiactive Strontium and Strontium 90, Precipitation Method, referenced in Section 611.720.

Method 7500-U B, Uranium, Radiochemical Method, referenced in Section 611.720.

Method 7500-U C, Uranium, Isotopic Method, referenced in Section 611.720.

Method 9215 B, Heterotrophic Plate Count, Pour Plate Method, referenced in Section 611.531.

Method 9221 A, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Introduction, referenced in Sections 611.526 and 611.531.

Method 9221 B, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Standard Total Coliform Fermentation Technique, referenced in Sections 611.526 and 611.531.

Method 9221 C, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Estimation of Bacterial Density, referenced in Sections 611.526 and 611.531.

Method 9221 D, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Presence-Absence (P-A) Coliform Test, referenced in Section 611.526.

Method 9221 E, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Fecal Coliform Procedure, referenced in Sections 611.526 and 611.531.

Method 9222 A, Membrane Filter Technique for Members of the Coliform Group, Introduction, referenced in Sections 611.526 and 611.531.

Method 9222 B, Membrane Filter Technique for Members of the Coliform Group, Standard Total Coliform Membrane Filter Procedure, referenced in Sections 611.526 and 611.531.

Method 9222 C, Membrane Filter Technique for Members of the Coliform Group, Delayed-Incubation Total Coliform Procedure, referenced in Sections 611.526 and 611.531.

Method 9222 D, Membrane Filter Technique for Members of the Coliform Group, Fecal Coliform Membrane Filter Procedure, referenced in Section 611.531.

Method 9222 G, Membrane Filter Technique for Members of the Coliform Group, MF Partition Procedures, referenced in Section 611.526.

Method 9223, Chromogenic Substrate Coliform Test (also referred to as the variations "Autoanalysis Colilert System" and "Colisure Test"), referenced in Sections 611.526 and 611.531.

Method 9223 B, Chromogenic Substrate Coliform Test (Proposed), referenced in Section 611.1004.

"Supplement to the 19th Edition of Standard Methods for the Examination of Water and Wastewater," American Public Health Association, 1996.

Method 5310 B, TOC, Combustion-Infrared Method,

referenced in Section 611.381.

Method 5310 C, TOC, Persulfate-Ultraviolet Oxidation Method, referenced in Section 611.381.

Method 5310 D, TOC, Wet-Oxidation Method, referenced in Section 611.381.

"Standard Methods for the Examination of Water and Wastewater," 20th Edition, 1998 (referred to as "Standard Methods, 20th ed.").

Method 2130 B, Turbidity, Nephelometric Method, referenced in Section 611.531.

Method 2320 B, Alkalinity, Titration Method, referenced in Section 611.611.

Method 2510 B, Conductivity, Laboratory Method, referenced in Section 611.611.

Method 2550, Temperature, Laboratory, and Field Methods, referenced in Section 611.611.

Method 3120 B, Metals by Plasma Emission Spectroscopy, Inductively Coupled Plasma (ICP) Method, referenced in Sections 611.611 and 611.612.

Method 3500-Ca B, Calcium, EDTA Titrimetric Method, referenced in Section 611.611.

Method 3500-Mg B, Magnesium, EDTA Titrimetric Method, referenced in Section 611.611.

Method 4110 B, Determination of Anions by Ion Chromatography, Ion Chromatography with Chemical Suppression of Eluent Conductivity, referenced in Section 611.611.

Method 4500-CN^- C, Cyanide, Total Cyanide after Distillation, referenced in Section 611.611.

Method 4500-CN^- E, Cyanide, Colorimetric Method, referenced in Section 611.611.

Method 4500-CN F, Cyanide, Cyanide-Selective Electrode Method, referenced in Section 611.611.

Method 4500-CN^- G, Cyanide, Cyanides Amenable to Chlorination after Distillation, referenced in Section 611.611.

Method 4500-Cl D, Chlorine, Amperometric Titration Method, referenced in Section 611.531.

Method 4500-Cl E, Chlorine, Low-Level Amperometric Titration Method, referenced in Section 611.531.

Method 4500-Cl F, Chlorine, DPD Ferrous Titrimetric Method, referenced in Section 611.531.

Method 4500-Cl G, Chlorine, DPD Colorimetric Method, referenced in Section 611.531.

Method 4500-Cl H, Chlorine, Syringaldazine (FACTS) Method, referenced in Section 611.531.

Method 4500-Cl I, Chlorine, Iodometric Electrode Method, referenced in Section 611.531.

Method 4500-ClO_2 C, Chlorine Dioxide, Amperometric Method I, referenced in Section 611.531.

Method 4500-ClO_2 D, Chlorine Dioxide, DPD Method, referenced in Section 611.531.

Method 4500-ClO_2 E, Chlorine Dioxide, Amperometric Method II (Proposed), referenced in Section 611.531.

Method 4500-F^- B, Fluoride, Preliminary Distillation Step, referenced in Section 611.611.

Method 4500-F^- C, Fluoride, Ion-Selective Electrode Method, referenced in Section 611.611.

Method 4500-F^- D, Fluoride, SPADNS Method, referenced in Section 611.611.

Method 4500-F^- E, Fluoride, Complexone Method, referenced in Section 611.611.

Method 4500-H^+ B, pH Value, Electrometric Method, referenced in Section 611.611.

Method 4500-NO_2^- B, Nitrogen (Nitrite), Colorimetric Method, referenced in Section 611.611.

Method 4500-NO_3^- D, Nitrogen (Nitrate), Nitrate Electrode Method, referenced in Section 611.611.

Method 4500-NO_3^- E, Nitrogen (Nitrate), Cadmium Reduction Method, referenced in Section 611.611.

Method 4500-NO_3^- F, Nitrogen (Nitrate), Automated Cadmium Reduction Method, referenced in Section 611.611.

Method 4500-O_3 B, Ozone (Residual) (Proposed), Indigo Colorimetric Method, referenced in Section 611.531.

Method 4500-P E, Phosphorus, Ascorbic Acid Method, referenced in Section 611.611.

Method 4500-P F, Phosphorus, Automated Ascorbic Acid Reduction Method, referenced in Section 611.611.

Method 4500-SiO_2~~Si~~ C, Silica, Molybdosilicate Method, referenced in Section 611.611.

Method 4500-SiO_2~~Si~~ D, Silica, Heteropoly Blue Method, referenced in Section 611.611.

Method 4500-SiO_2~~Si~~ E, Silica, Automated Method for Molybdate-Reactive Silica, referenced in Section 611.611.

Method 5310 B, TOC, Combustion-Infrared Method, referenced in Section 611.381.

Method 5310 C, TOC, Persulfate-Ultraviolet Oxidation Method, referenced in Section 611.381.

Method 5310 D, TOC, Wet-Oxidation Method, referenced in Section 611.381.

Method 5910 B, UV-Absorbing Organic Constituents, Ultraviolet Absorption Method, referenced in Sections 611.381 and 611.382.

Method 6251 B, Disinfection By-Products: Haloacetic Acids and Trichlorophenol, Micro Liquid-Liquid Extraction Gas Chromatographic Method, referenced in Section 611.381.~~Method 6251, Disinfection By-Products: Haloacetic Acids and Trichlorophenol, referenced in Section 611.381.~~

Method 6610, Carbamate Pesticide Method, referenced in Section 611.645.

Method 6651 B, Glyphosate Herbicide~~ (Proposed)~~, Liquid Chromatographic Post-Column Fluorescence Method, referenced in Section 611.645.

Method 7110 B, Gross Alpha and Gross Beta Radioactivity, Evaporation Method for Gross Alpha-Beta, referenced in Section 611.720.

Method 7110 C, Gross Alpha and Beta Radioactivity (Total, Suspended, and Dissolved), Coprecipitation Method for Gross Alpha Radioactivity in Drinking Water (Proposed), referenced in Section 611.720.

Method 7120, Gamma-Emitting Radionuclides, referenced in Section 611.720.

Method 7500-Cs B, Radioactive Cesium, Precipitation Method, referenced in Section 611.720.

Method 7500-^{3}H B, Tritium, Liquid Scintillation Spectrometric Method, referenced in Section 611.720.

Method 7500-I B, Radioactive Iodine, Precipitation Method, referenced in Section 611.720.

Method 7500-I C, Radioactive Iodine, Ion-Exchange Method, referenced in Section 611.720.

Method 7500-I D, Radioactive Iodine, Distillation Method, referenced in Section 611.720.

Method 7500-Ra B, Radium, Precipitation Method, referenced in Section 611.720.

Method 7500-Ra C, Radium, Emanation Method, referenced in Section 611.720.

Method 7500-Ra D, Radium, Sequential Precipitation Method, referenced in Section 611.720.

Method 7500-Sr B, Total Radioactive Strontium and Strontium 90, Precipitation Method, referenced in Section 611.720.

Method 7500-U B, Uranium, Radiochemical Method, referenced in Section 611.720.

Method 7500-U C, Uranium, Isotopic Method, referenced in Section 611.720.

Method 9060 A, Samples, Collection, referenced in Section 611.1052.

Method 9215 B, Heterotrophic Plate Count, Pour Plate Method, referenced in Section 611.531.

Method 9221 A, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Introduction, referenced in Sections 611.526 and 611.531.

Method 9221 B, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Standard Total Coliform Fermentation Technique, referenced in Sections 611.526, ~~and~~ 611.531, and 611.1052.

Method 9221 C, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Estimation of Bacterial Density, referenced in Sections 611.526, ~~and~~ 611.531, and 611.1052.

Method 9221 D, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Presence-Absence (P-A) Coliform Test, referenced in Sections 611.526 and 611.1052.

Method 9221 E, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Fecal Coliform Procedure, referenced in Sections 611.526 and 611.531.

Method 9221 F, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Escherichia Coli Procedure (Proposed), referenced in Section 611.802.

Method 9222 A, Membrane Filter Technique for Members of the Coliform Group, Introduction, referenced in Sections 611.526 and 611.531.

Method 9222 B, Membrane Filter Technique for Members of the Coliform Group, Standard Total Coliform Membrane Filter Procedure, referenced in Sections 611.526, ~~and~~ 611.531, and 611.1052.

Method 9222 C, Membrane Filter Technique for Members of the Coliform Group, Delayed-Incubation Total Coliform Procedure, referenced in Sections 611.526 and 611.531.

Method 9222 D, Membrane Filter Technique for Members of the Coliform Group, Fecal Coliform Membrane Filter Procedure, referenced in Section 611.531.

Method 9222 G, Membrane Filter Technique for Members of the Coliform Group, MF Partition Procedures, referenced in Section 611.526.

Method 9223, Chromogenic Substrate Coliform Test (also referred to as the variations "Autoanalysis Colilert System" and "Colisure Test"), referenced in Sections 611.526 and 611.531.

Method 9223 B, Chromogenic Substrate Coliform Test (also referred to as the variations "Autoanalysis Colilert System" and "Colisure Test"), referenced in Sections 611.526, 611.802, ~~and~~ 611.1004, and 611.1052.

Method 9230 B, Fecal Streptococcus and Enterococcus Groups, Multiple Tube Techniques, referenced in Section 611.802.

Method 9230 C, Fecal Streptococcus and Enterococcus Groups, Membrane Filter Techniques, referenced in Section 611.802.

"Standard Methods for the Examination of Water and Wastewater," 21st Edition, 2005 (referred to as "Standard Methods, 21st ed.").

Method 2130 B, Turbidity, Nephelometric Method, referenced in Section 611.531.

Method 2320 B, Alkalinity, Titration Method, referenced in Section 611.611.

Method 2510 B, Conductivity, Laboratory Method, referenced in Section 611.611.

Method 2550, Temperature, Laboratory, and Field Methods, referenced in Section 611.611.

Method 3111 B, Metals by Flame Atomic Absorption Spectrometry, Direct Air-Acetylene Flame Method, referenced in Sections 611.611 and 611.612.

Method 3111 D, Metals by Flame Atomic Absorption Spectrometry, Direct Nitrous Oxide-Acetylene Flame Method, referenced in Section 611.611.

Method 3112 B, Metals by Cold-Vapor Atomic Absorption Spectrometry, Cold-Vapor Atomic Absorption Spectrometric Method, referenced in Section 611.611.

Method 3113 B, Metals by Electrothermal Atomic Absorption Spectrometry, Electrothermal Atomic Absorption Spectrometric Method, referenced in Sections 611.611 and 611.612.

Method 3114 B, Metals by Hydride Generation/Atomic Absorption Spectrometry, Manual Hydride Generation/Atomic Absorption Spectrometric Method, referenced in Section 611.611.

Method 3120 B, Metals by Plasma Emission Spectroscopy, Inductively Coupled Plasma (ICP) Method, referenced in Sections 611.611 and 611.612.

Method 3125, Metals by Inductively Coupled Plasma/Mass Spectrometry, referenced in Section 611.720.

Method 3500-Ca B, Calcium, EDTA Titrimetric Method, referenced in Section 611.611.

~~Method 3500-Ca D, Calcium, EDTA Titrimetric Method, referenced in Section 611.611.~~

Method 3500-Mg B, Magnesium, Calculation Method, referenced in Section 611.611.

Method 4110 B, Determination of Anions by Ion Chromatography, Ion Chromatography with Chemical Suppression of Eluent Conductivity, referenced in Section 611.611.

Method 4500-Cl D, Chlorine, Amperometric Titration Method, referenced in Section 611.381.

Method 4500-Cl E, Chlorine, Low-Level Amperometric Titration Method, referenced in Section 611.381.

Method 4500-Cl F, Chlorine, DPD Ferrous Titrimetric Method, referenced in Section 611.381.

Method 4500-Cl G, Chlorine, DPD Colorimetric Method, referenced in Section 611.381.

Method 4500-Cl H, Chlorine, Syringaldazine (FACTS) Method, referenced in Section 611.381.

Method 4500-Cl I, Chlorine, Iodometric Electrode Method, referenced in Section 611.381.

Method 4500-ClO_2 C, Chlorine Dioxide, Amperometric Method I, referenced in Section 611.531.

Method 4500-ClO_2 E, Chlorine Dioxide, Amperometric Method II (Proposed), referenced in Section 611.381.

Method 4500-CN^- E, Cyanide, Colorimetric Method, referenced in Section 611.611.

Method 4500-CN^- F, Cyanide, Cyanide-Selective Electrode Method, referenced in Section 611.611.

Method 4500-CN^- G, Cyanide, Cyanides Amenable to Chlorination after Distillation, referenced in Section 611.611.

Method 4500-F^- B, Fluoride, Preliminary Distillation Step, referenced in Section 611.611.

Method 4500-F^- C, Fluoride, Ion-Selective Electrode Method, referenced in Section 611.611.

Method 4500-F^- D, Fluoride, SPADNS Method, referenced in Section 611.611.

Method 4500-F^- E, Fluoride, Complexone Method, referenced in Section 611.611.

Method 4500-H^+ B, pH Value, Electrometric Method, referenced in Section 611.611.

Method 4500-NO_2^- B, Nitrogen (Nitrite), Colorimetric Method, referenced in Section 611.611.

Method 4500-NO_3^- D, Nitrogen (Nitrate), Nitrate Electrode Method, referenced in Section 611.611.

Method 4500-NO_3^- E, Nitrogen (Nitrate), Cadmium Reduction Method, referenced in Section 611.611.

Method 4500-NO_3^- F, Nitrogen (Nitrate), Automated Cadmium Reduction Method, referenced in Section 611.611.

Method 4500-O_3 B, Ozone (Residual) (Proposed), Indigo Colorimetric Method, referenced in Section 611.531.

Method 4500-P E, Phosphorus, Ascorbic Acid Method, referenced in Section 611.611.

Method 4500-P F, Phosphorus, Automated Ascorbic Acid Reduction Method, referenced in Section 611.611.

Method 4500-SiO_2 C, Silica, Molybdosilicate Method, referenced in Section 611.611.

Method 4500-SiO_2 D, Silica, Heteropoly Blue Method, referenced in Section 611.611.

Method 4500-SiO_2 E, Silica, Automated Method for Molybdate-Reactive Silica, referenced in Section 611.611.

Method 5310 B, TOC, Combustion-Infrared Method, referenced in Section 611.381.

Method 5310 C, TOC, Persulfate-Ultraviolet Oxidation Method, referenced in Section 611.381.

Method 5310 D, TOC, Wet-Oxidation Method, referenced in Section 611.381.

Method 5910 B, UV-Absorbing Organic Constituents, Ultraviolet Absorption Method, referenced in Sections 611.381 and 611.382.

Method 6251 B, Disinfection By-Products: Haloacetic Acids and Trichlorophenol, Micro Liquid-Liquid

Extraction Gas Chromatography Method, referenced in Section 611.381.

~~Method 6610,~~ Method 6610 B, Carbamate Pesticide Method, High-Performance Liquid Chromatographic Method, referenced in Section 611.645.

Method 6640 B, Acidic Herbicide Compounds, Micro Liquid-Liquid Extraction Gas Chromatographic Method, referenced in Section 611.645.

Method 6651 B, Glyphosate Herbicide, Liquid Chromatographic Post-Column Fluorescence Method, referenced in Section 611.645.

Method 7110 B, Gross Alpha and Gross Beta Radioactivity, Evaporation Method for Gross Alpha-Beta, referenced in Section 611.720.

Method 7110 C, Gross Alpha and Beta Radioactivity (Total, Suspended, and Dissolved), Coprecipitation Method for Gross Alpha Radioactivity in Drinking Water (Proposed), referenced in Section 611.720.

Method 7120, Gamma-Emitting Radionuclides, referenced in Section 611.720.

Method 7500-Cs B, Radioactive Cesium, Precipitation Method, referenced in Section 611.720.

Method 7500-^{3}H B, Tritium, Liquid Scintillation Spectrometric Method, referenced in Section 611.720.

Method 7500-I B, Radioactive Iodine, Precipitation Method, referenced in Section 611.720.

Method 7500-I C, Radioactive Iodine, Ion-Exchange Method, referenced in Section 611.720.

Method 7500-I D, Radioactive Iodine, Distillation Method, referenced in Section 611.720.

Method 7500-Ra B, Radium, Precipitation Method, referenced in Section 611.720.

Method 7500-Ra C, Radium, Emanation Method, referenced in Section 611.720.

Method 7500-Ra D, Radium, Sequential Precipitation Method, referenced in Section 611.720.

Method 7500-Sr B, Total Radioactive Strontium and Strontium 90, Precipitation Method, referenced in Section 611.720.

Method 7500-U B, Uranium, Radiochemical Method, referenced in Section 611.720.

Method 7500-U C, Uranium, Isotopic Method, referenced in Section 611.720.

Method 9060 A, Samples, Collection, referenced in Section 611.1052.

Method 9215 B, Heterotrophic Plate Count, Pour Plate Method, referenced in Section 611.531.

Method 9221 A, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Introduction, referenced in Sections 611.526 and 611.531.

Method 9221 B, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Standard Total Coliform Fermentation Technique, referenced in Sections 611.526, ~~and~~ 611.531, and 611.1052.

Method 9221 C, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Estimation of

Bacterial Density, referenced in Sections 611.526, ~~and~~ 611.531, and 611.1052.

Method 9221 D, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Presence-Absence (P-A) Coliform Test, referenced in Section 611.526 and 611.1052.

Method 9221 E, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Fecal Coliform Procedure, referenced in Sections 611.526 and 611.531.

Method 9221 F, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Escherichia Coli Procedure (Proposed), referenced in Section 611.802.

Method 9222 A, Membrane Filter Technique for Members of the Coliform Group, Introduction, referenced in Sections 611.526 and 611.531.

Method 9222 B, Membrane Filter Technique for Members of the Coliform Group, Standard Total Coliform Membrane Filter Procedure, referenced in Sections 611.526, ~~and~~ 611.531, and 611.1052.

Method 9222 C, Membrane Filter Technique for Members of the Coliform Group, Delayed-Incubation Total Coliform Procedure, referenced in Sections 611.526 and 611.531.

Method 9222 D, Membrane Filter Technique for Members of the Coliform Group, Fecal Coliform Membrane Filter Procedure, referenced in Section 611.531.

Method 9222 G, Membrane Filter Technique for Members of the Coliform Group, MF Partition Procedures, referenced in Section 611.526.

Method 9223, Chromogenic Substrate Coliform Test (also referred to as the variations "Autoanalysis Colilert System"

and "Colisure Test"), referenced in Sections 611.526 and 611.531.

Method 9223 B, Chromogenic Substrate Coliform Test (also referred to as the variations "Autoanalysis Colilert System" and "Colisure Test"), referenced in Sections 611.526, 611.802, ~~and~~ 611.1004, and 611.1052.

BOARD NOTE: See the Board note appended to Standard Methods Online in this Section about methods that appear in Standard Methods, 21st ed. which USEPA has cited as available from Standard Methods Online.

"Standard Methods for the Examination of Water and Wastewater," 22nd Edition, 2012 (referred to as "Standard Methods, 22nd ed."). See the methods listed separately for the same references under American Waterworks Association.

Method 2130 B, Turbidity, Nephelometric Method, referenced in Section 611.531.

Method 2320 B, Alkalinity, Titration Method, referenced in Section 611.611.

Method 2510 B, Conductivity, Laboratory Method, referenced in Section 611.611.

Method 2550, Temperature, Laboratory, and Field Methods, referenced in Section 611.611.

Method 3111 B, Metals by Flame Atomic Absorption Spectrometry, Direct Air-Acetylene Flame Method, referenced in Sections 611.611 and 611.612.

Method 3111 D, Metals by Flame Atomic Absorption Spectrometry, Direct Nitrous Oxide-Acetylene Flame Method, referenced in Section 611.611.

Method 3112 B, Metals by Cold-Vapor Atomic Absorption Spectrometry, Cold-Vapor Atomic Absorption Spectrometric Method, referenced in Section 611.611.

Method 3113 B, Metals by Electrothermal Atomic Absorption Spectrometry, Electrothermal Atomic Absorption Spectrometric Method, referenced in Sections 611.611 and 611.612.

Method 3114 B, Metals by Hydride Generation/Atomic Absorption Spectrometry, Manual Hydride Generation/Atomic Absorption Spectrometric Method, referenced in Section 611.611.

Method 3120 B, Metals by Plasma Emission Spectroscopy, Inductively Coupled Plasma (ICP) Method, referenced in Sections 611.611 and 611.612.

Method 3500-Ca B, Calcium, EDTA Titrimetric Method, referenced in Section 611.611.

Method 3500-Mg B, Magnesium, Calculation Method, referenced in Section 611.611.

Method 4110 B, Determination of Anions by Ion Chromatography, Ion Chromatography with Chemical Suppression of Eluent Conductivity, referenced in Section 611.611.

Method 4500-Cl D, Chlorine, Amperometric Titration Method, referenced in Section 611.381.

Method 4500-Cl E, Chlorine, Low-Level Amperometric Titration Method, referenced in Section 611.381.

Method 4500-Cl F, Chlorine, DPD Ferrous Titrimetric Method, referenced in Section 611.381.

Method 4500-Cl G, Chlorine, DPD Colorimetric Method, referenced in Section 611.381.

Method 4500-Cl H, Chlorine, Syringaldazine (FACTS) Method, referenced in Section 611.381.

Method 4500-Cl I, Chlorine, Iodometric Electrode Method, referenced in Section 611.381.

Method 4500-ClO_2 C, Chlorine Dioxide, Amperometric Method I, referenced in Section 611.531.

Method 4500-ClO_2 E, Chlorine Dioxide, Amperometric Method II (Proposed), referenced in Section 611.381.

Method 4500-CN^- E, Cyanide, Colorimetric Method, referenced in Section 611.611.

Method 4500-CN^- F, Cyanide, Cyanide-Selective Electrode Method, referenced in Section 611.611.

Method 4500-CN^- G, Cyanide, Cyanides Amenable to Chlorination after Distillation, referenced in Section 611.611.

Method 4500-F^- B, Fluoride, Preliminary Distillation Step, referenced in Section 611.611.

Method 4500-F^- C, Fluoride, Ion-Selective Electrode Method, referenced in Section 611.611.

Method 4500-F^- D, Fluoride, SPADNS Method, referenced in Section 611.611.

Method 4500-F^- E, Fluoride, Complexone Method, referenced in Section 611.611.

Method 4500-H^+ B, pH Value, Electrometric Method, referenced in Section 611.611.

Method 4500-NO_2^- B, Nitrogen (Nitrite), Colorimetric Method, referenced in Section 611.611.

Method 4500-NO_3^- D, Nitrogen (Nitrate), Nitrate Electrode Method, referenced in Section 611.611.

Method 4500-NO_3^- E, Nitrogen (Nitrate), Cadmium Reduction Method, referenced in Section 611.611.

Method 4500-NO_3^- F, Nitrogen (Nitrate), Automated Cadmium Reduction Method, referenced in Section 611.611.

Method 4500-O_3 B, Ozone (Residual) (Proposed), Indigo Colorimetric Method, referenced in Section 611.531.

Method 4500-P E, Phosphorus, Ascorbic Acid Method, referenced in Section 611.611.

Method 4500-P F, Phosphorus, Automated Ascorbic Acid Reduction Method, referenced in Section 611.611.

Method 4500-SiO_2 C, Silica, Molybdosilicate Method, referenced in Section 611.611.

Method 4500-SiO_2 D, Silica, Heteropoly Blue Method, referenced in Section 611.611.

Method 4500-SiO_2 E, Silica, Automated Method for Molybdate-Reactive Silica, referenced in Section 611.611.

Method 5310 B, TOC, Combustion-Infrared Method, referenced in Section 611.381.

Method 5310 C, TOC, Persulfate-Ultraviolet Oxidation Method, referenced in Section 611.381.

Method 5310 D, TOC, Wet-Oxidation Method, referenced in Section 611.381.

Method 5910 B, UV-Absorbing Organic Constituents, Ultraviolet Absorption Method, referenced in Sections 611.381 and 611.382.

Method 6251 B, Disinfection By-Products: Haloacetic Acids and Trichlorophenol, referenced in Section 611.381.

Method 6610 B, Carbamate Pesticide Method, High-Performance Liquid Chromatographic Method, referenced in Section 611.645.

Method 6640 B, Acidic Herbicide Compounds, Micro Liquid-Liquid Extraction Gas Chromatographic Method, referenced in Section 611.645.

Method 6651 B, Glyphosate Herbicide, Liquid Chromatographic Post-Column Fluorescence Method, referenced in Section 611.645.

Method 7110 B, Gross Alpha and Gross Beta Radioactivity, Evaporation Method for Gross Alpha-Beta, referenced in Section 611.720.

Method 7110 C, Gross Alpha and Beta Radioactivity (Total, Suspended, and Dissolved), Coprecipitation Method for Gross Alpha Radioactivity in Drinking Water (Proposed), referenced in Section 611.720.

Method 7120, Gamma-Emitting Radionuclides, referenced in Section 611.720.

Method 7500-Cs B, Radioactive Cesium, Precipitation Method, referenced in Section 611.720.

Method 7500-H^3 B, Tritium, Liquid Scintillation Spectrometric Method, referenced in Section 611.720.

Method 7500-I B, Radioactive Iodine, Precipitation Method, referenced in Section 611.720.

Method 7500-I C, Radioactive Iodine, Ion-Exchange Method, referenced in Section 611.720.

Method 7500-I D, Radioactive Iodine, Distillation Method, referenced in Section 611.720.

Method 7500-Ra B, Radium, Precipitation Method, referenced in Section 611.720.

Method 7500-Ra C, Radium, Emanation Method, referenced in Section 611.720.

Method 7500-Ra D, Radium, Sequential Precipitation Method, referenced in Section 611.720.

Method 7500-Sr B, Total Radioactive Strontium and Strontium 90, Precipitation Method, referenced in Section 611.720.

Method 7500-U B, Uranium, Radiochemical Method, referenced in Section 611.720.

Method 7500-U C, Uranium, Isotopic Method, referenced in Section 611.720.

Method 9060 A, Samples, Collection, referenced in Section 611.1052.

Method 9215 B, Heterotrophic Plate Count, Pour Plate Method, referenced in Section 611.531.

Method 9221 A, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Introduction, referenced in Sections 611.526 and 611.531.

Method 9221 B, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Standard Total Coliform Fermentation Technique, referenced in Sections 611.526, 611.531, and 611.1052.

Method 9221 C, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Estimation of Bacterial Density, referenced in Sections 611.526 and 611.531.

Method 9221 E, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Fecal Coliform Procedure, referenced in Sections 611.526 and 611.531.

Method 9221 F, Multiple-Tube Fermentation Technique for Members of the Coliform Group, Escherichia Coli Procedure (Proposed), referenced in Section 611.802 and 611.1052.

Method 9222 A, Membrane Filter Technique for Members of the Coliform Group, Introduction, referenced in Sections 611.526 and 611.531.

Method 9222 B, Membrane Filter Technique for Members of the Coliform Group, Standard Total Coliform Membrane Filter Procedure, referenced in Sections 611.526 and 611.531.

Method 9222 C, Membrane Filter Technique for Members of the Coliform Group, Delayed-Incubation Total Coliform Procedure, referenced in Sections 611.526 and 611.531.

Method 9222 D, Membrane Filter Technique for Members of the Coliform Group, Fecal Coliform Membrane Filter Procedure, referenced in Section 611.531.

Method 9223 B, Chromogenic Substrate Coliform Test (also referred to as the variations "Autoanalysis Colilert

System" and "Colisure Test"), referenced in Sections 611.526, 611.802, 611.1004, and 611.1052.

BOARD NOTE: See the Board note appended to Standard Methods Online in this Section about methods that appear in Standard Methods, 22nd ed., which USEPA has cited as available from Standard Methods Online.

BOARD NOTE: Individual Methods from Standard Methods are available online from Standard Methods Online.

~~Analytical Technology, Inc. ATI Orion, 529 Main Street, Boston, MA 02129.~~

~~Technical Bulletin 601, "Standard Method of Testing for Nitrate in Drinking Water," July, 1994, PN 221890-001 (referred to as "Technical Bulletin 601"), referenced in Section 611.611.~~

ASTM. American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 (610-832-9585).

ASTM Method D511-93 A and B, "Standard Test Methods for Calcium and Magnesium in Water," "Test Method A − Complexometric Titration" & "Test Method B − Atomic Absorption Spectrophotometric," approved 1993, referenced in Section 611.611.

ASTM Method D511-03 A and B, "Standard Test Methods for Calcium and Magnesium in Water," "Test Method A − Complexometric Titration" & "Test Method B − Atomic Absorption Spectrophotometric," approved 2003, referenced in Section 611.611.

ASTM Method D511-09 A and B, "Standard Test Methods for Calcium and Magnesium in Water," "Test Method A − Complexometric Titration" & "Test Method B − Atomic Absorption Spectrophotometric," approved 2009, referenced in Section 611.611.

ASTM Method D515-88 A, "Standard Test Methods for Phosphorus in Water," "Test Method A − Colorimetric Ascorbic Acid Reduction," approved August 19, 1988, referenced in Section 611.611.

ASTM Method D859-94, "Standard Test Method for Silica in Water," approved 1994, referenced in Section 611.611.

ASTM Method D859-00, "Standard Test Method for Silica in Water," approved 2000, referenced in Section 611.611.

ASTM Method D859-05, "Standard Test Method for Silica in Water," approved 2005, referenced in Section 611.611.

ASTM Method D859-10, "Standard Test Method for Silica in Water," approved 2010, referenced in Section 611.611.

ASTM Method D1067-92 B, "Standard Test Methods for Acidity or Alkalinity in Water," "Test Method B − Electrometric or Color-Change Titration," approved May 15, 1992, referenced in Section 611.611.

ASTM Method D1067-02 B, "Standard Test Methods for Acidity or Alkalinity in Water," "Test Method B − Electrometric or Color-Change Titration," approved in 2002, referenced in Section 611.611.

ASTM Method D1067-06 B, "Standard Test Methods for Acidity or Alkalinity in Water," "Test Method B − Electrometric or Color-Change Titration," approved in 2006, referenced in Section 611.611.

ASTM Method D1067-11 B, "Standard Test Methods for Acidity or Alkalinity in Water," "Test Method B − Electrometric or Color-Change Titration," approved in 2011, referenced in Section 611.611.

ASTM Method D1125-95 (1999) A, "Standard Test Methods for Electrical Conductivity and Resistivity of Water," "Test Method A

− Field and Routine Laboratory Measurement of Static (Non-Flowing) Samples," approved 1995, reapproved 1999, referenced in Section 611.611.

ASTM Method D1179-93 B, "Standard Test Methods for Fluoride in Water," "Test Method B − Ion Selective Electrode," approved 1993, referenced in Section 611.611.

ASTM Method D1179-99 B, "Standard Test Methods for Fluoride in Water," "Test Method B − Ion Selective Electrode," approved 1999, referenced in Section 611.611.

ASTM Method D1179-04 B, "Standard Test Methods for Fluoride in Water," "Test Method B − Ion Selective Electrode," approved 2004, referenced in Section 611.611.

ASTM Method D1179-10 B, "Standard Test Methods for Fluoride in Water," "Test Method B − Ion Selective Electrode," approved 2010, referenced in Section 611.611.

ASTM Method D1253-86, "Standard Test Method for Residual Chlorine in Water," reapproved 1992, referenced in Section 611.381.

ASTM Method D1253-96, "Standard Test Method for Residual Chlorine in Water," approved 1996, referenced in Section 611.381.

ASTM Method D1253-03, "Standard Test Method for Residual Chlorine in Water," approved 2003, referenced in Sections 611.381 and 611.531.

ASTM Method D1253-08, "Standard Test Method for Residual Chlorine in Water," approved 2008, referenced in Sections 611.381 and 611.531.

ASTM Method D1293-95 A or B, "Standard Test Methods for pH of Water," "Test Method A − Precise Laboratory Measurement" & "Test Method B − Routine or Continuous Measurement," approved 1995, referenced in Section 611.611.

ASTM Method D1293-99 A or B, "Standard Test Methods for pH of Water," "Test Method A − Precise Laboratory Measurement" & "Test Method B − Routine or Continuous Measurement," approved 1999, referenced in Section 611.611.

ASTM Method D1293-12, "Standard Test Methods for pH of Water," approved 2012, referenced in Section 611.611.

ASTM Method D1688-95 A or C, "Standard Test Methods for Copper in Water," "Test Method A − Atomic Absorption, Direct" & "Test Method C −Atomic Absorption, Graphite Furnace," approved 1995, referenced in Section 611.611.

ASTM Method D1688-02 A or C, "Standard Test Methods for Copper in Water," "Test Method A − Atomic Absorption, Direct" & "Test Method C − Atomic Absorption, Graphite Furnace," approved 2002, referenced in Section 611.611.

ASTM Method D1688-07 A or C, "Standard Test Methods for Copper in Water," "Test Method A − Atomic Absorption, Direct" & "Test Method C − Atomic Absorption, Graphite Furnace," approved 2007, referenced in Section 611.611.

ASTM Method D2036-98 A or B, "Standard Test Methods for Cyanide in Water," "Test Method A − Total Cyanides after Distillation" & "Test Method B − Cyanides Amenable to Chlorination by Difference," approved 1998, referenced in Section 611.611.

ASTM Method D2036-06 A or B, "Standard Test Methods for Cyanide in Water," "Test Method A − Total Cyanides after Distillation" & "Test Method B − Cyanides Amenable to Chlorination by Difference," approved 2006, referenced in Section 611.611.

ASTM Method D2459-72, "Standard Test Method for Gamma Spectrometry in Water," approved July 28, 1972, discontinued 1988, referenced in Section 611.720.

ASTM Method D2460-97~~D2460-90~~, "Standard Test Method for Radionuclides of Radium in Water," approved 1997~~1990~~, referenced in Section 611.720.

ASTM Method D2460-07, "Standard Test Method for Radionuclides of Radium in Water," approved 2007, referenced in Section 611.720.

ASTM Method D2907-97~~91~~, "Standard Test Methods for Microquantities of Uranium in Water by Fluorometry, ~~"Test Method A – Direct Fluorometric" & "Test Method B – Extraction,"~~ approved ~~June 15,~~ 1997~~1991~~, referenced in Section 611.720.

ASTM Method D2972-97 B or C, "Standard Test Methods for Arsenic in Water," "Test Method B − Atomic Absorption, Hydride Generation" & "Test Method C − Atomic Absorption, Graphite Furnace," approved 1997, referenced in Section 611.611.

ASTM Method D2972-03 B or C, "Standard Test Methods for Arsenic in Water," "Test Method B − Atomic Absorption, Hydride Generation" & "Test Method C − Atomic Absorption, Graphite Furnace," approved 2003, referenced in Section 611.611.

ASTM Method D2972-08 B or C, "Standard Test Methods for Arsenic in Water," "Test Method B − Atomic Absorption, Hydride Generation" & "Test Method C − Atomic Absorption, Graphite Furnace," approved 2008, referenced in Section 611.611.

ASTM Method D3223-97, "Standard Test Method for Total Mercury in Water," approved 1997, referenced in Section 611.611.

ASTM Method D3223-02, "Standard Test Method for Total Mercury in Water," approved 2002, referenced in Section 611.611.

ASTM Method D3454-97, "Standard Test Method for Radium-226 in Water," approved 1997, referenced in Section 611.720.

ASTM Method D3454-05, "Standard Test Method for Radium-226 in Water," approved 2005, referenced in Section 611.720.

ASTM Method D3559-96 D, "Standard Test Methods for Lead in Water," "Test Method D − Atomic Absorption, Graphite Furnace," approved August 6, 1990, referenced in Section 611.611.

ASTM Method D3559-03 D, "Standard Test Methods for Lead in Water," "Test Method D − Atomic Absorption, Graphite Furnace," approved 2003, referenced in Section 611.611.

ASTM Method D3559-08 D, "Standard Test Methods for Lead in Water," "Test Method D − Atomic Absorption, Graphite Furnace," approved 2008, referenced in Section 611.611.

ASTM Method D3645-97 B, "Standard Test Methods for Beryllium in Water," "Method B − Atomic Absorption, Graphite Furnace," approved 1997, referenced in Section 611.611.

ASTM Method D3645-03 B, "Standard Test Methods for Beryllium in Water," "Method B − Atomic Absorption, Graphite Furnace," approved 2003, referenced in Section 611.611.

ASTM Method D3645-08 B, "Standard Test Methods for Beryllium in Water," "Method B − Atomic Absorption, Graphite Furnace," approved 2008, referenced in Section 611.611.

ASTM Method D3649-91, "Standard Test Method for High-Resolution Gamma-Ray Spectrometry of Water," approved 1991, referenced in Section 611.720.

ASTM Method D3649-98a, "Standard Test Method for High-Resolution Gamma-Ray Spectrometry of Water," approved 1998, referenced in Section 611.720.

ASTM Method D3649-06, "Standard Test Method for High-Resolution Gamma-Ray Spectrometry of Water," approved 2006, referenced in Section 611.720.

ASTM Method D3697-92, "Standard Test Method for Antimony in Water," approved June 15, 1992, referenced in Section 611.611.

ASTM Method D3697-02, "Standard Test Method for Antimony in Water," approved 2002, referenced in Section 611.611.

ASTM Method D3697-07, "Standard Test Method for Antimony in Water," approved 2007, referenced in Section 611.611.

ASTM Method D3859-98 A, "Standard Test Methods for Selenium in Water," "Method A − Atomic Absorption, Hydride Method," approved 1998, referenced in Section 611.611.

ASTM Method D3859-03 A, "Standard Test Methods for Selenium in Water," "Method A − Atomic Absorption, Hydride Method," approved 2003, referenced in Section 611.611.

ASTM Method D3859-08 A, "Standard Test Methods for Selenium in Water," "Method A − Atomic Absorption, Hydride Method" & "Method B − Atomic Absorbtion, Graphite Furnace," approved 2008, referenced in Section 611.611.

ASTM Method D3867-90 A and B, "Standard Test Methods for Nitrite-Nitrate in Water," "Test Method A − Automated Cadmium Reduction" & "Test Method B − Manual Cadmium Reduction," approved January 10, 1990, referenced in Section 611.611.

ASTM Method D3972-97~~D3972-90~~, "Standard Test Method for Isotopic Uranium in Water by Radiochemistry," approved 1997~~1990~~, referenced in Section 611.720.

ASTM Method D3972-02, "Standard Test Method for Isotopic Uranium in Water by Radiochemistry," approved 2002, referenced in Section 611.720.

ASTM Method D3972-09, "Standard Test Method for Isotopic Uranium in Water by Radiochemistry," approved 2009, referenced in Section 611.720.

ASTM Method D4107-91, "Standard Test Method for Tritium in Drinking Water," approved 1991, referenced in Section 611.720.

ASTM Method D4107-98, "Standard Test Method for Tritium in Drinking Water," approved 1998~~ (reapproved 2002)~~, referenced in Section 611.720.

ASTM Method D4107-08, "Standard Test Method for Tritium in Drinking Water," approved 2008 (reapproved 2002), referenced in Section 611.720.

ASTM Method D4327-97, "Standard Test Method for Anions in Water by Ion Chromatography," approved 1997, referenced in Section 611.611.

ASTM Method D4327-03, "Standard Test Method for Anions in Water by Ion Chromatography," approved 2003, referenced in Section 611.611.

ASTM Method D4785-93, "Standard Test Method for Low-Level Iodine-131 in Water," approved 1993, referenced in Section 611.720.

ASTM Method D4785-98, "Standard Test Method for Low-Level Iodine-131 in Water," approved 1998, referenced in Section 611.720.

ASTM Method D4785-08, "Standard Test Method for Low-Level Iodine-131 in Water," approved 2008, referenced in Section 611.720.

ASTM Method D5174-97, "Standard Test Method for Trace Uranium in Water by Pulsed-Laser Phosphorimetry," approved 1997, referenced in Section 611.720.

ASTM Method D5174-02, "Standard Test Method for Trace Uranium in Water by Pulsed-Laser Phosphorimetry," approved 2002, referenced in Section 611.720.

ASTM Method D5174-07, "Standard Test Method for Trace Uranium in Water by Pulsed-Laser Phosphorimetry," approved 2007, referenced in Section 611.720.

ASTM Method D5317-93, "Standard Test Method for Determination of Chlorinated Organic Acid Compounds in Water by Gas Chromatography with an Electron Capture Detector," approved 1993, referenced in Section 611.645.

ASTM Method D5317-98 (2003), "Standard Test Method for Determination of Chlorinated Organic Acid Compounds in Water by Gas Chromatography with an Electron Capture Detector," approved 1998 (reapproved 2003), referenced in Section 611.645.

ASTM Method D5673-03, "Standard Test Method for Elements in Water by Inductively Coupled Plasma – Mass Spectrometry," approved 2003, referenced in Section 611.720.

ASTM Method D5673-05, "Standard Test Method for Elements in Water by Inductively Coupled Plasma − Mass Spectrometry," approved 2005, referenced in Section 611.720.

ASTM Method D5673-10, "Standard Test Method for Elements in Water by Inductively Coupled Plasma − Mass Spectrometry," approved 2010, referenced in Section 611.720.

ASTM Method D6239-09, "Standard Test Method for Uranium in Drinking Water by High-Resolution Alpha-Liquid-Scintillation Spectrometry," approved 2009, referenced in Section 611.720.

ASTM Method D6508-00(2005), "Standard Test Method for Determination of Dissolved Inorganic Anions in Aqueous Matrices Using Capillary Ion Electrophoresis and Chromate Electrolyte," approved 2000 (revised 2005), referenced in Section 611.611.

ASTM Method D6581-00, "Standard Test Method for Bromate, Bromide, Chlorate, and Chlorite in Drinking Water by Chemically Suppressed Ion Chromatography," approved 2000, referenced in Section 611.381.

ASTM Method D6581-08 A and B, "Standard Test Method for Bromate, Bromide, Chlorate, and Chlorite in Drinking Water by Suppressed Ion Chromatography," "Test Method A − Chemically Suppressed Ion Chromatography" & "Test Method B − Electrolytically Suppressed Ion Chromatography," approved 2008, referenced in Section 611.381.

ASTM Method D6919-03, "Standard Test Method for Determination of Dissolved Alkali and Alkaline Earth Cations and Ammonium in Water and Wastewater by Ion Chromatography," approved 2003, referenced in Section 611.611.

ASTM Method D6919-09, "Standard Test Method for Determination of Dissolved Alkali and Alkaline Earth Cations and Ammonium in Water and Wastewater by Ion Chromatography," approved 2009, referenced in Section 611.611.

ASTM Method D6888-04, "Standard Test Method for Available Cyanide with Ligand Displacement and Flow Injection Analysis (FIA) Utilizing Gas Diffusion Separation and Amperometric Detection," approved 2004, referenced in Section 611.611.

BOARD NOTE: The most recent version of ASTM methods are available for paid download from the ASTM at www.astm.org. Note that the most recent version of an ASTM method may not be the version approved for use by USEPA and incorporated by reference in subsection (b) of this Section.

Bran & Luebbe, 1025 Busch Parkway, Buffalo Grove, IL 60089.

"Fluoride in Water and Wastewater," Industrial Method #129-71W, December 1972 (referred to as "Technicon Methods, Method #129-71W"). See 40 CFR 141.23(k)(1), footnote 11 (2012), referenced in Section 611.611.

"Fluoride in Water and Wastewater," #380-75WE, February 1976 (referred to as "Technicon Methods, Method #380-75WE"). See 40 CFR 141.23(k)(1), footnote 11 (2011), referenced in Section

611.611.

Charm Sciences, Inc., 659 Andover St., Lawrence, MA 01843-1032:

"Charm E*Colite Presence/Absence Test for Detection and Identification of Coliform Bacteria and Escherichia coli in Drinking Water," January 9, 1998 (referred to as "E*Colite Test"), referenced in Section 611.802 and 611.1052 (also available from USEPA, Water Resource Center).

"Fast Phage Test Procedure. Presence/Absence for Coliphage in Ground Water with Same Day Positive Prediction," version 009 (Nov. 2012) (referred to as "Charm Fast Phage Test"), referenced in Section 611.802.

CPI International, Inc., 5580 Skylane Blvd., Santa Rosa, CA 95403 (800-878-7654 /fax: 707-545-7901/Internet address: www.cpiinternational.com).

"Colitag® Product as a Test for Detection and Identification of Coliforms and E. coli Bacteria in Drinking Water and Source Water as Required in National Primary Drinking Water Regulations," August 2001, referenced in Section 611.526.

"Modified Colitag™ Test Method for Simultaneous Detection of E. coli and other Total Coliforms in Water (ATP D05-0035)," August 2009 (referred to as "Modified Colitag™ Method"), referenced in Sections 611.526 and 611.802. See also NEMI.

EMD Millipore~~Chemicals Inc.~~ (division~~an affiliate~~ of Merck KGgA, Darmstadt, Germany), ~~480 S. Democrat Road, Gibbstown, NJ 08027-1297. (800-222-0342/e-mail:adellenbusch@emscience.com).~~ 290 Concord Road, Billerica, MA 01821 (800-645-5476 or 781-533-6000).

"Chromocult® Coliform Agar Presence/Absence Membrane Filter Test Method for Detection and Identification of Coliform Bacteria and Escherichia coli in Finished Waters," November 2000 (referred to as "Chromocult® Method, Version 1.0"), referenced in Sections 611.526, ~~and~~ 611.802, and 611.1052.

"Readycult Coliforms 100 Presence/Absence Test for Detection and Identification of Coliform Bacteria and Escherichia coli in Finished Waters," November 2000 (referred to as "Readycult® 2000"), Version 1.0, referenced in Section 611.526.

"Readycult Coliforms 100 Presence/Absence Test for Detection and Identification of Coliform Bacteria and Escherichia coli in Finished Waters," Version 1.1, January 2007 (referred to as "Readycult® 2007"), referenced in Section 611.802 and 611.1052.

Georgia Tech Research Institute, Robert Rosson, 925 Dalney Road, Atlanta, GA 30332 (404-407-6339).

"The Determination of Radium-226 and Radium-228 in Drinking Water by Gamma-ray Spectrometry Using HPGE or Ge(Li) Detectors," Revision 1.2, December 2004 (called "Georgia Radium Method"), referenced in Section 611.720.

Great Lakes Instruments, Inc., 8855 North 55th Street, Milwaukee, WI 53223.

GLI Method 2, "Turbidity," Nov. 2, 1992, referenced in Section 611.531.

H&E Testing Laboratory, 221 State Street, Augusta, ME 04333 (207-287-2727).

Method ME355.01, Revision 1, "Determination of Cyanide in Drinking Water by GC/MS Headspace Analysis," May 2009, referenced in Section 611.611. See also NEMI.

The Hach Company, P.O. Box 389, Loveland, CO 80539-0389 (800-227-4224/Internet address: www.hach.com).

"Lead in Drinking Water by Differential Pulse Anodic Stripping Voltammetry," Method 1001, August 1999, referenced in Section 611.611.

"Determination of Turbidity by Laser Nephelometry," January 2000, Revision 2.0 (referred to as "Hach FilterTrak Method 10133"), referenced in Section 611.531.

"Total Coliforms and E. coli Membrane Filtration Method with m-ColiBlue24® Broth," Method No. 10029, Revision 2, August 17, 1999 (referred to as "m-ColiBlue24 Test"), referenced in Sections~~Section~~ 611.802 and 611.1052 (also available from USEPA, Water Resource Center).

"Fluoride, USEPA SPADNS 2 Method 10225," revision 2.0, January 2011 (referred to as "Hach SPADNS 2 Method 10225"), referenced in Section 611.611.

"Hach Company TNTplus 835/836 Nitrate Method 10206 − Spectrophotometric Measurement of Nitrate in Water and Wastewater," revision 2.0, January 2011 (referred to as "Hach TNTplus 835/836 Method 10206"), referenced in Section 611.611.

IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092 (800-321-0207).

"Colisure Presence/Absence Test for Detection and Identification of Coliform Bacteria and Escherichia Coli in Drinking Water," February 28, 1994 (referred to as "Colisure Test"), referenced in Section 611.526.

"IDEXX SimPlate TM HPC Test Method for Heterotrophs in Water," November 2000 (referred to as "SimPlate method"), referenced in Section 611.531.

Industrial Test Systems, Inc., 1875 Langston St., Rock Hill, SC 29730.

Method D99-003, Revision 3.0, "Free Chlorine Species ($HOCl^-$ and OCl^-) by Test Strip," November 21, 2003 (referred to as "ITS Method D99-003"), referenced in Section 611.381.

Lachat Instruments, 6645 W. Mill Rd., Milwaukee, WI 53218 (414-358-4200).

"Digestion and distillation of total cyanide in drinking and wastewaters using MICRO DIST and determination of cyanide by flow injection analysis," Revision 2.1, November 30, 2000 (referred to as "QuikChem Method 10-204-00-1-X"), referenced in Section 611.611.

Leck Mitchell, PhD, PE, 656 Independence Valley Dr., Grand Junction, CO 81507. See also NEMI.

Mitchell Method M5271, "Determination of Turbidity by Laser Nephelometry," March 2009, referenced in Section 611.531.

Mitchell Method M5331, "Determination of Turbidity by LED Nephelometry," March 2009, referenced in Section 611.531.

~~Millipore Corporation, Technical Services Department, 80 Ashby Road, Milford, MA 01730 (800-654-5476).~~

~~Colisure Presence/Absence Test for Detection and Identification of Coliform Bacteria and Escherichia Coli in Drinking Water, February 28, 1994 (referred to as "Colisure Test"), referenced in Section 611.526.~~

NCRP. National Council on Radiation Protection, 7910 Woodmont Ave., Bethesda, MD (301-657-2652).

NCRP Report Number 22, "Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure," NCRP Report Number 22, June 5, 1959, referenced in Section 611.101.

NEMI. National Environmental Method Index (on-line at www.nemi.gov).

AMI Turbiwell Method, "Continuous Measurement of Turbidity Using a SWAN AMI Turbiwell Turbidimeter," August 2009. See also SWAN Analytische Instrumente AG.

Method ME355.01, Revision 1, "Determination of Cyanide in Drinking Water by GC/MS Headspace Analysis," May 2009, referenced in Section 611.611. See also H&E Testing Laboratory.

Mitchell Method M5271, "Determination of Turbidity by Laser Nephelometry," March 2009, referenced in Section 611.531. See also Leck Mitchell, PhD, PE.

Mitchell Method M5331, "Determination of Turbidity by LED Nephelometry," March 2009, referenced in Section 611.531. See also Leck Mitchell, PhD, PE

Modified Colitag™ Method, "Modified Colitag™ Test Method for Simultaneous Detection of E. coli and other Total Coliforms in Water (ATP D05-0035)," August 2009, referenced in Sections 611.526 and 611.802. See also CPI International, Inc.

Orion Method AQ4500, "Determination of Turbidity by LED Nephelometry," May 2009, referenced in Section 611.531. See also Thermo Scientific.

Palintest ChloroSense, "Measurement of Free and Total Chlorine in Drinking Water by Palintest ChloroSense," September 2009 (referred to as "Palintest ChloroSense"), referenced in Sections 611.381 and 611.531. See also Palintest.

"Systea Easy (1-Reagent) Nitrate Method," February 2009, referenced in Section 611.611. See also Systea Scientific, LLC.

NSF. National Sanitation Foundation International, 3475 Plymouth Road, PO Box 130140, Ann Arbor, Michigan 48113-0140 (734-769-8010).

NSF Standard 61, section 9, November 1998, referenced in Sections 611.126 and 611.356.

NTIS. National Technical Information Service, U.S. Department of Commerce, 5301 Shawnee Road, Alexandria, VA 22312 (703-605-6000 or 800-553-6847, www.ntis.gov).

Dioxin and Furan Method 1613, Revision B, "Tetra- through Octa-Chlorinated Dioxins and Furans by Isotope Dilution HRGC/HRMS," October 1994, Revision B, EPA 821/B-94/005, Doc. No. 94-104774, referenced in Section 611.645. See also USEPA, NSCEP.

Kelada 01, "Kelada Automated Test Methods for Total Cyanide, Acid Dissociable Cyanide, and Thiocyanate," Revision 1.2, August 2001, EPA 821/B-01-009, referenced in Section 611.611.

"Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure," NBS (National Bureau of Standards) Handbook 69, as amended August 1963, U.S. Department of Commerce, referenced in Section 611.330.

"Procedures for Radiochemical Analysis of Nuclear Reactor Aqueous Solutions," H.L. Krieger and S. Gold, EPA-R4-73-014, May 1973, Doc. No. PB222-154/7BA, referenced in Section 611.720.

USEPA Asbestos Method 100.1, "Analytical Method for Determination of Asbestos Fibers in Water," EPA 600/4-83-043, September 1983, Doc. No. PB83-260471, referenced in Section 611.611. See also USEPA, NSCEP.

USEPA Asbestos Method 100.2, "Determination of Asbestos Structures over 10-mm in Length in Drinking Water," EPA 600/R-94-134, June 1994, Doc. No. PB94-201902, referenced in Section 611.611. See also USEPA, NSCEP.

USEPA Environmental Inorganic Methods, "Methods for the Determination of Inorganic Substances in Environmental Samples," August 1993, EPA 600/R-93-100, Doc. No. PB94-121811, referenced in Sections 611.381, 611.531, and 611.611. (Methods 180.1 (rev. 2.0), 300.0 (rev. 2.1), 335.4 (rev. 1.0), 353.2 (rev. 2.0), and 365.1 (rev. 2.0) only.) See also USEPA, NSCEP.

USEPA Environmental Metals Methods, "Methods for the Determination of Metals in Environmental Samples − Supplement I," May 1994, EPA 600/R-94-111, Doc. No. PB95-125472, referenced in Sections 611.611, 611.612, and 611.720. (Methods 200.7 (rev. 4.4), 200.8 (rev. 5.3), 200.9 (rev. 2.2), and 245.1 (rev. 3.0) only.) See also USEPA, NSCEP.

USEPA Inorganic Methods, "Methods for Chemical Analysis of Water and Wastes," March 1983, EPA 600/4-79-020, Doc. No. PB84-128677, referenced in Section 611.611. See also USEPA, NSCEP.

USEPA Interim Radiochemical Methods, "Interim Radiochemical Methodology for Drinking Water," EPA 600/4-75-008 (revised), Doc. No. PB253258, March 1976, referenced in Section 611.720.

USEPA OGWDW Methods, Method 326.0, Revision 1.0, "Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography Incorporating the Addition of a Suppressor Acidified Postcolumn Reagent for Trace Bromate Analysis," June 2002, EPA 815/R-03/007, Doc. No. PB2003-107402, referenced in Sections 611.381 and 611.382. See also USEPA, NSCEP and USEPA, OGWDW.

USEPA Organic and Inorganic Methods, "Methods for the Determination of Organic and Inorganic Compounds in Drinking Water, Volume 1," August 2000, EPA 815/R-00/014, Doc. No. PB2000-106981, referenced in Section 611.381. (For methods 300.1 (rev. 1.0), ~~and~~ 321.8 (rev. 1.0), and 515.3 (rev. 1.0).) See also USEPA, NSCEP.

USEPA Organic Methods, "Methods for the Determination of Organic Compounds in Drinking Water," December 1988 (revised July 1991), EPA 600/4-88/039, Doc. No. PB91-231480, referenced in Sections 611.645 and 611.648 (Methods 508A (rev. 1.0) and 515.1 (rev. 4.0) only); "Methods for the Determination of Organic Compounds in Drinking Water − Supplement I," July 1990, EPA 600/4-90/020, Doc. No. PB91-146027, referenced in Section 611.645 (Methods 547, 550, and 550.1 only); "Methods for the

Determination of Organic Compounds in Drinking Water − Supplement II," August 1992, EPA 600/R-92/129, Doc. No. PB92-207703, referenced in Sections 611.381 and 611.645. (Methods 548.1 (rev. 1.0), 552.1 (rev. 1.0), and 555 (rev. 1.0) only); and "Methods for the Determination of Organic Compounds in Drinking Water − Supplement III," August 1995, EPA 600/R-95/131, Doc. No. PB95-261616, referenced in Sections 611.381, 611.645, and 611.648 (Methods 502.2 (rev. 2.1), 504.1 (rev. 1.1), 505 (rev. 2.1), 506 (rev. 1.1), 507 (rev. 2.1), 508 (rev. 3.1), 508.1 (rev. 2.0), 515.2 (rev. 1.1), 524.2 (rev. 4.1), 525.2 (rev. 2.0), 531.1 (rev. 3.1), 551.1 (rev. 1.0), and 552.2 (rev. 1.0) only.) See also USEPA, EMSL and USEPA, NSCEP.

USEPA Radioactivity Methods, "Prescribed Procedures for Measurement of Radioactivity in Drinking Water," EPA 600/4-80/032, August 1980, Doc. No. PB80-224744, referenced in Section 611.720 (Methods 900.0, 901.0, 901.1, 902.0, 903.0, 903.1, 904.0, 905.0, 906.0, 908.0, 908.1). See also USEPA, NSCEP.

USEPA Radiochemical Analyses, "Radiochemical Analytical Procedures for Analysis of Environmental Samples," March 1979, Doc. No. EMSL LV 053917, referenced in Section 611.720. (Pages 1-5, 19-32, 33-48, 65-73, 87-91, and 92-95 only.)

USEPA Radiochemistry Procedures, "Radiochemistry Procedures Manual," EPA 520/5-84-006, August 1984, Doc. No. PB84-215581~~ (referred to as "")~~, referenced in Section 611.720. (Methods 00-01, 00-02, 00-07, H-02, Ra-03, Ra-04, Ra-05, Sr-04 only.)

USEPA Technical Notes, "Technical Notes on Drinking Water Methods," EPA 600/R-94/173, October 1994, Doc. No. PB95-104766, referenced in Sections 611.531, 611.611, and 611.645. See also USEPA, NSCEP.

BOARD NOTE: USEPA made the following assertion with regard to this reference at 40 CFR 141.23(k)(1) and 141.24(e) and (n)(11) (2012): "This document contains other analytical test

procedures and approved analytical methods that remain available for compliance monitoring until July 1, 1996." Also available online at http://nepis.epa.gov/EPA/html/Pubs/pubtitleORD.htm under the document designation "600R94173."

New Jersey Department of Environment, Division of Environmental Quality, Bureau of Radiation and Inorganic Analytical Services, 9 Ewing Street, Trenton, NJ 08625.

"Determination of Radium 228 in Drinking Water," August 1990 (referred to as "New Jersey Radium Method"), referenced in Section 611.720.

New York Department of Health, Radiological Sciences Institute, Center for Laboratories and Research, Empire State Plaza, Albany, NY 12201.

"Determination of Ra-226 and Ra-228 (Ra-02)," January 1980, Revised June 1982 (referred to as "New York Radium Method"), referenced in Section 611.720.

Palintest, Ltd., 21 Kenton Lands Road, P.O. Box 18395, Erlanger, KY (800-835-9629).

Palintest Method 1001, "Lead in Drinking Water by Differential Pulse Anodic Stripping Voltammetry," Method 1001, August 1999, referenced in Section 611.611.

Palintest ChloroSense, "Measurement of Free and Total Chlorine in Drinking Water by Palintest ChloroSense," September 2009 (referred to as "Palintest ChloroSense"), referenced in Sections 611.381 and 611.531. See also NEMI.

Standard Methods Online, available online from the Standard Methods Organization at www.standardmethods.org.

Method 3112 B-09, Metals by Cold-Vapor Atomic Absorption Spectrometry, Cold-Vapor Atomic Absorption Spectrometric Method, referenced in Section 611.611.

Method 3113 B-04, Metals by Electrothermal Atomic Absorption Spectrometry, Electrothermal Atomic Absorption Spectrometric Method, referenced in Sections 611.611 and 611.612.

~~Method 3114 B-04, Metals by Hydride Generation/Atomic Absorption Spectrometry, Manual Hydride Generation/Atomic Absorption Spectrometric Method, referenced in Section 611.611.~~

~~Method 6610 B-04, Carbamate Pesticides, High-Performance Liquid Chromatographic Method, referenced in Section 611.645.~~

Method 9230 B-04, Fecal Streptococcus and Enterococcus Groups, Multiple Tube Techniques, referenced in Section 611.802.

BOARD NOTE: Where, in appendix A to subpart C of 40 CFR 141 (2012~~2011~~), USEPA has authorized use of an approved alternative method from Standard Methods Online, and that version of the method appears also in Standard Methods, 21st or 22nd ed., the Board cites only to Standard Methods, 21st or 22nd ed. for that method. The methods that USEPA listed as available from Standard Methods Online, and which are listed above as in Standard Methods, 21st or 22nd edition, are the following: 2320 B-97 (for alkalinity), 3112 B-09 (for mercury), 3114 B-09 (for arsenic and selenium), 4500-P E-99 and 4500-P F-99; (for orthophosphate); 4500-SO_4^{-2} C-97, 4500-SO_4^{-2} D-97, 4500-SO_4^{-2} E-97, and 4500-SO_4^{-2} F-97 (for sulfate); 6640 B-01 (for 2,4-D, 2,4,5-TP (silvex) (dalapon, dinoseb, pentachlorophenol, and picloram); 5561 B-00 (for glyphosate); and 9223 B-97 (for E. coli). Since each method is the same version from both sources, the Board views a copy from Standard Methods Online as equivalent to a copy from Standard Methods Online, even though the Board does not also cite to Standard Methods Online. The Board intends that use of the version of the method that is incorporated by reference is acceptable from either source.

SWAN Analytische Instrumente AG, Studbachstrasse 13, CH-8340, Hinwil, Switzerland.

AMI Turbiwell Method, "Continuous Measurement of Turbidity Using a SWAN AMI Turbiwell Turbidimeter," August 2009, referenced in Section 611.531. See also NEMI.

Syngenta Crop Protection, Inc., 410 Swing Road, Post Office Box 18300, Greensboro, NC 27419 (336-632-6000).

"Atrazine in Drinking Water by Immunoassay," February 2001 (referred to as "Syngenta AG-625"), referenced in Section 611.645.

Systea Scientific LLC, 900 Jorie Blvd., Suite 35, Oak Brook, IL 60523.

Systea Easy (1-Reagent), "Systea Easy (1-Reagent) Nitrate Method," February 2009, referenced in Section 611.611. See also NEMI.

Thermo Scientific, 166 Cummings Center, Beverly, MA 01915 (800-225-1480 or www.thermo.com).

Orion Method AQ4500, "Determination of Turbidity by LED Nephelometry," May 2009, referenced in Section 611.531. See also NEMI.

Technical Bulletin 601, "Standard Method of Testing for Nitrate in Drinking Water," July 1994, PN 221890-001 (referred to as "Technical Bulletin 601"), referenced in Section 611.611.

USDHS, STD. United States Department of Homeland Security, Science and Technology Directorate (formerly~~USDOE, EML.~~ United States Department of Energy, Environmental Measurements Laboratory), ~~U.S. Department of Energy, 376 Hudson Street, New York, NY 10014-3621~~ currently available on-line in the 28th edition only, at www.nbl.doe.gov/EML_Legacy_Website/procman.htm.

"EML Procedures Manual," HASL 300, 27th Edition, Volume 1, 1990 (referred to as "EML Procedures Manual (27th ed.)"), referenced in Section 611.720.

"EML Procedures Manual," HASL 300, 28th ed., 1997 (referred to as "EML Procedures Manual (28th ed.)"), referenced in Section 611.720.

BOARD NOTE: Although only the 28th edition is currently available, USEPA has approved use of the methods from the 27th edition also. The Board has retained the reference to the 27th edition for the benefit of any laboratory that may be using that edition.

USEPA, EMSL. United States Environmental Protection Agency, Environmental Monitoring and Support Laboratory, Cincinnati, OH 45268 (513-569-7586).

USEPA Interim Radiochemical Methods, "Interim Radiochemical Methodology for Drinking Water," EPA 600/4-75/008 (revised), March 1976, referenced in Section 611.720. See also NTIS.

USEPA Organic Methods, "Methods for the Determination of Organic Compounds in Drinking Water," December 1988 (revised July 1991), EPA 600/4-88/039, referenced in Sections 611.645 and 611.648 (Methods 508A (rev. 1.0) and 515.1 (rev. 4.0) only); "Methods for the Determination of Organic Compounds in Drinking Water − Supplement I," July 1990, EPA 600/4-90/020, referenced in Sections 611.645 and 611.648 (Methods 547, 550, and 550.1 only); "Methods for the Determination of Organic Compounds in Drinking Water − Supplement II," August 1992, EPA 600/R-92/129, referenced in Sections 611.381 and 611.645 (Methods 548.1 (rev. 1.0), 552.1 (rev. 1.0), and 555 (rev. 1.0) only); "Methods for the Determination of Organic Compounds in Drinking Water − Supplement III," August 1995, EPA 600/R-95/131, referenced in Sections 611.381, 611.645, and 611.648 (Methods 502.2 (rev. 2.1), 504.1 (rev. 1.1), 505 (rev. 2.1), 506 (rev. 1.1), 507 (rev. 2.1), 508 (rev. 3.1), 508.1 (rev. 2.0), 515.2 (rev. 4.1), 524.2 (rev. 4.1), 525.2 (rev. 2.0), 551.1 (rev. 1.0), and 552.2 (rev. 1.0) only). See also NTIS and USEPA, NSCEP.

"Procedures for Radiochemical Analysis of Nuclear Reactor Aqueous Solutions," EPA-R4-73-014, May 1973, referenced in Section 611.720. See also NTIS.

USEPA, NSCEP. United States Environmental Protection Agency, National Service Center for Environmental Publications, P.O. Box 42419, Cincinnati, OH 45242-0419 (accessible on-line and available by download from http://www.epa.gov/nscep/).

Dioxin and Furan Method 1613, Revision B, "Tetra- through Octa-Chlorinated Dioxins and Furans by Isotope Dilution HRGC/HRMS," October 1994, EPA 821/B-94/005, referenced in Section 611.645. See also NTIS.

Guidance Manual for Filtration and Disinfection, "Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources," March 1991, EPA 570/3-91-001, referenced in Section 611.111.

USEPA Asbestos Method 100.1, "Analytical Method for Determination of Asbestos Fibers in Water," September 1983, EPA 600/4-83-043, referenced in Section 611.611. See also NTIS.

USEPA Asbestos Method 100.2, "Determination of Asbestos Structures over 10-mm in Length in Drinking Water," June 1994, EPA 600/R-94-134, referenced in Section 611.611. See also NTIS.

USEPA Environmental Inorganic Methods, "Methods for the Determination of Inorganic Substances in Environmental Samples," August 1993, EPA 600/R-93-100, referenced in Sections 611.381, 611.531, and 611.611. (Methods 180.1 (rev. 2.0), 300.0 (rev. 2.1), 335.4 (rev. 1.0), 353.2 (rev. 2.0), and 365.1 (rev. 2.0) only.) See also NTIS.

USEPA Environmental Metals Methods, "Methods for the Determination of Metals in Environmental Samples − Supplement I," May 1994, EPA 600/R-94-111, referenced in Sections 611.611, 611.612, and 611.720. (Methods 200.7 (rev. 4.4), 200.8 (rev. 5.3), 200.9 (rev. 2.2), and 245.1 (rev. 3.0) only.) See also NTIS.

USEPA Inorganic Methods, "Methods for Chemical Analysis of Water and Wastes," March 1983, EPA 600/4-79-020, referenced in Section 611.611. (Methods 150.1, 150.2, and 245.2 only.) See also NTIS.

USEPA OGWDW Methods, Method 302.0, "Determination of Bromate in Drinking Water Using Two-Dimensional Ion Chromatography with Suppressed Conductivity Detection," September 2009, EPA 815/B-09/014, referenced in Sections 611.381 and 611.382. See also USEPA, OGWDW.

USEPA OGWDW Methods, Method 317.0, rev. 2.0, "Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography with the Addition of a Postcolumn Reagent for Trace Bromate Analysis," July 2001, EPA 815/B-01/001, referenced in Sections 611.381 and 611.382. See also USEPA, OGWDW.

USEPA OGWDW Methods, Method 326.0, rev. 1.0, "Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography Incorporating the Addition of a Suppressor Acidified Postcolumn Reagent for Trace Bromate Analysis," June 2002, EPA 815/R-03/007, referenced in Sections 611.381 and 611.382. See also NTIS and USEPA, OGWDW.

USEPA OGWDW Methods, Method 327.0, rev. 1.1, "Determination of Chlorine Dioxide and Chlorite Ion in Drinking Water Using Lissamine Green B and Horseradish Peroxidase with Detection by Visible Spectrophotometry," May 2005, EPA 815/R-05/008, referenced in Sections 611.381 and 611.531. See also USEPA, OGWDW.

USEPA OGWDW Methods, Method 334.0, "Determination of Residual in Drinking Water Using an On-line Chlorine Analyzer," August 2009, EPA 815/B-09/013, referenced in Section 611.531. See also USEPA, OGWDW.

USEPA OGWDW Methods, Method 523, ver. 1.0, "Determination of Triazine Pesticides and Other Degradates in Drinking Water by Gas Chromatography/Mass Spectrometry (GC/MS)," February 2011, EPA 815/R-11/002, referenced in Section 611.645. See also USEPA, OGWDW.

USEPA OGWDW Methods, Method 531.2, rev. 1.0, "Measurement of N-methylcarbamoyloximes and N-methylcarbamates in Water by Direct Aqueous Injection HPLC with Postcolumn Derivatization," September 2001, EPA 815/B-01/002 (document file name "met531_2.pdf"), referenced in Section 611.645. See also USEPA, OGWDW.

USEPA OGWDW Methods, Method 552.3, rev. 1.0, "Determination of Haloacetic Acids and Dalapon in Drinking Water by Liquid-Liquid Microextraction, Derivatization, and Gas Chromatography with Electron Capture Detection," July 2003, EPA 815/B-03/002, referenced in Sections 611.381 and 611.645.

USEPA OGWDW Methods, Method 557, "Determination of Haloacetic Acids, Bromate, and Dalapon in Drinking Water by Ion Chromatography Electrospray Ionization Tandem Mass Spectrometry," July 2003, EPA 815/B-03/002, referenced in Sections 611.381, 611.382, and 611.645. See also USEPA, OGWDW.

USEPA OGWDW Methods, Method 1622 (01), "Cryptosporidium in Water by Filtration/IMS/FA," April 2001, EPA 821/R-01/026, referenced in Section 611.1007. See also USEPA, OGWDW.

USEPA Organic and Inorganic Methods, "Methods for the Determination of Organic and Inorganic Compounds in Drinking Water, Volume 1," August 2000, EPA 815/R-00/014, referenced in Section 611.381. (Methods 300.1 (rev. 1.0), ~~and~~ 321.8 (rev. 1.0), and 515.3 (rev. 1.0) only.) See also NTIS.

USEPA Organic Methods, "Methods for the Determination of Organic Compounds in Drinking Water," December 1988, revised July 1991, EPA 600/4-88/039, referenced in Sections 611.645 and

611.648 (Methods 508A (rev. 1.0) and 515.1 (rev. 4.0) only); "Methods for the Determination of Organic Compounds in Drinking Water − Supplement I," July 1990, EPA 600/4-90/020, referenced in Section 611.645 and 611.648 (Methods 547, 550, and 550.1 only); "Methods for the Determination of Organic Compounds in Drinking Water − Supplement II," August 1992, EPA 600/R-92/129, referenced in Sections 611.381 and 611.645 (Methods 548.1 (rev. 1.0), 552.1 (rev. 1.0), and 555 (rev. 1.0) only); "Methods for the Determination of Organic Compounds in Drinking Water − Supplement III," August 1995, EPA 600/R-95/131, referenced in Sections 611.381, 611.645, and 611.648 (Methods 502.2 (rev. 2.1), 504.1 (rev. 1.1), 505 (rev. 2.1), 506 (rev. 1.1), 507 (rev. 2.1), 508 (rev. 3.1), 508.1 (rev. 2.0), 515.2 (rev. 4.1), 524.2 (rev. 4.1), 525.2 (rev. 2.0), 531.1 (rev. 3.1), 551.1 (rev. 1.0), and 552.2 (rev. 1.0) only). See also NTIS and USEPA, EMSL.

USEPA Radioactivity Methods, "Prescribed Procedures for Measurement of Radioactivity in Drinking Water," August 1980, EPA 600/4-80/032, referenced in Section 611.720. (For methods 900.0, 901, 901.1, 902, 903, 903.1, 904, 905, 906, 908, 908.1 only.) See also NTIS.

USEPA Technical Notes, "Technical Notes on Drinking Water Methods," October 1994, EPA 600/R-94/173, referenced in Sections 611.531, 611.611, and 611.645. See also NTIS.

BOARD NOTE: USEPA made the following assertion with regard to this reference at 40 CFR 141.23(k)(1) and 141.24(e) and (n)(11) (2012): "This document contains other analytical test procedures and approved analytical methods that remain available for compliance monitoring until July 1, 1996." Also available online at http://nepis.epa.gov/EPA/html/Pubs/pubtitleORD.htm under the document designation "600R94173."

USEPA, OGWDW. United States Environmental Protection Agency, Office of Ground Water and Drinking Water (accessible on-line and available by download from http://www.epa.gov/safewater/methods/).

USEPA OGWDW Methods, Method 302.0, "Determination of Bromate in Drinking Water Using Two-Dimensional Ion Chromatography with Suppressed Conductivity Detection," September 2009, EPA 815/B-09/014, referenced in Section 611.381. See also USEPA, NSCEP.

USEPA OGWDW Methods, Method 317.0, rev. 2.0, "Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography with the Addition of a Postcolumn Reagent for Trace Bromate Analysis," USEPA, July 2001, EPA 815/B-01/001, referenced in Section 611.381. See also USEPA, NSCEP.

USEPA OGWDW Methods, Method 326.0, rev. 1.0, "Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography Incorporating the Addition of a Suppressor Acidified Postcolumn Reagent for Trace Bromate Analysis," USEPA, June 2002, EPA 815/R-03/007, referenced in Section 611.381. See also NTIS and USEPA, NSCEP.

USEPA OGWDW Methods, Method 327.0, rev. 1.1, "Determination of Chlorine Dioxide and Chlorite Ion in Drinking Water Using Lissamine Green B and Horseradish Peroxidase with Detection by Visible Spectrophotometry," USEPA, May 2005, EPA 815/R-05/008, referenced in Sections 611.381 and 611.531. See also USEPA, NSCEP.

USEPA OGWDW Methods, Method 334.0, "Determination of Residual in Drinking Water Using an On-line Chlorine Analyzer," USEPA, August 2009, EPA 815/B-09/013, referenced in Section 611.531. See also USEPA, NSCEP.

USEPA OGWDW Methods, Method 515.4, rev. 1.0, "Determination of Chlorinated Acids in Drinking Water by Liquid-Liquid Microextraction, Derivatization and Fast Gas Chromatography with Electron Capture Detection," April 2000, EPA 815/B-00/001 (document file name "met515_4.pdf"), referenced in Section 611.645.

USEPA OGWDW Methods, Method 523, ver. 1.0, "Determination of Triazine Pesticides and Other Degradates in Drinking Water by Gas Chromatography/Mass Spectrometry (GC/MS)," February 2011, EPA 815/R-11/002, referenced in Section 611.645. See also USEPA, NSCEP~~OGWDW~~.

USEPA OGWDW Methods, Method 524.3, rev. 1.0, "Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry," June 2009, EPA 815/B-09/009~~ (referred to as "Method 524.3 (rev. 1.0)")~~, referenced in Sections 611.381 and 611.645.

USEPA OGWDW Methods, Method 524.4, "Measurement of Purgeable Organic Compounds in Water by Gas Chromatography/Mass Spectrometry Using Nitrogen Purge Gas," May 2013, EPA 815/R-13/002, referenced in Sections 611.381 and 611.645.

USEPA OGWDW Methods, Method 531.2, rev. 1.0, "Measurement of N-methylcarbamoyloximes and N-methylcarbamates in Water by Direct Aqueous Injection HPLC with Postcolumn Derivatization," September 2001, EPA 815/B-01/002 (document file name "met531_2.pdf"), referenced in Section 611.645. See also USEPA, NSCEP.

USEPA OGWDW Methods, Method 552.3, rev. 1.0, "Determination of Haloacetic Acids and Dalapon in Drinking Water by Liquid-liquid Microextraction, Derivatization, and Gas Chromatography with Electron Capture Detection," USEPA, July 2003, EPA 815/B-03/002, referenced in Sections 611.381 and 611.645.

USEPA OGWDW Methods, Method 557, "Determination of Haloacetic Acids, Bromate, and Dalapon in Drinking Water by Ion Chromatography Electrospray Ionization Tandem Mass Spectrometry," July 2003, EPA 815/B-03/002, referenced in Sections 611.381 and 611.645. See also USEPA, NSCEP.

USEPA OGWDW Methods, Method 1622 (05), "Method 1622: Cryptosporidium in Water by Filtration/IMS/FA," December 2005, EPA 815/R-05/001, referenced in Sections 611.1004 and 611.1007.

USEPA OGWDW Methods, Method 1622 (01), "Method 1622: Cryptosporidium in Water by Filtration/IMS/FA," April 2001, EPA 821/R-01/026, referenced in Section 611.1007. See also USEPA, NSCEP.

USEPA OGWDW Methods, Method 1622 (99), "Method 1622: Cryptosporidium in Water by Filtration/IMS/FA," April 1999, EPA 821/R-99/001, referenced in Section 611.1007.

USEPA OGWDW Methods, Method 1623 (05), "Method 1623: Cryptosporidium and Giardia in Water by Filtration/IMS/FA," December 2005, EPA 815/R-05/002, referenced in Sections 611.1004 and 611.1007.

USEPA OGWDW Methods, Method 1623 (01), "Method 1623: Cryptosporidium and Giardia in Water by Filtration/IMS/FA," April 2001, EPA 821/R-01/025, referenced in Section 611.1007.

USEPA OGWDW Methods, Method 1623 (99), "Method 1623: Cryptosporidium and Giardia in Water by Filtration/IMS/FA," January 1999, EPA 821/R-99/006, referenced in Section 611.1007.

USEPA OGWDW Methods, Method 1623.1, "Method 1623.1: Cryptosporidium and Giardia in Water by Filtration/IMS/FA," January 2012, EPA 816/R-12/001, referenced in Section 611.1004.

BOARD NOTE: Many of the above-listed documents available from the USEPA, Office of Ground Water and Drinking Water are also listed as available from NTIS.

USEPA, ORD. USEPA, Office of Research and Development, National Exposure Research Laboratory, Microbiological & Chemical Exposure Assessment Research Division (accessible on-line and available by download from http://www.epa.gov/nerlcwww/ordmeth.htm).

USEPA NERL Method 200.5, rev. 4.2, "Determination of Trace Elements in Drinking Water by Axially Viewed Inductively Coupled Plasma − Atomic Emission Spectrometry," October 2003, EPA 600/R-06/115, referenced in Sections 611.611 and 611.612.

USEPA NERL Method 415.3, rev. 1.1, "Determination of Total Organic Carbon and Specific UV Absorbance at 254 nm in Source Water and Drinking Water," February 2005, EPA 600/R-05/055, referenced in Section 611.381.

USEPA NERL Method 415.3, rev. 1.2, "Determination of Total Organic Carbon and Specific UV Absorbance at 254 nm in Source Water and Drinking Water," September 2009~~February 2005~~, EPA 600/R-09/122, referenced in Section 611.381.

USEPA NERL Method 549.2, rev. 1.0, "Determination of Diquat and Paraquat in Drinking Water by Liquid-Solid Extraction and High Performance Liquid Chromatography with Ultraviolet Detection," June 1997, referenced in Section 611.645.

USEPA Water Resource Center (RC-4100T), 1200 Pennsylvania Avenue, NW, Washington, DC 20460:

E*Colite Test, "Charm E*Colite Presence/Absence Test for Detection and Identification of Coliform Bacteria and Escherichia coli in Drinking Water," January 9, 1998, referenced in Sections ~~Section~~ 611.802 and 611.1052. See also Charm Sciences, Inc.

m-ColiBlue24 Test, "Total Coliforms and E. coli Membrane Filtration Method with m-ColiBlue24® Broth," Method No. 10029, rev. 2, August 17, 1999, referenced in Sections~~Section~~ 611.802 and 611.1052. See also The Hach Company.

USEPA Method 1600, "EPA Method 1600: Enterococci in Water by Membrane Filtration Using Membrane-Enterococcus Indoxyl-b-D-Glucoside Agar (mEI)," September 2002, EPA 821/R-02/022 is an approved variation of Standard Methods, Method 9230 C, "Fecal Streptococcus and Enterococcus Groups, Membrane Filter

Techniques" (which has not itself been approved for use by USEPA) (accessible on-line and available by download from http://www.epa.gov/nerlcwww/1600sp02.pdf), referenced in Section 611.802.

USEPA Method 1601, "Method 1601: Male-specific (F^+) and Somatic Coliphage in Water by Two-step Enrichment Procedure," April 2001, EPA 821/R-01/030 (accessible on-line and available by download from http://www.epa.gov/nerlcwww/1601ap01.pdf), referenced in Section 611.802.

USEPA Method 1602, "Method 1602: Male-specific (F^+) and Somatic Coliphage in Water by Single Agar Layer (SAL) Procedure," April 2001, EPA 821/R-01/029 (accessible on-line and available by download from http://www.epa.gov/nerlcwww/1602ap01.pdf), referenced in Section 611.802.

USEPA Method 1604, "Method 1604: Total Coliforms and Escherichia coli in Water by Membrane Filtration Using a Simultaneous Detection Technique (MI Medium)," September 2002, EPA 821/R-02/024 (accessible on-line and available by download from http://www.epa.gov/nerlcwww/1604sp02.pdf), referenced in Sections~~Section~~ 611.802 and 611.1052.

USGS. ~~Books and Open-File Reports Section,~~ United States Geological Survey, Federal Center, Box 25286, Denver, CO 80225-0425.

Method available upon request by method number from "Methods for Analysis by the U.S. Geological Survey National Water Quality Laboratory − Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments," Open File Report 93-125, 1993 (referred to as "USGS Methods").

I-2601-90, referenced in Section 611.611.

Methods available upon request by method number from Book 5, Chapter A-1, "Methods for Determination of Inorganic Substances in Water and Fluvial Sediments," 3rd ed., USGS techniques of

Water-resource Investigation: 05-A1, 1989 (referred to as :USGS Methods")

I-1030-85, referenced in Section 611.611.

I-1601-85, referenced in Section 611.611.

I-1700-85, referenced in Section 611.611.

I-2598-85, referenced in Section 611.611.

I-2700-85, referenced in Section 611.611.

I-3300-85, referenced in Section 611.611.

Methods available upon request by method number from "Methods for Determination of Radioactive Substances in Water and Fluvial Sediments," Chapter A5 in Book 5 of "Techniques of Water-Resources Investigations of the United States Geological Survey," 1977.

R-1110-76, referenced in Section 611.720.

R-1111-76, referenced in Section 611.720.

R-1120-76, referenced in Section 611.720.

R-1140-76, referenced in Section 611.720.

R-1141-76, referenced in Section 611.720.

R-1142-76, referenced in Section 611.720.

R-1160-76, referenced in Section 611.720.

R-1171-76, referenced in Section 611.720.

R-1180-76, referenced in Section 611.720.

R-1181-76, referenced in Section 611.720.

R-1182-76, referenced in Section 611.720.

BOARD NOTE: USGS methods are freely available for download in an electronic format from the USGS Publications Warehouse, at pubs.er.usgs.gov/. Sections 611.611 and 611.720 do not distinguish the volume in which each USGS method appears. The distinction as to which volume where a particular method appears is made in this incorporation by reference.

Waters Corporation, Technical Services Division, 34 Maple St., Milford, MA 01757 (800-252-4752 or 508-478-2000, www.waters.com).

"Waters Test Method for Determination of Nitrite/Nitrate in Water Using Single Column Ion Chromatography," Method B-1011, August 1987 (referred to as "Waters Method B-1011"), referenced in Section 611.611.

c) The Board incorporates the following federal regulations by reference:

40 CFR 3.2 (2013~~2012~~) (How Does This Part Provide for Electronic Reporting?), referenced in Section 611.105.

40 CFR 3.3 (2013~~2012~~) (What Definitions Are Applicable to This Part?), referenced in Section 611.105.

40 CFR 3.10 (2013~~2012~~) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 611.105.

40 CFR 3.2000 (2013~~2012~~) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 611.105.

40 CFR 136.3(a) (2013~~2012~~), referenced in Section 611.1004.

Appendix B to 40 CFR 136 (2012), referenced in Sections 611.359, 611.609, and 611.646.

40 CFR 142.20(b)(1) (2013~~2012~~), referenced in Section 611.112.

Subpart G of 40 CFR 142 (2013), referenced in Section 611.113.

d) This Part incorporates no later amendments or editions.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.111 Relief Equivalent to SDWA Section 1415(a) Variances

This Section is intended to describe how the Board grants State relief equivalent to that available from USEPA under section 1415(a)(1)(A) and (a)(1)(B) of the SDWA (42 USC 300g-4(a)(1)(A) and (a)(1)(B)). SDWA section 1415 variances do not require ultimate compliance within five years in every situation. Variances under Sections 35 through 37 of the Act [415 ILCS 5/35-37] do require compliance within five years in every case. Consequently, a PWS may have the option of seeking State regulatory relief equivalent to a SDWA section 1415 variance through one of three procedural mechanisms: a variance under Sections 35 through 37 of the Act [415 ILCS 5/35-37] and Subpart B of 35 Ill. Adm. Code 104; a site-specific rule under Sections 27 and 28 of the Act [415 ILCS 5/27-28] and 35 Ill. Adm. Code 102; or an adjusted standard under Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104.

a) The Board will grant a PWS a variance, a site-specific rule, or an adjusted standard from an MCL or a treatment technique pursuant to this Section.

1) The PWS must file a petition pursuant to 35 Ill. Adm. Code 102 or 104, as applicable.

2) If a State requirement does not have a federal counterpart, the Board may grant relief from the State requirements without following this Section.

b) Relief from an MCL.

1) As part of the justification for relief from an MCL under this Section, the PWS must demonstrate the following:

A) Because of characteristics of the raw water sources and alternative sources that are reasonably available to the system, the PWS cannot meet the MCL; and

B) The PWS will install or has installed the best available technology (BAT) (as identified in Subpart F of this Part), treatment technique, or other means that the Agency finds available. BAT may vary depending on the following:

i) The number of persons served by the system;

ii) Physical conditions related to engineering feasibility; and

iii) Costs of compliance; and

C) The variance will not result in an unreasonable risk to health.

2) In any order granting relief under this subsection, the Board will prescribe a schedule for the following:

A) Compliance, including increments of progress, by the PWS, with each MCL with respect to which the relief was granted; and

B) Implementation by the PWS of each additional control measure for each MCL with respect to which the relief is granted, during the period ending on the date compliance with such requirement is required.

3) Schedule of compliance for relief from an MCL.

A) A schedule of compliance will require compliance with each MCL with respect to which the relief was granted as expeditiously as practicable.

B) If the Board prescribes a schedule requiring compliance with an MCL for which the relief is granted later than five years from the date of issuance of the relief, the Board will do the following:

i) Document its rationale for the extended compliance schedule;

ii) Discuss the rationale for the extended compliance schedule in the required public notice and opportunity for public

hearing; and

iii) Provide the shortest practicable time schedule feasible under the circumstances.

c) Relief from a treatment technique requirement.

1) As part of the justification for relief from a treatment technique requirement under this Section, the PWS must demonstrate that the treatment technique is not necessary to protect the health of persons served because of the nature of the raw water source.

2) The Board may prescribe monitoring and other requirements as a condition for relief from a treatment technique requirement.

d) The Board will hold at least one public hearing. In addition the Board will accept comments as appropriate pursuant to 35 Ill. Adm. Code 102 or104.

e) The Board will not grant relief from any of the following:

1) From the MCLs~~MCL~~ for total coliforms and E. coli. Until March 31, 2016,~~However,~~ the Board may grant a variance from the total coliform MCL of Section 611.325 for PWSs that prove that the violation of the total coliform MCL is due to persistent growth of total coliform in the distribution system, rather than from fecal or pathogenic contamination, from a treatment lapse or deficiency, or from a problem in the operation or maintenance of the distribution system. Effective March 31, 2016, when the total coliform MCL is no longer effective, the Board can no longer grant relief from the total coliform MCL.

BOARD NOTE: As provided in Section 611.131(c)(1) and 40 CFR 142.304(a), a small system variance is not available for rules that address microbial contaminants, which include Subparts B, R, S, X, Z, and AA of this Part.

2) From any of the treatment technique requirements of Subpart B of this Part.

3) From the residual disinfectant concentration (RDC) requirements of

Sections 611.241(c) and 611.242(b).

f) The Agency must promptly send USEPA the opinion and order of the Board granting relief pursuant to this Section. The Board may reconsider and modify a grant of relief, or relief conditions, if USEPA notifies the Board of a finding pursuant to section 1415 of the SDWA (42 USC 300g-4).

g) In addition to the requirements of this Section, the provisions of Section 611.130 or 611.131 may apply to relief granted pursuant to this Section.

BOARD NOTE: Derived from 40 CFR 141.4 (2013)~~(2010)~~, from section 1415(a)(1)(A) and (a)(1)(B) of the SDWA (42 USC 300g-4(a)(1)(A) and (a)(1)(B) (2011)) and from the "Guidance Manual for Filtration and Disinfection," incorporated by reference in Section 611.102 and available from USEPA, NSCEP. USEPA has established a procedure at 40 CFR 142.23 (2013)~~(2010)~~ to review and potentially modify or nullify state determinations granting relief from NPDWRs where USEPA finds that the state has abused its discretion or failed to prescribe required schedules for compliance in a substantial number of instances.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.112 Relief Equivalent to SDWA Section 1416 Exemptions

This Section is intended to describe how the Board grants State relief equivalent to that available from USEPA under section 1416 of the SDWA (42 USC 300g-5). SDWA section 1416 exemptions do not require ultimate compliance within five years in every situation. Variances under Sections 35 through 37 of the Act [415 ILCS 5/35-37] do require compliance within five years in every case. Consequently, a PWS may have the option of seeking State regulatory relief equivalent to a SDWA section 1416 exemption through one of three procedural mechanisms: a variance under Sections 35 through 37 of the Act [415 ILCS 5/35-37] and Subpart B of 35 Ill. Adm. Code 104; a site-specific rule under Sections 27 and 28 of the Act [415 ILCS 5/27-28] and 35 Ill. Adm. Code 102; or an adjusted standard under Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104.

a) The Board will grant a PWS a variance, a site-specific rule, or an adjusted standard from an MCL or treatment technique requirement, or from both, pursuant to this Section.

1) The PWS must file a petition pursuant to 35 Ill. Adm. Code 102 or 104, as applicable.

2) If a State requirement does not have a federal counterpart, the Board may grant relief from the State requirements without following this Section.

b) As part of the justification for relief under this Section, the PWS must demonstrate the following:

1) Due to compelling factors (which may include economic factors), the PWS is unable to comply with the MCL or treatment technique requirement, or to implement measures to develop an alternative source of water supply;

2) The PWS was either of the following:

A) In operation on the effective date of the MCL or treatment technique requirement; or

B) Not in operation on the effective date of the MCL or treatment technique requirement and no reasonable alternative source of drinking water is available to the PWS;

3) The relief will not result in an unreasonable risk to health; and

4) Management or restructuring changes cannot reasonably be made that will result in compliance with the NPDWR or, if compliance cannot be achieved, improve the quality of the drinking water.

BOARD NOTE: In determining that management or restructuring changes cannot reasonably be made that will result in compliance with the NPDWR, the Board will consider the factors required by USEPA under 40 CFR 142.20(b)(1), incorporated by reference in Section 611.102(c).

c) In any order granting relief under this Section, the Board will prescribe a schedule for the following:

1) Compliance, including increments of progress, by the PWS, with each MCL and treatment technique requirement with respect to which the relief was granted; and

2) Implementation by the PWS, of each additional control measure for each contaminant subject to the MCL or treatment technique requirement, with respect to which relief is granted.

d) Schedule of compliance. A schedule of compliance will require compliance with each MCL or treatment technique requirement with respect to which relief was granted as expeditiously as practicable, but not later than three years after the otherwise applicable compliance date established in section 1412(b)(10) of the SDWA (42 USC 300g-1(b)(10)), except as follows:

1) No relief may be granted unless the PWS establishes that it is taking all practicable steps to meet the NPDWR; and

A) The PWS cannot meet the NPDWR without capital improvements that cannot be completed within 12 months;

B) In the case of a PWS that needs financial assistance for the necessary improvements, the PWS has entered into an agreement to obtain such financial assistance; or

C) The PWS has entered into an enforceable agreement to become a part of a regional PWS.

2) In the case of a PWS that serves 3,300 or fewer persons that needs financial assistance for the necessary improvements, relief may be renewed for one or more additional two year periods, not to exceed a total of six years, if the PWS establishes that it is taking all practicable steps to meet the final date for compliance.

3) A PWS may not receive relief under this Section if the PWS was granted relief under Section 611.111 or 611.131.

e) The Board will hold at least one public hearing. In addition the Board will accept comments as appropriate pursuant to 35 Ill. Adm. Code 102 or 104.

f) The Agency must promptly send USEPA the Opinion and Order of the Board granting relief pursuant to this Section. The Board may reconsider and modify a grant of relief, or relief conditions, if USEPA notifies the Board of a finding pursuant to section 1416 of the SDWA (42 USC 300g-5).

BOARD NOTE: Derived from section 1416 of the SDWA (42 USC 300g-5 (2011)).

g) The Board will not grant relief from any of the following:

1) From the MCLs~~MCL~~ for total coliforms and E. coli. Until March 31, 2016,~~However,~~ the Board may grant relief from the total coliform MCL of Section 611.325 for PWSs that prove that the violation of the total coliform MCL is due to persistent growth of total coliforms in the distribution system, rather than from fecal or pathogenic contamination, from a treatment lapse or deficiency, or from a problem in the operation or maintenance of the distribution system. Effective March 31, 2016, when the total coliform MCL is no longer effective, the Board can no longer grant relief from the total coliform MCL.

BOARD NOTE: As provided in Section 611.131(c)(1) and 40 CFR 142.304(a), a small system variance is not available for rules that address microbial contaminants, which include Subparts B, R, S, X, Z, and AA of this Part.

2) From any of the treatment technique requirements of Subpart B of this Part.

3) From the residual disinfectant concentration (RDC) requirements of Sections 611.241(c) and 611.242(b).

h) In addition to the requirements of this Section, the provisions of Section 611.130 or 611.131 may apply to relief granted pursuant to this Section.

BOARD NOTE: Derived from 40 CFR 141.4 (2013)~~(2010)~~. USEPA has established a procedure at 40 CFR 142.23 (2013)~~(2010)~~ to review and potentially modify or nullify state determinations granting relief from NPDWRs where USEPA finds that the state has abused its discretion or failed to prescribe required schedules for compliance in a substantial number of instances.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

SUBPART B: FILTRATION AND DISINFECTION

Section 611.232 Site-Specific Conditions

The Agency must consider the following site specific criteria in determining whether to require filtration pursuant to Section 611.211:

a) Disinfection.

1) The supplier must meet the requirements of Section 611.241(a) at least 11 of the 12 previous months that the system served water to the public, on an ongoing basis, unless the system fails to meet the requirements during 2 of the 12 previous months that the system served water to the public, and the Agency determines that at least one of these failures was caused by circumstances that were unusual and unpredictable.

2) The supplier must meet the following requirements at the times specified for each:

A) The requirements of Section 611.241(b)(1) at all times the system serves water to the public; and

B) The requirements of Section 611.241(b)(2) at all times the system serves water to the public, unless the Agency determines that any such failure was caused by circumstances that were unusual and unpredictable.

3) The supplier must meet the requirements of Section 611.241(c) at all times the system serves water to the public, unless the Agency determines that any such failure was caused by circumstances that were unusual and unpredictable.

4) The supplier must meet the requirements of Section 611.241(d) on an ongoing basis, unless the Agency determines that failure to meet these requirements was not caused by a deficiency in treatment of the source water.

b) Watershed control program. The supplier must maintain a watershed control program that minimizes the potential for contamination by Giardia lamblia cysts and viruses in the source water.

1) The Agency must determine whether the watershed control program is adequate to meet this goal. The Agency must determine the adequacy of a watershed control program based on the following:

A) The comprehensiveness of the watershed review;

B) The effectiveness of the supplier's program to monitor and control detrimental activities occurring in the watershed; and

C) The extent to which the water supplier has maximized land ownership or controlled the land use within the watershed. At a minimum, the watershed control program must do the following:

i) Characterize the watershed hydrology and land ownership;

ii) Identify watershed characteristics and activities that may have an adverse effect on source water quality; and

iii) Monitor the occurrence of activities that may have an adverse effect on source water quality.

2) The supplier must demonstrate through ownership or written agreements with landowners within the watershed that it can control all human activities that may have an adverse impact on the microbiological quality of the source water. The supplier must submit an annual report to the Agency that identifies any special concerns about the watershed and how they are being handled; describes activities in the watershed that affect water quality; and projects what adverse activities are expected to occur in the future and describes how the supplier expects to address them. For systems using a groundwater source under the direct influence of surface water, an approved wellhead protection program may be used, if appropriate, to meet these requirements.

c) On-site inspection. The supplier must be subject to an annual on-site inspection to assess the watershed control program and disinfection treatment process. The Agency must conduct the inspection. A report of the on-site inspection summarizing all findings must be prepared every year. The on-site inspection must demonstrate that the watershed control program and disinfection treatment process are adequately designed and maintained. The on-site inspection must

include the following:

1) A review of the effectiveness of the watershed control program;

2) A review of the physical condition of the source intake and how well it is protected;

3) A review of the supplier's equipment maintenance program to ensure there is low probability for failure of the disinfection process;

4) An inspection of the disinfection equipment for physical deterioration;

5) A review of operating procedures;

6) A review of data records to ensure that all required tests are being conducted and recorded and disinfection is effectively practiced; and

7) Identification of any improvements that are needed in the equipment, system maintenance, and operation or data collection.

d) Absence of waterborne disease outbreaks. The PWS must not have been identified as a source of a waterborne disease outbreak, or if it has been so identified, the system must have been modified sufficiently to prevent another such occurrence.

e) Total coliform MCL. The supplier must comply with the MCL for total coliforms in Section 611.325(a) and (b) and the MCL for E. coli in Section 611.325(c) at least 11 months of the 12 previous months that the system served water to the public, on an ongoing basis, unless the Agency determines that failure to meet this requirement was not caused by a deficiency in treatment of the source water.

f) TTHM. The supplier must comply with the requirements for total trihalomethanes, haloacetic acids (five), bromate, chlorite, chlorine, chloramines, and chlorine dioxide in Subpart I of this Part.

BOARD NOTE: Derived from 40 CFR 141.71(b) (2013)~~(2003)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART F: MAXIMUM CONTAMINANT LEVELS (MCLs)
AND MAXIMUM RESIDUAL DISINFECTANT LEVELS (MRDLs)

Section 611.325 Microbiological Contaminants

a) Until March 31, 2016, the~~The~~ MCL is based on the presence or absence of total coliforms in a sample, rather than coliform density.

1) For a supplier that collects at least 40 samples per month, if no more than 5.0 percent of the samples collected during a month are total coliform-positive, the supplier is in compliance with the MCL for total coliforms.

2) For a supplier that collects fewer than 40 samples per month, if no more than one sample collected during a month is a total coliform-positive, the supplier is in compliance with the MCL for total coliforms.

b) Until March 31, 2016, any~~Any~~ fecal coliform-positive repeat sample or E. coli-positive repeat sample, or any total coliform-positive repeat sample following a fecal coliform-positive or E. coli-positive routine sample, constitutes a violation of the MCL for total coliforms. For purposes of the public notification requirements in Subpart V of this Part, this is a violation that may pose an acute risk to health.

c) Beginning April 1, 2016, a supplier is in compliance with the MCL for E. coli for samples taken under the provisions of Subpart AA of this Part, unless any of the conditions identified in subsections (c)(1) through (c)(4) of this Section occur. For purposes of the public notification requirements in Subpart V of this Part, violation of the MCL may pose an acute risk to health.

1) The supplier has an E. coli-positive repeat sample following a total coliform-positive routine sample.

2) The supplier has a total coliform-positive repeat sample following an E. coli-positive routine sample.

3) The supplier fails to take all required repeat samples following an E. coli-positive routine sample.

4) The supplier fails to test for E. coli when any repeat sample tests positive for total coliform.

d~~e~~) Until March 31, 2016, a~~A~~ supplier must determine compliance with the MCL for total coliforms in subsections (a) and (b) of this Section for each month in which it is required to monitor for total coliforms. Beginning April 1, 2016, a supplier must determine compliance with the MCL for E. coli in subsection (c) of this Section for each month in which it is required to monitor for total coliforms.

e~~d~~) BATs for achieving compliance with the MCL for total coliforms in subsections (a) and (b) of this Section and for achieving compliance with the maximum contaminant level for E. coli in subsection (c) of this Section are the following:

1) Protection of wells from fecal contamination ~~by coliforms~~ by appropriate placement and construction;

2) Maintenance of RDC throughout the distribution system;

3) Proper maintenance of the distribution system including appropriate pipe replacement and repair procedures, main flushing programs, proper operation and maintenance of storage tanks and reservoirs, cross-connection control, and continual maintenance positive water pressure in all parts of the distribution system;

4) Filtration and disinfection of surface water, as described in Subparts~~Subpart~~ B, R, X, and Z of this Part, or disinfection of groundwater, as described in Subpart S of this Part, using strong oxidants such as chlorine, chlorine dioxide, or ozone; or

5) For systems using groundwater, compliance with the wellhead protection program, after USEPA approves the program.

f) USEPA has identified, pursuant to 42 USC 300g-1, the technology, treatment techniques, or other means available identified in subsection (e) of this Section as affordable technology, treatment techniques, or other means available to suppliers serving 10,000 or fewer people for achieving compliance with the MCL for total coliforms in subsections (a) and (b) of this Section and for achieving compliance with the MCL for E. coli in subsection (c) of this Section.

BOARD NOTE: Derived from 40 CFR 141.63 (2013)~~(2002)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

SUBPART G: LEAD AND COPPER

Section 611.351 Applicability of Corrosion Control

a) Corrosion control required. Suppliers must complete the applicable corrosion control treatment requirements described in Section 611.352 on or before the deadlines set forth in this Section.

1) Large systems. Each large system supplier (one regularly serving more than 50,000 persons) must complete the corrosion control treatment steps specified in subsection (d) of this Section, unless it is deemed to have optimized corrosion control under subsection (b)(2) or (b)(3) of this Section.

2) Medium-sized and small systems. Each small system supplier (one regularly serving 3,300 or fewer persons) and each medium-sized system (one regularly serving more than 3,300 up to 50,000 persons) must complete the corrosion control treatment steps specified in subsection (e) of this Section, unless it is deemed to have optimized corrosion control under one of subsections (b)(1), (b)(2), or (b)(3) of this Section.

b) Suppliers deemed to have optimized corrosion control. A supplier is deemed to have optimized corrosion control, and is not required to complete the applicable corrosion control treatment steps identified in this Section, if the supplier satisfies one of the criteria specified in subsections (b)(1) through (b)(3) of this Section. Any such system deemed to have optimized corrosion control under this subsection, and which has treatment in place, must continue to operate and maintain optimal corrosion control treatment and meet any requirements that the Agency determines are appropriate to ensure optimal corrosion control treatment is maintained.

1) Small- or medium-sized system meeting action levels. A small system or medium-sized system supplier is deemed to have optimized corrosion control if the system meets the lead and copper action levels during each of two consecutive six-month monitoring periods with monitoring

conducted in accordance with Section 611.356.

2) SEP for equivalent activities to corrosion control. The Agency must, by a SEP issued~~granted~~ pursuant to Section 611.110, deem any supplier to have optimized corrosion control treatment if it determines that the supplier has conducted activities equivalent to the corrosion control steps applicable under this Section. In making this determination, the Agency must specify the water quality control parameters representing optimal corrosion control in accordance with Section 611.352(f). A water supplier that is deemed to have optimized corrosion control under this subsection (b)(2) must operate in compliance with the Agency-designated optimal water quality control parameters in accordance with Section 611.352(g) and must continue to conduct lead and copper tap and water quality parameter sampling in accordance with Sections 611.356(d)(3) and 611.357(d), respectively. A supplier must provide the Agency with the following information in order to support an Agency SEP determination under this subsection (b)(2):

A) The results of all test samples collected for each of the water quality parameters in Section 611.352(c)(3);

B) A report explaining the test methods the supplier used to evaluate the corrosion control treatments listed in Section 611.352(c)(1), the results of all tests conducted, and the basis for the supplier's selection of optimal corrosion control treatment;

C) A report explaining how the supplier has installed corrosion control and how the supplier maintains it to insure minimal lead and copper concentrations at consumer's taps; and

D) The results of tap water samples collected in accordance with Section 611.356 at least once every six months for one year after corrosion control has been installed.

3) Results less than practical quantitation level (PQL) for lead. Any supplier is deemed to have optimized corrosion control if it submits results of tap water monitoring conducted in accordance with Section 611.356 and source water monitoring conducted in accordance with Section 611.358 that demonstrate that for two consecutive six-month monitoring periods

the difference between the 90th percentile tap water lead level, computed pursuant to Section 611.350(c)(3), and the highest source water lead concentration is less than the practical quantitation level for lead specified in Section 611.359(a)(1)(B)(i).

A) Those systems whose highest source water lead level is below the method detection limit (MDL) may also be deemed to have optimized corrosion control under this subsection (b) if the 90th percentile tap water lead level is less than or equal to the PQL for lead for two consecutive six-month monitoring periods.

B) Any water system deemed to have optimized corrosion control in accordance with this subsection (b) must continue monitoring for lead and copper at the tap no less frequently than once every three calendar years using the reduced number of sites specified in Section 611.356(c) and collecting the samples at times and locations specified in Section 611.356(d)(4)(D). Any such system that has not conducted a round of monitoring pursuant to Section 611.356(d) since September 30, 1997, must have completed a round of monitoring pursuant to this subsection (b) no later than September 30, 2000.

C) Any water system deemed to have optimized corrosion control pursuant to this subsection (b) must notify the Agency in writing pursuant to Section 611.360(a)(3) of any upcoming long-term change in treatment or the addition of a new source, as described in that Section. The Agency must review and approve the addition of a new source or any long-term change in water treatment before the addition or long-term change is implemented by the water system.

D) A supplier is not deemed to have optimized corrosion control under this subsection (b), and must implement corrosion control treatment pursuant to subsection (b)(3)(E) of this Section, unless it meets the copper action level.

E) Any supplier triggered into corrosion control because it is no longer deemed to have optimized corrosion control under this subsection must implement corrosion control treatment in

accordance with the deadlines in subsection (e) of this Section. Any such large system supplier must adhere to the schedule specified in that subsection (e) for a medium-sized system supplier, with the time periods for completing each step being triggered by the date the supplier is no longer deemed to have optimized corrosion control under this subsection (b).

c) Suppliers not required to complete corrosion control steps for having met both action levels.

1) Any small system or medium-sized system supplier, otherwise required to complete the corrosion control steps due to its exceedence of the lead or copper action level, may cease completing the treatment steps after the supplier has fulfilled both of the following conditions:

A) It has met both the copper action level and the lead action level during each of two consecutive six-month monitoring periods conducted pursuant to Section 611.356; and

B) The supplier has submitted the results for those two consecutive six-month monitoring periods to the Agency.

2) A supplier that has ceased completing the corrosion control steps pursuant to subsection (c)(1) of this Section (or the Agency, if appropriate) must resume completion of the applicable treatment steps, beginning with the first treatment step that the supplier previously did not complete in its entirety, if the supplier thereafter exceeds the lead or copper action level during any monitoring period.

3) The Agency may, by SEP, require a supplier to repeat treatment steps previously completed by the supplier where it determines that this is necessary to properly implement the treatment requirements of this Section. Any such SEP must explain the basis for this decision.

4) The requirement for any small- or medium-sized system supplier to implement corrosion control treatment steps in accordance with subsection (e) of this Section (including systems deemed to have optimized corrosion control under subsection (b)(1) of this Section) is triggered whenever any small- or medium-sized system supplier exceeds the lead or copper action

level.

d) Treatment steps and deadlines for large systems. Except as provided in subsections (b)(2) and (b)(3) of this Section, large system suppliers must complete the following corrosion control treatment steps (described in the referenced portions of Sections 611.352, 611.356, and 611.357) on or before the indicated dates.

1) Step 1: The supplier must have conducted initial monitoring (Sections 611.356(d)(1) and 611.357(b)) during two consecutive six-month monitoring periods on or before January 1, 1993.

2) Step 2: The supplier must have completed corrosion control studies (Section 611.352(c)) on or before July 1, 1994.

3) Step 3: The Agency must have approved optimal corrosion control treatment (Section 611.352(d)) by a SEP issued pursuant to Section 611.110 on or before January 1, 1995.

4) Step 4: The supplier must have installed optimal corrosion control treatment (Section 611.352(e)) by January 1, 1997.

5) Step 5: The supplier must have completed follow-up sampling (Sections 611.356(d)(2) and 611.357(c)) by January 1, 1998.

6) Step 6: The Agency must have reviewed installation of treatment and approve optimal water quality control parameters (Section 611.352(f)) by July 1, 1998.

7) Step 7: The supplier must operate in compliance with the Agency-specified optimal water quality control parameters (Section 611.352(g)) and continue to conduct tap sampling (Sections 611.356(d)(3) and 611.357(d)).

e) Treatment steps and deadlines for small- and medium-sized system suppliers. Except as provided in subsection (b) of this Section, small- and medium-sized system suppliers must complete the following corrosion control treatment steps (described in the referenced portions of Sections 611.352, 611.356, and 611.357) by the indicated time periods.

1) Step 1: The supplier must conduct initial tap sampling (Sections 611.356(d)(1) and 611.357(b)) until the supplier either exceeds the lead action level or the copper action level or it becomes eligible for reduced monitoring under Section 611.356(d)(4). A supplier exceeding the lead action level or the copper action level must recommend optimal corrosion control treatment (Section 611.352(a)) within six months after the end of the monitoring period during which it exceeds one of the action levels.

2) Step 2: Within 12 months after the end of the monitoring period during which a supplier exceeds the lead action level or the copper action level, the Agency may require the supplier to perform corrosion control studies (Section 611.352(b)). If the Agency does not require the supplier to perform such studies, the Agency must, by a SEP issued pursuant to Section 611.110, specify optimal corrosion control treatment (Section 611.352(d)) within the appropriate of the following timeframes:

   A) For medium-sized systems, within 18 months after the end of the monitoring period during which such supplier exceeds the lead action level or the copper action level; or

   B) For small systems, within 24 months after the end of the monitoring period during which such supplier exceeds the lead action level or the copper action level.

3) Step 3: If the Agency requires a supplier to perform corrosion control studies under step 2 (subsection (e)(2) of this Section), the supplier must complete the studies (Section 611.352(c)) within 18 months after the Agency requires that such studies be conducted.

4) Step 4: If the supplier has performed corrosion control studies under step 2 (subsection (e)(2) of this Section), the Agency must, by a SEP issued pursuant to Section 611.110, approve optimal corrosion control treatment (Section 611.352(d)) within six months after completion of step 3 (subsection (e)(3) of this Section).

5) Step 5: The supplier must install optimal corrosion control treatment (Section 611.352(e)) within 24 months after the Agency approves such treatment.

6) Step 6: The supplier must complete follow-up sampling (Sections 611.356(d)(2) and 611.357(c)) within 36 months after the Agency approves optimal corrosion control treatment.

7) Step 7: The Agency must review the supplier's installation of treatment and, by a SEP issued pursuant to Section 611.110, approve optimal water quality control parameters (Section 611.352(f)) within six months after completion of step 6 (subsection (e)(6) of this Section).

8) Step 8: The supplier must operate in compliance with the Agency-approved optimal water quality control parameters (Section 611.352(g)) and continue to conduct tap sampling (Sections 611.356(d)(3) and 611.357(d)).

BOARD NOTE: Derived from 40 CFR 141.81 (2013)~~(2007), as amended at 57782 (October 10, 2007)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.355 Public Education and Supplemental Monitoring

A supplier that exceeds the lead action level based on tap water samples collected in accordance with Section 611.356 must deliver the public education materials required by subsection (a) of this Section in accordance with the requirements of subsection (b) of this Section. A supplier that exceeds the lead action level must sample the tap water of any customer who requests it in accordance with subsection (c) of this Section. A supplier must deliver a consumer notice of lead tap water monitoring results to persons who are served by the supplier at each site that the supplier has tested, as specified in subsection (d) of this Section.

a) Content of written public education materials.

1) Community water systems and non-transient non-community water systems. A CWS or NTNCWS supplier must include the following elements in printed materials (e.g., brochures and pamphlets) in the same order as listed in subsections (a)(1)(A) through (a)(1)(F) of this Section. In addition, the supplier must include the language set forth in subsections (a)(1)(A), (a)(1)(B), and (a)(1)(F) of this Section in the materials, exactly as written, except for the text in brackets in these subsections, for which

the supplier must include system-specific information. Any additional information presented by a supplier must be consistent with the information set forth in subsections (a)(1)(A) through (a)(1)(F) of this Section, and the supplier must present the additional information in plain language that can be understood by the general public. The supplier must submit all written public education materials to the Agency.

A) IMPORTANT INFORMATION ABOUT LEAD IN YOUR DRINKING WATER. [INSERT NAME OF SUPPLIER] found elevated levels of lead in drinking water in some homes/buildings. Lead can cause serious health problems, especially for pregnant women and young children. Please read this information closely to see what you can do to reduce lead in your drinking water.

BOARD NOTE: The supplier must use the verbatim text set forth in this subsection (a)(1)(A), with the exception that the supplier must insert its name in place of the bracketed text.

B) Health effects of lead. Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys, and can interfere with the production of red blood cells that carry oxygen to all parts of your body. The greatest risk of lead exposure is to infants, young children, and pregnant women. Scientists have linked the effects of lead on the brain with lowered IQ in children. Adults with kidney problems and high blood pressure can be affected by low levels of lead more than healthy adults. Lead is stored in the bones, and it can be released later in life. During pregnancy, the child receives lead from the mother's bones, which may affect brain development.

BOARD NOTE: The supplier must use the verbatim text set forth in this subsection (a)(1)(B).

C) Sources of Lead.

i) Explain what lead is.

ii) Explain possible sources of lead in drinking water and how lead enters drinking water. Include information on home and building plumbing materials and service lines that may contain lead.

iii) Discuss other important sources of lead exposure in addition to drinking water (e.g., paint).

BOARD NOTE: The supplier must use text that provides the information described in this subsection (a)(1)(C).

D) Discuss the steps the consumer can take to reduce his or her exposure to lead in drinking water.

i) Encourage running the water to flush out the lead.

ii) Explain concerns with using hot water from the tap and specifically caution against the use of hot water for preparing baby formula.

iii) Explain that boiling water does not reduce lead levels.

iv) Discuss other options consumers can take to reduce exposure to lead in drinking water, such as alternative sources or treatment of water.

v) Suggest that parents have their child's blood tested for lead.

BOARD NOTE: The supplier must use text that provides the information described in this subsection (a)(1)(D).

E) Explain why there are elevated levels of lead in the supplier's drinking water (if known) and what the supplier is doing to reduce the lead levels in homes and buildings in this area.

BOARD NOTE: The supplier must use text that provides the information described in this subsection (a)(1)(E).

F) For more information, call us at [INSERT THE SUPPLIER'S NUMBER] [(IF APPLICABLE), or visit our Web site at [INSERT THE SUPPLIER'S WEB SITE HERE]]. For more information on reducing lead exposure around your home/building and the health effects of lead, visit USEPA's Web site at http://www.epa.gov/lead or contact your health care provider.

BOARD NOTE: The supplier must use the verbatim text set forth in this subsection (a)(1)(F), with the exception that the supplier must insert its name in place of the first segment of bracketed text, and it must add the second segment of bracketed text and substitute its Web address for the internal bracketed text.

2) Community water systems. In addition to including the elements specified in subsection (a)(1) of this Section, a CWS supplier must do both of the following:

A) It must tell consumers how to get their water tested; and

B) It must discuss lead in plumbing components and the difference between low-lead and lead-free components.

BOARD NOTE: At corresponding 40 CFR 141.85(a)(1)(2007), USEPA allowed the State to require prior approval of written public information materials. Rather than require prior Agency approval, the Board has chosen to allow the Agency to raise any deficiencies that it may perceive using its existing procedure for review of public education materials. The Agency has outlined its standard practice for review of public information materials as follows: The Agency provides a comprehensive public education packet to the supplier together with the notice that the supplier has exceeded the lead action level. That packet includes guidance and templates for the supplier to use in preparing and distributing its public education materials. The supplier must send a copy of the public education materials that it distributes to the Agency, and the Agency reviews the copy of the materials after their distribution to the public. The Agency directly communicates to the supplier any perceived defects in the materials. The Agency will request correction when it perceives minor defects in future distributions of the public education materials, or the Agency will request a redistribution of correct ed public education materials when it perceives major defects in the materials already distributed.

b) Delivery of public education materials.

1) The public education materials of a supplier that serves a large proportion of non-English speaking consumers must contain information in the appropriate languages regarding the importance of the notice, or it must contain a telephone number or address where a person served may contact the supplier to obtain a translated copy of the public education materials or to request assistance in the appropriate language.

2) A CWS supplier that exceeds the lead action level on the basis of tap water samples collected in accordance with Section 611.356 and which is not already conducting public education tasks pursuant to this Section must, within 60 days after the end of the monitoring period in which the exceedance occurred, complete the public education tasks according to the following requirements:

A) The CWS supplier must deliver printed materials that meet the content requirements of subsection (a) of this Section to all of its bill-paying customers.

B) Methods of delivery for a CWS supplier.

i) The CWS supplier must contact customers who are most at risk by delivering education materials that meet the content requirements of subsection (a) of this Section to local public health agencies, even if the agencies are not located within the supplier's service area, along with an informational notice that encourages distribution to all of the agencies' potentially affected customers or the supplier's users. The supplier must contact the local public health agencies directly by phone or in person. The local public health agencies may provide a specific list of additional community-based organizations that serve the target populations, which may include organizations outside the service area of the supplier. If such lists are provided, the supplier must deliver education materials that meet the content requirements of subsection (a) of this Section to each of the organizations on the provided lists.

ii) The CWS supplier must contact customers who are most at risk by delivering materials that meet the content requirements of subsection (a) of this Section to the organizations listed in subsections (b)(2)(H)(i) through (b)(2)(H)(vi) that are located within the supplier's service area, along with an informational notice that encourages distribution to all the organization's potentially affected customers or supplier's users.

BOARD NOTE: The Board found it necessary to move the text of 40 CFR 141.85(b)(2)(ii)(B)(*1*) through (b)(2)(ii)(B)(*6*) (2007), as added at 72 Fed. Reg. 57782 (Oct. 10, 2007), to appear as subsection (b)(2)(H)(i) through subsection (b)(2)(H)(vi) of this Section, in order to comport with Illinois Administrative Code codification requirements relating to allowed indent levels in rules.

iii) The CWS supplier must make a good faith effort to locate the organizations listed in subsections (b)(2)(I)(i) through (b)(2)(I)(iii) of this Section that are located within the service area and deliver materials that meet the content requirements of subsection (a) of this Section to them, along with an informational notice that encourages distribution to all potentially affected customers or users. The good faith effort to contact at-risk customers may include requesting a specific contact list of these organizations from the local public health agencies, even if the agencies are not located within the supplier's service area.

BOARD NOTE: The Board found it necessary to move the text of 40 CFR 141.85(b)(2)(ii)(C)(*1*) through (b)(2)(ii)(C)(*3*) (2007), as added at 72 Fed. Reg. 57782 (Oct. 10, 2007), to appear as subsection (b)(2)(I)(i) through subsection (b)(2)(I)(iii) of this Section, in order to comport with Illinois Administrative Code codification requirements relating to allowed indent levels in rules.

C) No less often than quarterly, the CWS supplier must provide information on or in each water bill as long as the system exceeds the action level for lead. The message on the water bill must include the following statement exactly as written, except for the text in brackets for which the supplier must include system-specific information:

> [INSERT NAME OF SUPPLIER] found high levels of lead in drinking water in some homes. Lead can cause serious health problems. For more information please call [INSERT NAME OF SUPPLIER] [or visit (INSERT SUPPLIER'S WEB SITE HERE)]. The message or delivery mechanism can be modified in consultation with the Illinois Environmental Protection Agency, Division of Public Water Supply; specifically, the Agency may allow a separate mailing of public education materials to customers if the water system cannot place the information on water bills.

D) The CWS supplier must post material meeting the content requirements of subsection (a) of this Section on the supplier's Web site if the CWS supplier serves a population greater than 100,000.

E) The CWS supplier must submit a press release to newspaper, television, and radio stations.

F) In addition to subsections (b)(2)(A) through (b)(2)(E) of this Section, the CWS supplier must implement at least three activities from one or more of the categories listed below. The educational content and selection of these activities must be determined in consultation with the Agency.

i) Public Service Announcements.

ii) Paid advertisements.

iii) Public Area Information Displays.

iv) E-mails to customers.

v) Public Meetings.

vi) Household Deliveries.

vii) Targeted Individual Customer Contact.

viii) Direct material distribution to all multi-family homes and institutions.

ix) Other methods approved by the State.

G) For a CWS supplier that is required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or, if the Agency has established an alternate monitoring period, by a SEP issued pursuant to Section 611.110, the last day of that period.

H) Organizations that the CWS supplier must contact when required to do so pursuant to subsection (b)(2)(B)(ii) of this Section.

i) Public and private schools or school boards.

ii) Women, Infants and Children (WIC) and Head Start programs.

iii) Public and private hospitals and medical clinics.

vi) Pediatricians.

v) Family planning clinics.

vi) Local welfare agencies.

BOARD NOTE: This subsection (b)(2)(H) corresponds with 40 CFR 141.85(b)(2)(ii)(B)(*1*) through (b)(2)(ii)(B)(*6*) (2007), as added at 72 Fed. Reg. 57782 (Oct. 10, 2007). The Board found it

necessary to move the text of those federal provisions to comport with Illinois Administrative Code codification requirements relating to allowed indent levels in rules.

I) Organizations that the CWS supplier must contact when required to do so pursuant to subsection (b)(2)(B)(iii) of this Section.

i) Licensed childcare centers.

ii) Public and private preschools.

iii) Obstetricians-gynecologists and midwives.

BOARD NOTE: This subsection (b)(2)(H) corresponds with 40 CFR 141.85(b)(2)(ii)(C)(*1*) through (b)(2)(ii)(C)(*3*) (2007), as added at 72 Fed. Reg. 57782 (Oct. 10, 2007). The Board found it necessary to move the text of those federal provisions to comport with Illinois Administrative Code codification requirements relating to allowed indent levels in rules.

3) As long as a CWS supplier exceeds the action level, it must repeat the activities described in subsection (b)(2) of this Section, as described in subsections (b)(3)(A) through (b)(3)(D) of this Section.

A) A CWS supplier must repeat the tasks contained in subsections (b)(2)(A), (b)(2)(B) and (b)(2)(D) of this Section every 12 months.

B) A CWS supplier must repeat tasks contained in subsection (b)(2)(C) of this Section with each billing cycle.

C) A CWS supplier serving a population greater than 100,000 must post and retain material on a publicly accessible Web site pursuant to subsection (b)(2)(D) of this Section.

D) The CWS supplier must repeat the task in subsection (b)(2)(E) of this Section twice every 12 months on a schedule agreed upon with the Agency by a SEP issued pursuant to Section 611.110. The Agency must, on a case-by-case basis, by a SEP issued pursuant to Section 611.110, extend the time for the supplier to complete the

public education tasks set forth in subsection (b)(2) of this Section beyond the 60-day limit if it determines that the extended time is needed for implementation purposes; however, the Agency must issue the SEP granting any extension prior to expiration of the 60-day deadline.

4) Within 60 days after the end of the monitoring period in which a NTNCWS supplier exceeds the lead action level (unless it already is repeating public education tasks pursuant to subsection (b)(5) of this Section), it must deliver the public education materials specified by subsection (a) of this Section, as in subsections (b)(4)(A) and (b)(4)(B) of this Section, subject to the limitation set forth in subsection (b)(4)(C) of this Section:

A) The NTNCWS supplier must post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the supplier; and

B) The NTNCWS supplier must distribute informational pamphlets or brochures on lead in drinking water to each person served by the NTNCWS supplier. The Agency may, by a SEP issued~~granted~~ pursuant to Section 611.110, allow the system to utilize electronic transmission in lieu of or combined with printed materials as long as it achieves at least the same coverage.

C) For a NTNCWS supplier that is required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or, if the Agency has established an alternate monitoring period, by a SEP issued pursuant to Section 611.110, the last day of that period.

5) A NTNCWS supplier must repeat the tasks set forth in subsection (b)(4) of this Section at least once during each calendar year in which the supplier exceeds the lead action level. The Agency must, on a case-by-case basis, by a SEP issued pursuant to Section 611.110, extend the time for the supplier to complete the public education tasks set forth in subsection (b)(2) of this Section beyond the 60-day limit if it determines that the extended time is needed for implementation purposes; however, the

Agency must issue the SEP granting any extension prior to expiration of the 60-day deadline.

6) A supplier may discontinue delivery of public education materials after it has met the lead action level during the most recent six-month monitoring period conducted pursuant to Section 611.356. Such a supplier must begin public education anew in accordance with this Section if it subsequently exceeds the lead action level during any six-month monitoring period.

7) A CWS supplier may apply to the Agency, in writing, to use only the text specified in subsection (a)(1) of this Section in lieu of the text in subsections (a)(1) and (a)(2) of this Section and to perform the tasks listed in subsections (b)(4) and (b)(5) of this Section in lieu of the tasks in subsections (b)(2) and (b)(3) of this Section if the following are true:

A) The supplier is a facility, such as a prison or a hospital, where the population served is not capable of or is prevented from making improvements to plumbing or installing point of use treatment devices; and

B) The system provides water as part of the cost of services provided, and it does not separately charge for water consumption.

8) A CWS supplier that serves 3,300 or fewer people may limit certain aspects of its public education programs as follows:

A) With respect to the requirements of subsection (b)(2)(F) of this Section, a supplier that serves 3,300 or fewer people must implement at least one of the activities listed in that subsection.

B) With respect to the requirements of subsection (b)(2)(B) of this Section, a supplier that serves 3,300 or fewer people may limit the distribution of the public education materials required under that subsection to facilities and organizations that it serves which are most likely to be visited regularly by pregnant women and children.

C) With respect to the requirements of subsection (b)(2)(E) of this Section, the Agency may, by a SEP issued pursuant to Section

611.110, waive this requirement for a supplier that serves 3,300 or fewer persons, as long as the supplier distributes notices to every household that it serves.

c) Supplemental monitoring and notification of results. A supplier that fails to meet the lead action level on the basis of tap samples collected in accordance with Section 611.356 must offer to sample the tap water of any customer who requests it. The supplier is not required to pay for collecting or analyzing the sample, nor is the supplier required to collect and analyze the sample itself.

d) Requirement for consumer notice of tap water monitoring results.

1) Consumer notice requirement. A supplier must provide a notice of the individual tap results from lead tap water monitoring carried out under the requirements of Section 611.356 to the persons served by the water system at the specific sampling site from which the sample was taken (e.g., the occupants of the residence where the tap was tested).

2) Timing of consumer notice. The supplier must provide the consumer notice as soon as practical, but no later than 30 days after it learns of the tap monitoring results.

3) Content of consumer notice. The consumer notice must include the results of lead tap water monitoring for the tap that was tested, an explanation of the health effects of lead, a list of steps that consumers can take to reduce exposure to lead in drinking water, and contact information for the water utility. The notice must also provide the maximum contaminant level goal and the action level for lead and the definitions for these two terms from Section 611.883(c).

4) Delivery of consumer notice. The consumer notice must be provided to persons served at the tap that was tested, either by mail or by another method approved by the Agency, by a SEP issued pursuant to Section 611.110. For example, upon approval by the Agency, a NTNCWS supplier could post the results on a bulletin board in the facility to allow users to review the information. The supplier must provide the notice to customers at sample taps tested, including consumers who do not receive water bills.

BOARD NOTE: Derived from 40 CFR 141.85 (2013)~~(2007), as amended at 57782 (October 10, 2007)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.356 Tap Water Monitoring for Lead and Copper

a) Sampling site location.

1) Selecting a pool of targeted sampling sites.

A) By the applicable date for commencement of monitoring under subsection (d)(1) of this Section, each supplier must complete a materials evaluation of its distribution system in order to identify a pool of targeted sampling sites that meets the requirements of this Section.

B) The pool of targeted sampling sites must be sufficiently large to ensure that the supplier can collect the number of lead and copper tap samples required by subsection (c) of this Section.

C) The supplier must select the sites for collection of first draw samples from this pool of targeted sampling sites.

D) The supplier must not select as sampling sites any faucets that have point-of-use or point-of-entry treatment devices designed to remove or capable of removing inorganic contaminants.

2) Materials evaluation.

A) A supplier must use the information on lead, copper, and galvanized steel collected pursuant to 40 CFR 141.42(d) (special monitoring for corrosivity characteristics) when conducting a materials evaluation.

B) When an evaluation of the information collected pursuant to 40 CFR 141.42(d) is insufficient to locate the requisite number of lead and copper sampling sites that meet the targeting criteria in subsection (a) of this Section, the supplier must review the

following sources of information in order to identify a sufficient number of sampling sites:

i) All plumbing codes, permits, and records in the files of the building departments that indicate the plumbing materials that are installed within publicly- and privately-owned structures connected to the distribution system;

ii) All inspections and records of the distribution system that indicate the material composition of the service connections which connect a structure to the distribution system;

iii) All existing water quality information, which includes the results of all prior analyses of the system or individual structures connected to the system, indicating locations that may be particularly susceptible to high lead or copper concentrations; and

iv) The supplier must seek to collect such information where possible in the course of its normal operations (e.g., checking service line materials when reading water meters or performing maintenance activities).

3) Tiers of sampling sites. Suppliers must categorize the sampling sites within their pool according to the following tiers:

A) CWS Tier 1 sampling sites. "CWS Tier 1 sampling sites" must include the following single-family structures:

i) Those that contain copper pipes with lead solder installed after 1982 or which contain lead pipes; or

ii) Those that are served by a lead service line.

BOARD NOTE: Subsection (a)(3)(A) was derived from segments of 40 CFR 141.86(a)(3) (2007). This allows the pool of CWS tier 1 sampling sites to consist exclusively of structures served by lead service lines.

B) CWS Tier 2 sampling sites. "CWS Tier 2 sampling sites" must include the following buildings, including multiple-family structures:

i) Those that contain copper pipes with lead solder installed after 1982 or contain lead pipes; or

ii) Those that are served by a lead service line.

BOARD NOTE: Subsection (a)(3)(B) was derived from segments of 40 CFR 141.86(a)(4) (2007). This allows the pool of CWS tier 2 sampling sites to consist exclusively of structures served by lead service lines.

C) CWS Tier 3 sampling sites. "CWS Tier 3 sampling sites" must include the following single-family structures: those that contain copper pipes with lead solder installed before 1983.

BOARD NOTE: Subsection (a)(3)(C) was derived from segments of 40 CFR 141.86(a)(5) (2007).

D) NTNCWS Tier 1 sampling sites. "NTNCWS Tier 1 sampling sites" must include the following buildings:

i) Those that contain copper pipes with lead solder installed after 1982 or which contain lead pipes; or

ii) Those that are served by a lead service line.

BOARD NOTE: Subsection (a)(3)(D) was derived from segments of 40 CFR 141.86(a)(6) (2007). This allows the pool of NTNCWS tier 1 sampling sites to consist exclusively of buildings served by lead service lines.

E) Alternative NTNCWS sampling sites. "Alternative NTNCWS sampling sites" must include the following buildings: those that contain copper pipes with lead solder installed before 1983.

BOARD NOTE: Subsection (a)(3)(E) was derived from segments of 40 CFR 141.86(a)(7) (2007).

4) Selection of sampling sites. Suppliers must select sampling sites for their sampling pool as follows:

A) CWS Suppliers. CWS suppliers must use CWS tier 1 sampling sites, except that the supplier may include CWS tier 2 or CWS tier 3 sampling sites in its sampling pool as follows:

i) If multiple-family residences comprise at least 20 percent of the structures served by a supplier, the supplier may use CWS tier 2 sampling sites in its sampling pool; or

BOARD NOTE: Subsection (a)(4)(A)(i) was derived from a segment of 40 CFR 141.86(a)(3)(ii) (2007).

ii) If the CWS supplier has an insufficient number of CWS tier 1 sampling sites on its distribution system, the supplier may use CWS tier 2 sampling sites in its sampling pool; or

BOARD NOTE: Subsection (a)(4)(A)(ii) was derived from a segment of 40 CFR 141.86(a)(4) (2007).

iii) If the CWS supplier has an insufficient number of CWS tier 1 and CWS tier 2 sampling sites on its distribution system, the supplier may complete its sampling pool with CWS tier 3 sampling sites.

BOARD NOTE: Subsection (a)(4)(A)(iii) was derived from a segment of 40 CFR 141.86(a)(5) (2007).

iv) If the CWS supplier has an insufficient number of CWS tier 1 sampling sites, CWS tier 2 sampling sites, and CWS tier 3 sampling sites, the supplier must use those CWS tier 1 sampling sites, CWS tier 2 sampling sites, and CWS tier 3 sampling sites that it has and complete its sampling pool with representative sites throughout its distribution system for the balance of its sampling sites. For the purpose of this

subsection (a)(4)(A)(iv), a representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the water system.

BOARD NOTE: Subsection (a)(4)(A)(iv) was derived from segments of 40 CFR 141.86(a)(5) (2007).

B) NTNCWS suppliers.

i) An NTNCWS supplier must select NTNCWS tier 1 sampling sites for its sampling pool.

BOARD NOTE: Subsection (a)(4)(B)(i) was derived from segments of 40 CFR 141.86(a)(6) (2007).

ii) If the NTNCWS supplier has an insufficient number of NTNCWS tier 1 sampling sites, the supplier may complete its sampling pool with alternative NTNCWS sampling sites.

BOARD NOTE: Subsection (a)(4)(B)(ii) was derived from segments of 40 CFR 141.86(a)(7) (2007).

iii) If the NTNCWS supplier has an insufficient number of NTNCWS tier 1 sampling sites and NTNCWS alternative sampling sites, the supplier must use representative sites throughout its distribution system. For the purpose of this subsection (a)(4)(B)(ii), a representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the water system.

BOARD NOTE: Subsection (a)(4)(B)(iii) was derived from segments of 40 CFR 141.86(a)(7) (2007).

C) Suppliers with lead service lines. Any supplier whose distribution system contains lead service lines must draw samples during each six-month monitoring period from sampling sites as follows:

i) 50 percent of the samples from sampling sites that contain

lead pipes or from sampling sites that have copper pipes with lead solder; and

ii) 50 percent of those samples from sites served by a lead service line.

iii) A supplier that cannot identify a sufficient number of sampling sites served by a lead service line must collect first-draw samples from all of the sites identified as being served by such lines.

BOARD NOTE: Subsection (a)(4)(C) was derived from segments of 40 CFR 141.86(a)(8) (2007). This allows the pool of sampling sites to consist exclusively of structures or buildings served by lead service lines.

b) Sample collection methods.

1) All tap samples for lead and copper collected in accordance with this Subpart G, with the exception of lead service line samples collected under Section 611.354(c) and samples collected under subsection (b)(5) of this Section, must be first-draw samples.

2) First-draw tap samples.

A) Each first-draw tap sample for lead and copper must be one liter in volume and have stood motionless in the plumbing system of each sampling site for at least six hours.

B) First-draw samples from residential housing must be collected from the cold water kitchen tap or bathroom sink tap.

C) First-draw samples from a non-residential building must be one liter in volume and must be collected at an interior tap from which water is typically drawn for consumption.

D) Non-first-draw samples collected in lieu of first-draw samples pursuant to subsection (b)(5) of this Section must be one liter in volume and must be collected at an interior tap from which water

is typically drawn for consumption.

E) First-draw samples may be collected by the supplier or the supplier may allow residents to collect first-draw samples after instructing the residents of the sampling procedures specified in this subsection (b).

i) To avoid problems of residents handling nitric acid, acidification of first-draw samples may be done up to 14 days after the sample is collected.

ii) After acidification to resolubilize the metals, the sample must stand in the original container for the time specified in the approved USEPA method before the sample can be analyzed.

F) If a supplier allows residents to perform sampling under subsection (b)(2)(D) of this Section, the supplier may not challenge the accuracy of sampling results based on alleged errors in sample collection.

3) Service line samples.

A) Each service line sample must be one liter in volume and have stood motionless in the lead service line for at least six hours.

B) Lead service line samples must be collected in one of the following three ways:

i) At the tap after flushing that volume of water calculated as being between the tap and the lead service line based on the interior diameter and length of the pipe between the tap and the lead service line;

ii) Tapping directly into the lead service line; or

iii) If the sampling site is a single-family structure, allowing the water to run until there is a significant change in temperature that would be indicative of water that has been

standing in the lead service line.

4) Follow-up first-draw tap samples.

A) A supplier must collect each follow-up first-draw tap sample from the same sampling site from which it collected the previous samples.

B) If, for any reason, the supplier cannot gain entry to a sampling site in order to collect a follow-up tap sample, the supplier may collect the follow-up tap sample from another sampling site in its sampling pool, as long as the new site meets the same targeting criteria and is within reasonable proximity of the original site.

5) Substitute non-first-draw samples.

A) A NTNCWS supplier or a CWS supplier that meets the criteria of Sections 611.355(b)(7)(A) and (b)(7)(B), that does not have enough taps that can supply first-draw samples, as defined in Section 611.102, may apply to the Agency in writing to substitute non-first-draw samples by a SEP granted under Section 611.110.

B) A supplier approved to substitute non-first-draw samples must collect as many first-draw samples from appropriate taps as possible and identify sampling times and locations that would likely result in the longest standing time for the remaining sites.

C) The Agency may grant a SEP that waives the requirement for prior Agency approval of non-first-draw sampling sites selected by the system.

c) Number of samples.

1) Suppliers must collect at least one sample from the number of sites listed in the first column of Table D of this Part (labelled "standard monitoring") during each six-month monitoring period specified in subsection (d) of this Section.

2) A supplier conducting reduced monitoring pursuant to subsection (d)(4) of

this Section must collect one sample from the number of sites specified in the second column of Table D of this Part (labelled "reduced monitoring") during each reduced monitoring period specified in subsection (d)(4) of this Section. Such reduced monitoring sites must be representative of the sites required for standard monitoring. A supplier whose system has fewer than five drinking water taps that can be used for human consumption and which can meet the sampling site criteria of subsection (a) of this Section to reach the required number of sampling sites listed in this subsection (c) must collect multiple samples from individual taps. To accomplish this, the supplier must collect at least one sample from each tap, then it must collect additional samples from those same taps on different days during the monitoring period, in order to collect a total number of samples that meets the required number of sampling sites. Alternatively, the Agency must, by a SEP issued pursuant to Section 611.110, allow a supplier whose system has fewer than five drinking water taps to collect a number of samples that is fewer than the number of sites specified in this subsection (c) if it determines that 100 percent of all taps that can be used for human consumption are sampled and that the reduced number of samples will produce the same results as would the collection of multiple samples from some taps. Any Agency approval of a reduction of the minimum number of samples must be based on a request from the supplier or on on-site verification by the Agency. The Agency may, by a SEP issued pursuant to Section 611.110, specify sampling locations when a system is conducting reduced monitoring.

d) Timing of monitoring.

1) Initial tap sampling.

The first six-month monitoring period for small, medium-sized and large system suppliers must begin on the dates specified in Table E of this Part.

A) All large system suppliers must monitor during each of two consecutive six-month periods.

B) All small- and medium-sized system suppliers must monitor during each consecutive six-month monitoring period until the following is true:

i) The supplier exceeds the lead action level or the copper action level and is therefore required to implement the corrosion control treatment requirements under Section 611.351, in which case the supplier must continue monitoring in accordance with subsection (d)(2) of this Section; or

ii) The supplier meets the lead action level and the copper action level during each of two consecutive six-month monitoring periods, in which case the supplier may reduce monitoring in accordance with subsection (d)(4) of this Section.

2) Monitoring after installation of corrosion control and source water treatment.

A) Any large system supplier that installs optimal corrosion control treatment pursuant to Section 611.351(d)(4) must have monitored during each of two consecutive six-month monitoring periods before January 1, 1998.

B) Any small- or medium-sized system supplier that installs optimal corrosion control treatment pursuant to Section 611.351(e)(5) must monitor during each of two consecutive six-month monitoring periods before 36 months after the Agency approves optimal corrosion control treatment, as specified in Section 611.351(e)(6).

C) Any supplier that installs source water treatment pursuant to Section 611.353(a)(3) must monitor during each of two consecutive six-month monitoring periods before 36 months after completion of step 2, as specified in Section 611.353(a)(4).

3) Monitoring after the Agency specification of water quality parameter values for optimal corrosion control.
After the Agency specifies the values for water quality control parameters pursuant to Section 611.352(f), the supplier must monitor during each subsequent six-month monitoring period, with the first six-month monitoring period to begin on the date the Agency specifies the optimal values.

4) Reduced monitoring.

A) Reduction to annual for small- and medium-sized system suppliers meeting the lead and copper action levels. A small- or medium-sized system supplier that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the number of samples in accordance with subsection (c) of this Section, and reduce the frequency of sampling to once per year. A small- or medium-sized system supplier that collects fewer than five samples as specified in subsection (c) of this Section and which meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce its frequency of sampling to once per year. In no case can the supplier reduce the number of samples required below the minimum of one sample per available tap. This reduced sampling may only begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

B) SEP allowing reduction to annual for suppliers maintaining water quality control parameters.

i) Any supplier that meets the lead action level and which maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Agency under Section 611.352(f) during each of two consecutive six-month monitoring periods may reduce the frequency of monitoring to once per year and the number of lead and copper samples to that specified by subsection (c) of this Section if it receives written approval from the Agency in the form of a SEP issued~~granted~~ pursuant to Section 611.110. This reduced sampling may only begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

ii) The Agency must review monitoring, treatment, and other relevant information submitted by the water system in accordance with Section 611.360, and must notify the

system in writing by a SEP issued~~granted~~ pursuant to Sections 611.110 when it determines the system is eligible to reduce its monitoring frequency to once every three years pursuant to this subsection (d)(4).

iii) The Agency must review, and where appropriate, revise its determination under subsection (d)(4)(B)(i) of this Section when the supplier submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available to the Agency.

C) Reduction to triennial for small- and medium-sized system suppliers.

i) Small- and medium-sized system suppliers meeting lead and copper action levels. A small- or medium-sized system supplier that meets the lead action level and which meets the lead and copper action levels during three consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three years.

ii) SEP for suppliers meeting optimal corrosion control treatment. Any supplier that maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Agency under Section 611.352(f) during three consecutive years of monitoring may reduce its monitoring frequency from annual to once every three years if it receives written approval from the Agency in the form of a SEP issued~~granted~~ pursuant to Section 611.110. Samples collected once every three years must be collected no later than every third calendar year.

iii) The Agency must review, and where appropriate, revise its determination under subsection (d)(4)(C)(ii) of this Section when the supplier submits new monitoring or treatment data, or when other data relevant to the number and

frequency of tap sampling becomes available to the Agency.

D) Sampling at a reduced frequency. A supplier that reduces the number and frequency of sampling must collect these samples from representative sites included in the pool of targeted sampling sites identified in subsection (a) of this Section, preferentially selecting those sampling sites from the highest tier first. Suppliers sampling annually or less frequently must conduct the lead and copper tap sampling during the months of June, July, August, or September, unless the Agency has approved a different sampling period in accordance with subsection (d)(4)(D)(i) of this Section.

i) The Agency may grant a SEP pursuant to Section 611.110 that approves a different period for conducting the lead and copper tap sampling for systems collecting a reduced number of samples. Such a period must be no longer than four consecutive months and must represent a time of normal operation where the highest levels of lead are most likely to occur. For a NTNCWS supplier that does not operate during the months of June through September and for which the period of normal operation where the highest levels of lead are most likely to occur is not known, the Agency must designate a period that represents a time of normal operation for the system. This reduced sampling may only begin during the period approved or designated by the Agency in the calendar year immediately following the end of the second consecutive six-month monitoring period for systems initiating annual monitoring and during the three-year period following the end of the third consecutive calendar year of annual monitoring for a supplier initiating triennial monitoring.

ii) A supplier monitoring annually that has been collecting samples during the months of June through September and which receives Agency approval to alter its sample collection period under subsection (d)(4)(D)(i) of this Section must collect its next round of samples during a time period that ends no later than 21 months after the previous

round of sampling. A supplier monitoring once every three years that has been collecting samples during the months of June through September and which receives Agency approval to alter the sampling collection period as provided in subsection (d)(4)(D)(i) of this Section must collect its next round of samples during a time period that ends no later than 45 months after the previous round of sampling. Subsequent rounds of sampling must be collected annually or once every three years, as required by this Section. A small system supplier with a waiver granted pursuant to subsection (g) of this Section that has been collecting samples during the months of June through September and which receives Agency approval to alter its sample collection period under subsection (d)(4)(D)(i) of this Section must collect its next round of samples before the end of the nine-year compliance cycle (as that term is defined in Section 611.101).

E) Any water system that demonstrates for two consecutive six-month monitoring periods that the tap water lead level computed under Section 611.350(c)(3) is less than or equal to 0.005 mg/ℓ and that the tap water copper level computed under Section 611.350(c)(3) is less than or equal to 0.65 mg/ℓ may reduce the number of samples in accordance with subsection (c) of this Section and reduce the frequency of sampling to once every three calendar years.

F) Resumption of standard monitoring.

i) Small- or medium-sized suppliers exceeding lead or copper action level. A small- or medium-sized system supplier subject to reduced monitoring that exceeds the lead action level or the copper action level must resume sampling in accordance subsection (d)(3) of this Section and collect the number of samples specified for standard monitoring under subsection (c) of this Section. Such a supplier must also conduct water quality parameter monitoring in accordance with Section 611.357(b), (c), or (d) (as appropriate) during the six-month monitoring period in which it exceeded the action level. Any such supplier may resume annual

monitoring for lead and copper at the tap at the reduced number of sites specified in subsection (c) of this Section after it has completed two subsequent consecutive six-month rounds of monitoring that meet the criteria of subsection (d)(4)(A) of this Section. Any such supplier may resume monitoring once every three years for lead and copper at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either subsection (d)(4)(C) or (d)(4)(E) of this Section.

ii) Suppliers failing to operate within water quality control parameters. Any supplier subject to reduced monitoring frequency that fails to meet the lead action level during any four-month monitoring period or that fails to operate within the range of values for the water quality control parameters specified pursuant to Section 611.352(f) for more than nine days in any six-month period specified in Section 611.357(d) must conduct tap water sampling for lead and copper at the frequency specified in subsection (d)(3) of this Section, must collect the number of samples specified for standard monitoring under subsection (c) of this Section, and must resume monitoring for water quality parameters within the distribution system in accordance with Section 611.357(d). This standard tap water sampling must begin no later than the six-month period beginning January 1 of the calendar year following the lead action level exceedance or water quality parameter excursion. A supplier may resume reduced monitoring for lead and copper at the tap and for water quality parameters within the distribution system only if it fulfills the conditions set forth in subsection (d)(4)(H) of this Section.

BOARD NOTE: The Board moved the material from the last sentence of 40 CFR 141.86(d)(4)(vi)(B) and 40 CFR 141.86(d)(4)(vi)(B)(*1*) through (d)(4)(vi)(B)(3) (2007) to subsections (d)(4)(H) and (d)(4)(H)(i) through (d)(4)(H)(iii), since Illinois Administrative Code codification requirements allow subsections only to four indent levels.

G) Any water supplier subject to a reduced monitoring frequency under subsection (d)(4) of this Section must notify the Agency in writing in accordance with Section 611.360(a)(3) of any upcoming long-term change in treatment or addition of a new source as described in that Section. The Agency must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the supplier. The Agency may, by a SEP issued~~granted~~ pursuant to Section 611.110, require the system to resume sampling in accordance with subsection (d)(3) of this Section and collect the number of samples specified for standard monitoring under subsection (c) of this Section or take other appropriate steps such as increased water quality parameter monitoring or re-evaluation of its corrosion control treatment given the potentially different water quality considerations.

H) A supplier required under subsection (d)(4)(F) of this Section to resume monitoring in accordance with Section 611.357(d) may resume reduced monitoring for lead and copper at the tap and for water quality parameters within the distribution system under the following conditions:

i) The supplier may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in subsection (c) of this Section after it has completed two subsequent six-month rounds of monitoring that meet the criteria of subsection (d)(4)(B) of this Section and the supplier has received written approval from the Agency by a SEP pursuant to Section 611.110 that it is appropriate to resume reduced monitoring on an annual frequency. This sampling must begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

ii) The supplier may resume monitoring for lead and copper once every three years at the tap at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either subsection (d)(4)(C) or (d)(4)(E) of this Section and the system has

received a SEP under Section 611.110 from the Agency that it is appropriate to resume monitoring once every three years.

iii) The supplier may reduce the number of water quality parameter tap water samples required in accordance with Section 611.357(e)(1) and the frequency with which it collects such samples in accordance with Section 611.357(e)(2). Such a system may not resume monitoring once every three years for water quality parameters at the tap until it demonstrates, in accordance with the requirements of Section 611.357(e)(2), that it has re-qualified for monitoring once every three years.

BOARD NOTE: Subsections (d)(4)(H) and (d)(4)(H)(i) through (d)(4)(H)(iii) are derived from the last sentence of 40 CFR 141.86(d)(4)(vi)(B) and 40 CFR 141.86 (d)(4)(vi)(B)*(1)* through (d)(4)(vi)(B)*(3)* (2007), since Illinois Administrative Code codification requirements allow only four indent levels of subsections.

e) Additional monitoring. The results of any monitoring conducted in addition to the minimum requirements of this Section must be considered by the supplier and the Agency in making any determinations (i.e., calculating the 90th percentile lead action level or the copper level) under this Subpart G.

f) Invalidation of lead or copper tap water samples. A sample invalidated under this subsection does not count toward determining lead or copper 90th percentile levels under Section 611.350(c)(3) or toward meeting the minimum monitoring requirements of subsection (c) of this Section.

1) The Agency must invalidate a lead or copper tap water sample if it determines that one of the following conditions exists:

A) The laboratory establishes that improper sample analysis caused erroneous results;

B) The sample was taken from a site that did not meet the site selection criteria of this Section;

C) The sample container was damaged in transit; or

D) There is substantial reason to believe that the sample was subject to tampering.

2) The supplier must report the results of all samples to the Agency and all supporting documentation for samples the supplier believes should be invalidated.

3) To invalidate a sample under subsection (f)(1) of this Section, the decision and the rationale for the decision must be documented in writing. The Agency may not invalidate a sample solely on the grounds that a follow-up sample result is higher or lower than that of the original sample.

4) The water supplier must collect replacement samples for any samples invalidated under this Section if, after the invalidation of one or more samples, the supplier has too few samples to meet the minimum requirements of subsection (c) of this Section. Any such replacement samples must be taken as soon as possible, but no later than 20 days after the date the Agency invalidates the sample or by the end of the applicable monitoring period, whichever occurs later. Replacement samples taken after the end of the applicable monitoring period must not also be used to meet the monitoring requirements of a subsequent monitoring period. The replacement samples must be taken at the same locations as the invalidated samples or, if that is not possible, at locations other than those already used for sampling during the monitoring period.

g) Monitoring waivers for small system suppliers. Any small system supplier that meets the criteria of this subsection (g) may apply to the Agency to reduce the frequency of monitoring for lead and copper under this Section to once every nine years (i.e., a "full waiver") if it meets all of the materials criteria specified in subsection (g)(1) of this Section and all of the monitoring criteria specified in subsection (g)(2) of this Section. Any small system supplier that meets the criteria in subsections (g)(1) and (g)(2) of this Section only for lead, or only for copper, may apply to the State for a waiver to reduce the frequency of tap water monitoring to once every nine years for that contaminant only (i.e., a "partial waiver").

1) Materials criteria. The supplier must demonstrate that its distribution system and service lines and all drinking water supply plumbing, including plumbing conveying drinking water within all residences and buildings connected to the system, are free of lead-containing materials or copper-containing materials, as those terms are defined in this subsection (g)(1), as follows:

A) Lead. To qualify for a full waiver, or a waiver of the tap water monitoring requirements for lead (i.e., a "lead waiver"), the water supplier must provide certification and supporting documentation to the Agency that the system is free of all lead-containing materials, as follows:

i) It contains no plastic pipes that contain lead plasticizers, or plastic service lines that contain lead plasticizers; and

ii) It is free of lead service lines, lead pipes, lead soldered pipe joints, and leaded brass or bronze alloy fittings and fixtures, unless such fittings and fixtures meet the specifications of NSF Standard 61, section 9, incorporated by reference in Section 611.102.

BOARD NOTE: Corresponding 40 CFR 141.86(g)(1)(i)(B) specifies "any standard established pursuant to 42 USC 300g-6(e) (SDWA section 1417(e))." USEPA has stated that the NSF standard is that standard. See 62 Fed. Reg. 44684 (Aug. 22, 1997).

B) Copper. To qualify for a full waiver, or a waiver of the tap water monitoring requirements for copper (i.e., a "copper waiver"), the water supplier must provide certification and supporting documentation to the Agency that the system contains no copper pipes or copper service lines.

2) Monitoring criteria for waiver issuance. The supplier must have completed at least one six-month round of standard tap water monitoring for lead and copper at sites approved by the Agency and from the number of sites required by subsection (c) of this Section and demonstrate that the 90th percentile levels for any and all rounds of monitoring conducted since the

system became free of all lead-containing or copper-containing materials, as appropriate, meet the following criteria:

A) Lead levels. To qualify for a full waiver, or a lead waiver, the supplier must demonstrate that the 90th percentile lead level does not exceed 0.005 mg/ℓ.

B) Copper levels. To qualify for a full waiver, or a copper waiver, the supplier must demonstrate that the 90th percentile copper level does not exceed 0.65 mg/ℓ.

3) State approval of waiver application. The Agency must notify the supplier of its waiver determination by a SEP issued pursuant to Section 611.110, in writing, setting forth the basis of its decision and any condition of the waiver. As a condition of the waiver, the Agency may require the supplier to perform specific activities (e.g., limited monitoring, periodic outreach to customers to remind them to avoid installation of materials that might void the waiver) to avoid the risk of lead or copper concentration of concern in tap water. The small system supplier must continue monitoring for lead and copper at the tap as required by subsections (d)(1) through (d)(4) of this Section, as appropriate, until it receives written notification from the Agency that the waiver has been approved.

4) Monitoring frequency for suppliers with waivers.

A) A supplier with a full waiver must conduct tap water monitoring for lead and copper in accordance with subsection (d)(4)(D) of this Section at the reduced number of sampling sites identified in subsection (c) of this Section at least once every nine years and provide the materials certification specified in subsection (g)(1) of this Section for both lead and copper to the Agency along with the monitoring results. Samples collected every nine years must be collected no later than every ninth calendar year.

B) A supplier with a partial waiver must conduct tap water monitoring for the waived contaminant in accordance with subsection (d)(4)(D) of this Section at the reduced number of sampling sites specified in subsection (c) of this Section at least once every nine years and provide the materials certification specified in subsection

(g)(1) of this Section pertaining to the waived contaminant along with the monitoring results. Such a supplier also must continue to monitor for the non-waived contaminant in accordance with requirements of subsections (d)(1) through (d)(4) of this Section, as appropriate.

C) Any supplier with a full or partial waiver must notify the Agency in writing in accordance with Section 611.360(a)(3) of any upcoming long-term change in treatment or addition of a new source, as described in that Section. The Agency must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the supplier. The Agency has the authority to require the supplier to add or modify waiver conditions (e.g., require recertification that the supplier's system is free of lead-containing or copper-containing materials, require additional rounds of monitoring), if it deems such modifications are necessary to address treatment or source water changes at the system.

D) If a supplier with a full or partial waiver becomes aware that it is no longer free of lead-containing or copper-containing materials, as appropriate (e.g., as a result of new construction or repairs), the supplier must notify the Agency in writing no later than 60 days after becoming aware of such a change.

5) Continued eligibility. If the supplier continues to satisfy the requirements of subsection (g)(4) of this Section, the waiver will be renewed automatically, unless any of the conditions listed in subsection (g)(5)(A) through (g)(5)(C) of this Section occur. A supplier whose waiver has been revoked may re-apply for a waiver at such time as it again meets the appropriate materials and monitoring criteria of subsections (g)(1) and (g)(2) of this Section.

A) A supplier with a full waiver or a lead waiver no longer satisfies the materials criteria of subsection (g)(1)(A) of this Section or has a 90th percentile lead level greater than 0.005 mg/ℓ.

B) A supplier with a full waiver or a copper waiver no longer satisfies the materials criteria of subsection (g)(1)(B) of this Section or has

a 90th percentile copper level greater than 0.65 mg/ℓ.

C) The State notifies the supplier, in writing, that the waiver has been revoked, setting forth the basis of its decision.

6) Requirements following waiver revocation. A supplier whose full or partial waiver has been revoked by the Agency is subject to the corrosion control treatment and lead and copper tap water monitoring requirements, as follows:

A) If the supplier exceeds the lead or copper action level, the supplier must implement corrosion control treatment in accordance with the deadlines specified in Section 611.351(e), and any other applicable requirements of this Subpart G.

B) If the supplier meets both the lead and the copper action level, the supplier must monitor for lead and copper at the tap no less frequently than once every three years using the reduced number of sampling sites specified in subsection (c) of this Section.

7) Pre-existing waivers. Small system supplier waivers approved by the Agency in writing prior to April 11, 2000 must remain in effect under the following conditions:

A) If the supplier has demonstrated that it is both free of lead-containing and copper-containing materials, as required by subsection (g)(1) of this Section and that its 90th percentile lead levels and 90th percentile copper levels meet the criteria of subsection (g)(2) of this Section, the waiver remains in effect so long as the supplier continues to meet the waiver eligibility criteria of subsection (g)(5) of this Section. The first round of tap water monitoring conducted pursuant to subsection (g)(4) of this Section must be completed no later than nine years after the last time the supplier monitored for lead and copper at the tap.

B) If the supplier has met the materials criteria of subsection (g)(1) of this Section but has not met the monitoring criteria of subsection (g)(2) of this Section, the supplier must conduct a round of monitoring for lead and copper at the tap demonstrating that it met

the criteria of subsection (g)(2) of this Section no later than September 30, 2000. Thereafter, the waiver must remain in effect as long as the supplier meets the continued eligibility criteria of subsection (g)(5) of this Section. The first round of tap water monitoring conducted pursuant to subsection (g)(4) of this Section must be completed no later than nine years after the round of monitoring conducted pursuant to subsection (g)(2) of this Section.

BOARD NOTE: Derived from 40 CFR 141.86 (2013)~~(2007), as amended at 72 Fed. Reg. 57782 (October 10, 2007)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.360 Reporting

A supplier must report all of the following information to the Agency in accordance with this Section.

a) Reporting for tap, lead, and copper, and water quality parameter monitoring.

1) Except as provided in subsection (a)(1)(viii) of this Section, a supplier must report the following information for all samples specified in Section 611.356 and for all water quality parameter samples specified in Section 611.357 within ten days of the end of each applicable sampling period specified in Sections 611.356 and 611.357 (i.e., every six months, annually, every three years, or every nine years). For a monitoring period with a duration less than six months, the end of the monitoring period is the last date on which samples can be collected during that period, as specified in Sections 611.356 and 611.357.

A) The results of all tap samples for lead and copper, including the location of each site and the criteria under Section 611.356(a)(3) through (a)(7) under which the site was selected for the supplier's sampling pool;

B) Documentation for each tap water lead or copper sample for which the water supplier requests invalidation pursuant to Section 611.356(f)(2);

C) This subsection (a)(1)(C) corresponds with 40 CFR 141.90(a)(1)(iii), a provision that USEPA removed and marked "reserved." This statement preserves structural parity with the federal rules;

D) The 90th percentile lead and copper concentrations measured from among all lead and copper tap samples collected during each sampling period (calculated in accordance with Section 611.350(c)(3)), unless the Agency calculates the system's 90th percentile lead and copper levels under subsection (h) of this Section;

E) With the exception of initial tap sampling conducted pursuant to Section 611.356(d)(1), the supplier must designate any site that was not sampled during previous sampling periods, and include an explanation of why sampling sites have changed;

F) The results of all tap samples for pH, and where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica collected pursuant to Section 611.357(b) through (e);

G) The results of all samples collected at entry points for applicable water quality parameters pursuant to Section 611.357(b) through (e).

H) A water supplier must report the results of all water quality parameter samples collected under Section 611.357(c) through (f) during each six-month monitoring period specified in Section 611.357(d) within the first 10 days following the end of the monitoring period, unless the Agency has specified, by a SEP issued~~granted~~ pursuant to Section 611.110, a more frequent reporting requirement.

2) For a NTNCWS supplier, or a CWS supplier meeting the criteria of Sections 611.355(b)(7)(A) and (b)(7)(B), that does not have enough taps which can provide first-draw samples, the supplier must do either of the following:

A) Provide written documentation to the Agency that identifies

standing times and locations for enough non-first-draw samples to make up its sampling pool under Section 611.356(b)(5) by the start of the first applicable monitoring period under Section 611.356(d) that commenced after April 11, 2000, unless the Agency has waived prior Agency approval of non-first-draw sampling sites selected by the supplier pursuant to Section 611.356(b)(5); or

B) If the Agency has waived prior approval of non-first-draw sampling sites selected by the supplier, identify, in writing, each site that did not meet the six-hour minimum standing time and the length of standing time for that particular substitute sample collected pursuant to Section 611.356(b)(5) and include this information with the lead and copper tap sample results required to be submitted pursuant to subsection (a)(1)(A) of this Section.

3) At a time specified by the Agency, by a SEP issued pursuant to Section 611.110, or if no specific time is designated by the Agency, then as early as possible prior to the addition of a new source or any change in water treatment, a water supplier deemed to have optimized corrosion control under Section 611.351(b)(3), a water supplier subject to reduced monitoring pursuant to Section 611.356(d)(4), or a water supplier subject to a monitoring waiver pursuant to Section 611.356(g), must submit written documentation to the Agency describing the change or addition.

4) Any small system supplier applying for a monitoring waiver under Section 611.356(g), or subject to a waiver granted pursuant to Section 611.356(g)(3), must provide the following information to the Agency in writing by the specified deadline:

A) By the start of the first applicable monitoring period in Section 611.356(d), any small water system supplier applying for a monitoring waiver must provide the documentation required to demonstrate that it meets the waiver criteria of Sections 611.356(g)(1) and (g)(2).

B) No later than nine years after the monitoring previously conducted pursuant to Section 611.356(g)(2) or Section 611.356(g)(4)(A), each small system supplier desiring to maintain its monitoring waiver must provide the information required by Sections

611.356(g)(4)(A) and (g)(4)(B).

C) No later than 60 days after it becomes aware that it is no longer free of lead-containing or copper-containing material, as appropriate, each small system supplier with a monitoring waiver must provide written notification to the Agency, setting forth the circumstances resulting in the lead-containing or copper-containing materials being introduced into the system and what corrective action, if any, the supplier plans to remove these materials.

D) By October 10, 2000, any small system supplier with a waiver granted prior to April 11, 2000 and that had not previously met the requirements of Section 611.356(g)(2) must have provided the information required by that subsection.

5) Each GWS supplier that limits water quality parameter monitoring to a subset of entry points under Section 611.357(c)(3) must provide, by the commencement of such monitoring, written correspondence to the Agency that identifies the selected entry points and includes information sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system.

b) Reporting for source water monitoring.

1) A supplier must report the sampling results for all source water samples collected in accordance with Section 611.358 within ten days of the end of each source water sampling period (i.e., annually, per compliance period, per compliance cycle) specified in Section 611.358.

2) With the exception of the first round of source water sampling conducted pursuant to Section 611.358(b), a supplier must specify any site that was not sampled during previous sampling periods, and include an explanation of why the sampling point has changed.

c) Reporting for corrosion control treatment.

By the applicable dates under Section 611.351, a supplier must report the following information:

1) For a supplier demonstrating that it has already optimized corrosion control, the information required by Section 611.352(b)(2) or (b)(3).

2) For a supplier required to optimize corrosion control, its recommendation regarding optimal corrosion control treatment pursuant to Section 611.352(a).

3) For a supplier required to evaluate the effectiveness of corrosion control treatments pursuant to Section 611.352(c), the information required by Section 611.352(c).

4) For a supplier required to install optimal corrosion control approved by the Agency pursuant to Section 611.352(d), a copy of the Agency permit letter, which acts as certification that the supplier has completed installing the permitted treatment.

d) Reporting for source water treatment. On or before the applicable dates in Section 611.353, a supplier must provide the following information to the Agency:

1) If required by Section 611.353(b)(1), its recommendation regarding source water treatment; or

2) For suppliers required to install source water treatment pursuant to Section 611.353(b)(2), a copy of the Agency permit letter, which acts as certification that the supplier has completed installing the treatment approved by the Agency within 24 months after the Agency approved the treatment.

e) Reporting for lead service line replacement. A supplier must report the following information to the Agency to demonstrate compliance with the requirements of Section 611.354:

1) No later than 12 months after the end of a monitoring period in which a supplier exceeds the lead action level in sampling referred to in Section 611.354(a), the supplier must submit each of the following to the Agency in writing:

A) The material evaluation conducted as required by Section

611.356(a);

B) Identify the initial number of lead service lines in its distribution system at the time the supplier exceeds the lead action level; and

C) Provide the Agency with the supplier's schedule for annually replacing at least seven percent of the initial number of lead service lines in its distribution system.

2) No later than 12 months after the end of a monitoring period in which a supplier exceeds the lead action level in sampling referred to in Section 611.354(a), and every 12 months thereafter, the supplier must demonstrate to the Agency in writing that the supplier has done either of the following:

A) That the supplier has replaced, in the previous 12 months, at least seven percent of the initial number of lead service lines in its distribution system (or any greater number of lines specified by the Agency pursuant to Section 611.354(e)); or

B) That the supplier has conducted sampling that demonstrates that the lead concentration in all service line samples from individual lines, taken pursuant to Section 611.356(b)(3), is less than or equal to 0.015 mg/ℓ. This demonstration requires that the total number of lines that the supplier has replaced, combined with the total number that meet the criteria of Section 611.354(c), must equal at least seven percent of the initial number of lead lines identified pursuant to subsection (e)(1) of this Section (or the percentage specified by the Agency pursuant to Section 611.354(e)).

3) The annual letter submitted to the Agency pursuant to subsection (e)(2) of this Section must contain the following information:

A) The number of lead service lines originally scheduled to be replaced during the previous year of the supplier's replacement schedule;

B) The number and location of each lead service line actually replaced during the previous year of the supplier's replacement schedule; and

C) If measured, the water lead concentration from each lead service line sampled pursuant to Section 611.356(b)(3) and the location of each lead service line sampled, the sampling method used, and the date of sampling.

4) Any supplier that collects lead service line samples following partial lead service line replacement required by Section 611.354 must report the results to the Agency within the first ten days of the month following the month in which the supplier receives the laboratory results, or as specified by the Agency. The Agency may, by a SEP issued~~granted~~ pursuant to Section 611.110, eliminate this requirement to report these monitoring results. A supplier must also report any additional information as specified by the Agency, and in a time and manner prescribed by the Agency, to verify that all partial lead service line replacement activities have taken place.

f) Reporting for public education program.

1) Any water supplier that is subject to the public education requirements in Section 611.355 must, within ten days after the end of each period in which the supplier is required to perform public education in accordance with Section 611.355(b), send written documentation to the Agency that contains the following:

A) A demonstration that the supplier has delivered the public education materials that meet the content requirements in Sections 611.355(a) and the delivery requirements in Section 611.355(b); and

B) A list of all the newspapers, radio stations, television stations, and facilities and organizations to which the supplier delivered public education materials during the period in which the supplier was required to perform public education tasks.

2) Unless required by the Agency, by a SEP issued pursuant to Section 611.110, a supplier that previously has submitted the information required by subsection (f)(1)(B) of this Section need not resubmit the information required by subsection (f)(1)(B) of this Section, as long as there have been

no changes in the distribution list and the supplier certifies that the public education materials were distributed to the same list submitted previously.

3) No later than three months following the end of the monitoring period, each supplier must mail a sample copy of the consumer notification of tap results to the Agency, along with a certification that the notification has been distributed in a manner consistent with the requirements of Section 611.355(d).

g) Reporting of additional monitoring data. Any supplier that collects sampling data in addition to that required by this Subpart G must report the results of that sampling to the Agency within the first ten days following the end of the applicable sampling periods specified by Sections 611.356 through 611.358 during which the samples are collected.

h) Reporting of 90th percentile lead and copper concentrations where the Agency calculates a system's 90th percentile concentrations. A water supplier is not required to report the 90th percentile lead and copper concentrations measured from among all lead and copper tap water samples collected during each monitoring period, as required by subsection (a)(1)(D) of this Section if the following is true:

1) The Agency has previously notified the water supplier that it will calculate the water system's 90th percentile lead and copper concentrations, based on the lead and copper tap results submitted pursuant to subsection (h)(2)(A) of this Section, and has specified a date before the end of the applicable monitoring period by which the supplier must provide the results of lead and copper tap water samples;

2) The supplier has provided the following information to the Agency by the date specified in subsection (h)(1) of this Section:

A) The results of all tap samples for lead and copper including the location of each site and the criteria under Section 611.356(a)(3), (a)(4), (a)(5), (a)(6), or (a)(7) under which the site was selected for the system's sampling pool, pursuant to subsection (a)(1)(A) of this Section; and

B) An identification of sampling sites utilized during the current

monitoring period that were not sampled during previous monitoring periods, and an explanation why sampling sites have changed; and

3) The Agency has provided the results of the 90th percentile lead and copper calculations, in writing, to the water supplier before the end of the monitoring period.

BOARD NOTE: Derived from 40 CFR 141.90 (2013)~~(2007), as amended at 72 Fed. Reg. 57782 (October 10, 2007)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

SUBPART I: DISINFECTANT RESIDUALS, DISINFECTION BYPRODUCTS, AND DISINFECTION BYPRODUCT PRECURSORS

Section 611.381 Analytical Requirements

a) A supplier must use only the analytical methods specified in this Section, each of which is incorporated by reference in Section 611.102, or alternative methods approved by the Agency pursuant to Section 611.480 to demonstrate compliance with the requirements of this Subpart I and with the requirements of Subparts W and Y of this Part.

b) Disinfection byproducts (DBPs).

1) A supplier must measure disinfection byproducts (DBPs) by the appropriate of the following methods:

A) TTHM:

i) By purge and trap, gas chromatography, electrolytic conductivity detector, and photoionization detector: USEPA Organic Methods, Method 502.2 (rev. 2.1). If TTHMs are the only analytes being measured in the sample, then a photoionization detector is not required.

ii) By purge and trap, gas chromatography, mass spectrometer: USEPA Organic Methods, Method 524.2 (rev. 4.1).

iii) By liquid-liquid extraction, gas chromatography, electron capture detector: USEPA Organic Methods, Method 551.1 (rev. 1.0).

iv) By purge and trap, gas chromatography, mass spectrometry: USEPA OGWDW Methods, Method 524.3 (rev. 1.0) and 524.4.

BOARD NOTE: USEPA added USEPA OGWDW Methods, Method 524.3 (rev. 1.0) as an approved alternative method for TTHM in appendix A to subpart C of 40 CFR 141 on August 3, 2009 (at 74 Fed. Reg. 38348). USEPA added USEPA OGWDW Methods, Method 524.4 as approved alternative methods for total trihalomethanes in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

B) HAA5:

i) By liquid-liquid extraction (diazomethane), gas chromatography, electron capture detector: Standard Methods, 19th, ~~or~~ 21st, or 22nd ed., Method 6251 B.

ii) By solid phase extractor (acidic methanol), gas chromatography, electron capture detector: USEPA Organic Methods, Method 552.1 (rev. 1.0).

iii) By liquid-liquid extraction (acidic methanol), gas chromatography, electron capture detector: USEPA Organic Methods, Method 552.2 (rev. 1.0) or USEPA OGWDW Methods, Method 552.3 (rev. 1.0).

iv) By ion chromatography, electrospray ionization, tandem mass spectrometry: USEPA OGWDW Methods, Method 557.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 6251 B as an approved alternative method for HAA5 in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added USEPA OGWDW Methods, Method 557 as approved alternative methods for HAA5 in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added Standard Methods, 22nd ed., Method 6251 B as an approved alternative method for HAA5 in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

C) Bromate:

i) By ion chromatography: USEPA Organic and Inorganic Methods, Method 300.1 (rev. 1.0).

ii) By ion chromatography and post-column reaction: USEPA OGWDW Methods, Method 317.0 (rev 2.0), or 326.0 (rev. 1.0).

iii) By inductively coupled plasma/mass spectrometer: USEPA Organic and Inorganic Methods, Method 321.8 (rev. 1.0).

iv) By two-dimensional ion chromatography: USEPA OGWDW Methods, Method 302.0.

v) By ion chromatography, electrospray ionization, tandem mass spectrometry: USEPA OGWDW Methods, Method 557.

vi) By chemically suppressed chromatography: ASTM Method D6581-08 A.

vii) By electrolytically suppressed chromatography: ASTM Method D6581-08 B.

BOARD NOTE: Ion chromatography and post column reaction or inductively coupled plasma/mass spectrometry must be used for

monitoring of bromate for purposes of demonstrating eligibility of reduced monitoring, as prescribed in Section 611.382(b)(3)(B). For inductively-coupled plasma − mass spectrometry, samples must be preserved at the time of sampling with 50 mg ethylenediamine (EDA) per liter of sample, and the samples must be analyzed within 28 days.

BOARD NOTE: USEPA added USEPA OGWDW Methods, Methods 302.0 and 557 and ASTM Methods D6581-08 A and B as approved alternative methods for bromate in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908).

D) Chlorite:

i) By amperometric titration for daily monitoring pursuant to Section 611.382(b)(2)(A)(i): Standard Methods, 19th, ~~or~~ 21st, or 22nd ed., Method 4500-ClO_2 E.

ii) By spectrophotometry: USEPA OGWDW Methods, Method 327.0 (rev. 1.1).

iii) By ion chromatography: USEPA Environmental Inorganic Methods, Method 300.0 (rev. 2.1); USEPA Organic and Inorganic Methods, Method 300.1 (rev. 1.0); USEPA OGWDW Methods, Method 317.0 (rev. 2.0), or 326.0 (rev. 1.0); or ASTM Method D6581-00.

iv) By chemically suppressed chromatography: ASTM Method D6581-08 A.

v) By electrolytically suppressed chromatography: ASTM Method D6581-08 B.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 4500-ClO_2 E as an approved alternative method for daily chlorite in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Methods D6581-08 A and B as approved alternative methods for chlorite in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added Standard Methods, 22nd ed.,

Method 4500-ClO_2 E as an approved alternative method for chlorite in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

BOARD NOTE: Amperometric titration or spectrophotometry may be used for routine daily monitoring of chlorite at the entrance to the distribution system, as prescribed in Section 611.382(b)(2)(A)(i). Ion chromatography must be used for routine monthly monitoring of chlorite and additional monitoring of chlorite in the distribution system, as prescribed in Section 611.382(b)(2)(A)(ii) and (b)(2)(B).

2) Analyses under this Section for DBPs must be conducted by laboratories that have received certification by USEPA or the Agency except as specified under subsection (b)(3) of this Section. To receive certification to conduct analyses for the DBP contaminants listed in Sections 611.312 and 611.381 and Subparts W and Y of this Part, the laboratory must fulfill the requirements of subsections (b)(2)(A), (b)(2)(C), and (b)(2)(D) of this Section.

A) The laboratory must analyze performance evaluation (PE) samples that are acceptable to USEPA or the Agency at least once during each consecutive 12-month period by each method for which the laboratory desires certification.

B) This subsection corresponds with 40 CFR 141.131(b)(2)(ii), which has expired by its own terms. This statement maintains structural consistency with the corresponding federal rule.

C) The laboratory must achieve quantitative results on the PE sample analyses that are within the acceptance limits set forth in subsections (b)(2)(C)(i) through (b)(2)(B)(xi) of this Section, subject to the conditions of subsections (b)(2)(C)(xii) and (b)(2)(C)(xiii) of this Section:

i) Chloroform (a THM): ± 20% of true value;

ii) Bromodichloromethane (a THM): ± 20% of true value;

iii) Dibromochloromethane (a THM): ± 20% of true value;

iv) Bromoform (a THM): ± 20% of true value;

v) Monochloroacetic Acid (an HAA5): ± 40% of true value;

vi) Dichloroacetic Acid (an HAA5): ± 40% of true value;

vii) Trichloroacetic Acid (an HAA5): ± 40% of true value;

viii) Monobromoacetic Acid (an HAA5): ± 40% of true value;

ix) Dibromoacetic Acid (an HAA5): ± 40% of true value;

x) Chlorite: ± 30% of true value; and

xi) Bromate: ± 30% of true value.

xii) The laboratory must meet all four of the individual THM acceptance limits set forth in subsections (b)(2)(B)(i) through (b)(2)(B)(iv) of this Section in order to successfully pass a PE sample for TTHM.

xiii) The laboratory must meet the acceptance limits for four out of the five HAA5 compounds set forth in subsections (b)(2)(B)(v) through (b)(2)(B)(ix) of this Section in order to successfully pass a PE sample for HAA5.

D) The laboratory must report quantitative data for concentrations at least as low as the minimum reporting levels (MRLs) listed in subsections (b)(2)(D)(i) through (b)(2)(D)(xi) of this Section, subject to the limitations of subsections (b)(2)(D)(xii) and (b)(2)(D)(xiii) of this Section, for all DBP samples analyzed for compliance with Sections 611.312 and 611.385 and Subparts W and Y of this Part:

i) Chloroform (a THM): 0.0010 mg/ℓ;

ii) Bromodichloromethane (a THM): 0.0010 mg/ℓ;

iii) Dibromochloromethane (a THM): 0.0010 mg/ℓ;

iv) Bromoform (a THM): 0.0010 mg/ℓ;

v) Monochloroacetic Acid (an HAA5): 0.0020 mg/ℓ;

vi) Dichloroacetic Acid (an HAA5): 0.0010 mg/ℓ;

vii) Trichloroacetic Acid (an HAA5): 0.0010 mg/ℓ;

viii) Monobromoacetic Acid (an HAA5): 0.0010 mg/ℓ;

ix) Dibromoacetic Acid (an HAA5): 0.0010 mg/ℓ;

x) Chlorite: 0.020 mg/ℓ, applicable to monitoring as required by Section 611.382(b)(2)(A)(ii) and (b)(2)(B); and

xi) Bromate: 0.0050, or 0.0010 mg/ℓ if the laboratory uses USEPA OGWDW Methods, Method 317.0 or 326.0 or USEPA Organic and Inorganic Methods, Method 321.8.

xii) The calibration curve must encompass the regulatory MRL concentration. Data may be reported for concentrations lower than the regulatory MRL as long as the precision and accuracy criteria are met by analyzing an MRL check standard at the lowest reporting limit chosen by the laboratory. The laboratory must verify the accuracy of the calibration curve at the MRL concentration by analyzing an MRL check standard with a concentration less than or equal to 110% of the MRL with each batch of samples. The measured concentration for the MRL check standard must be ±50% of the expected value, if any field sample in the batch has a concentration less than five times the regulatory MRL. Method requirements to analyze higher concentration check standards and meet tighter acceptance criteria for them must be met in addition to the MRL check standard requirement.

xiii) When adding the individual trihalomethane or haloacetic acid concentrations, for the compounds listed in subsections (b)(2)(D)(v) through (b)(2)(D)(ix) of this Section, to calculate the TTHM or HAA5 concentrations, respectively, a zero is used for any analytical result that is less than the MRL concentration for that DBP, unless otherwise specified by the Agency.

3) A party approved by USEPA or the Agency must measure daily chlorite samples at the entrance to the distribution system.

c) Disinfectant residuals.

1) A supplier must measure residual disinfectant concentrations for free chlorine, combined chlorine (chloramines), and chlorine dioxide by the appropriate of the methods listed in subsections (c)(1)(A) through (c)(1)(D) of this Section, subject to the provisions of subsection (c)(1)(E) of this Section:

A) Free Chlorine:

i) Amperometric titration: Standard Methods, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl D, or ASTM Method D1253-86, D1253-96, D1253-03, or D1253-08;

ii) DPD ferrous titration: Standard Methods, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl F;

iii) DPD colorimetric: Standard Methods, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl G; ~~or~~

iv) Syringaldazine (FACTS): Standard Methods, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl H; ~~.~~

v) Test strips: ITS Method D99-003 if approved by the Agency pursuant to subsection (c)(2) of this Section; ~~.~~

vi~~v~~) Amperometric sensor: Palintest ChloroSense; or ~~.~~

vii~~vi~~) On-line chlorine analyzer: USEPA OGWDW Methods, Method 334.0.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 4500-Cl D, F, G, and H as approved alternative methods for free chlorine in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Method D1253-08, USEPA OGWDW Methods, Method 334.0, and Palintest ChloroSense as approved alternative methods for free chlorine in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added Standard Methods, 22nd ed., Methods 4500-Cl D, F, G, and H as approved alternative methods for free chlorine in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

B) Combined Chlorine:

i) Amperometric titration: Standard Methods, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl D, or ASTM Method D1253-86, D1253-96, D1253-03, or D1253-08;

ii) DPD ferrous titration: Standard Methods, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl F; or

iii) DPD colorimetric: Standard Methods, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl G.

BOARD NOTE: USEPA added Standard Methods, Methods 4500-Cl D, F, and G as approved alternative methods for free chlorine in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Method D1253-08 as an approved alternative method for combined chlorine in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added Standard Methods, 22nd ed., Methods 4500-Cl D, F, and G as approved alternative methods for combined chlorine in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

C) Total Chlorine:

i) Amperometric titration: Standard Methods, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl D, or ASTM Method D1253-86, D1253-96, D1253-03, or D1253-08;

ii) Low-level amperometric titration: Standard Methods, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl E;

iii) DPD ferrous titration: Standard Methods, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl F;

iv) DPD colorimetric: Standard Methods, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl G; ~~or~~

v) Iodometric electrode: Standard Methods, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl I; ~~.~~

vi) Amperometric sensor: Palintest ChloroSense; or

vii) On-line chlorine analyzer: USEPA OGWDW Methods, Method 334.0.

BOARD NOTE: USEPA added Standard Methods, Methods 4500-Cl D, E, F, G, and I as approved alternative methods for free chlorine in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Method D1253-08, USEPA OGWDW Methods, Method 334.0, and Palintest ChloroSense as approved alternative methods for total chlorine in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added Standard Methods, 22nd ed., Methods 4500-Cl D, E, F, G, and I as approved alternative method for total chlorine in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

D) Chlorine Dioxide:

i) DPD: Standard Methods, 19th, 20th, or 21st ed., Method 4500-ClO_2 D;

ii) Amperometric Method II: Standard Methods, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-ClO_2 E; or

iii) Lissamine Green spectrophotometric: USEPA OGWDW Method 327.0 (rev. 1.1).

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 4500-ClO_2 D and E as approved alternative methods for chlorine dioxide in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods, 22nd ed., Method 4500-ClO_2 E as an approved alternative method for chlorine dioxide in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

E) The methods listed are approved for measuring the specified disinfectant residual. The supplier may measure free chlorine or total chlorine for demonstrating compliance with the chlorine MRDL and combined chlorine, or total chlorine may be measured for demonstrating compliance with the chloramine MRDL.

2) Alternative methods available only ~~only~~ upon specific approval by the Agency.

A) Test strips: ITS Method D99-003.

BOARD NOTE: USEPA added ITS Method D99-003 as an approved alternative method for free chlorine in appendix A to subpart C of 40 CFR 141, added on June 3, 2008 (at 73 Fed. Reg. 31616), contingent upon specific state approval. The Board has opted to provide that the Agency can grant such approvals on a case-by-case basis using the SEP mechanism.

B) If approved by the Agency, by an SEP issued pursuant to Section 611.110, a supplier may also measure residual disinfectant concentrations for chlorine, chloramines, and chlorine dioxide by using DPD colorimetric test kits.

3) A party approved by USEPA or the Agency must measure residual disinfectant concentration.

d) A supplier required to analyze parameters not included in subsections (b) and (c) of this Section must use the methods listed below. A party approved by USEPA or the Agency must measure the following parameters:

1) Alkalinity. All methods allowed in Section 611.611(a)(21) for measuring alkalinity.

2) Bromide:

A) USEPA Inorganic Methods, Method 300.0 (rev. 2.1);

B) USEPA Organic and Inorganic Methods, Method 300.1 (rev. 1.0);

C) USEPA OGWDW Methods, Method 317.0 (rev. 2.0) or Method 326.0 (rev. 1.0); or

D) ASTM Method D6581-00.

3) Total Organic Carbon (TOC), by any of the methods listed in subsection (d)(3)(A)(i), (d)(3)(A)(ii), (d)(3)(A)(iii), or (d)(3)(B) of this Section, subject to the limitations of subsection (d)(3)(C) of this Section:

A) High-temperature combustion:

i) Standard Methods, 19th (Supplement), 20th, ~~or~~ 21st, or 22nd ed., Method 5310 B; or

ii) USEPA NERL Method 415.3 (rev. 1.2).

B) Persulfate-ultraviolet or heated–persulfate oxidation:

i) Standard Methods, 19th (Supplement), 20th, ~~or~~ 21st, or 22nd ed., Method 5310 C; or

ii) USEPA NERL Method 415.3 (rev. 1.2).

C) Wet oxidation method:

i) Standard Methods, 19th (Supplement), 20th, ~~or~~ 21st, or 22nd ed., Method 5310 D; or

ii) USEPA NERL Method 415.3 (rev. 1.2).

D) Specific UV_{254} absorbance:_USEPA NERL Method 415.3 (rev. 1.1) or 415.3 (rev. 1.2).

E) Inorganic carbon must be removed from the samples prior to analysis. TOC samples may not be filtered prior to analysis. TOC samples must be acidified at the time of sample collection to achieve pH less than or equal to 2 with minimal addition of the acid specified in the method or by the instrument manufacturer. Acidified TOC samples must be analyzed within 28 days.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 5310 B, C, and D as approved alternative methods for total organic carbon in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added USEPA NERL Method 415.3 (rev. 1.2) as an approved alternative method for total organic carbon in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added Standard Methods, 22nd ed., Methods 5310 B, C, and D as approved alternative methods for total organic carbon in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

4) Specific Ultraviolet Absorbance (SUVA). SUVA is equal to the UV absorption at 254 nm (UV_{254}) (measured in m^{-1}) divided by the dissolved organic carbon (DOC) concentration (measured as mg/ℓ). In order to determine SUVA, it is necessary to separately measure UV_{254} and DOC. When determining SUVA, a supplier must use the methods stipulated in subsection (d)(4)(A) of this Section to measure DOC and the method stipulated in subsection (d)(4)(B) of this Section to measure UV_{254}. SUVA must be determined on water prior to the addition of disinfectants/oxidants by the supplier. DOC and UV_{254} samples used to determine a SUVA value must be taken at the same time and at the same location.

A) Dissolved Organic Carbon (DOC). Prior to analysis, DOC samples must be filtered through the 0.45 µm pore-diameter filter as soon as practical after sampling, not to exceed 48 hours. After filtration, DOC samples must be acidified to achieve pH less than or equal to 2 with minimal addition of the acid specified in the method or by the instrument manufacturer. Acidified DOC samples must be analyzed within 28 days after sample collection. Inorganic carbon must be removed from the samples prior to analysis. Water passed through the filter prior to filtration of the sample must serve as the filtered blank. This filtered blank must be analyzed using procedures identical to those used for analysis of the samples and must meet the following standards: DOC less than 0.5 mg/ℓ.

i) High-Temperature Combustion Method: Standard Methods, 19th (Supplement)~~ed.~~, 20th ~~ed.~~, ~~or~~ 21st, or 22nd ed., Method 5310 B or USEPA NERL Methods 415.3 (rev. 1.1) or 415.3 (rev. 1.2).

ii) Persulfate-Ultraviolet or Heated-Persulfate Oxidation Method, Standard Methods, 19th (Supplement), 20th, 21st, or 22nd ed., Method 5310 C or USEPA NERL Methods 415.3 (rev. 1.1) or 415.3 (rev. 1.2).

iii) Wet-Oxidation Method: Standard Methods, 19th (Supplement)~~ed.~~, 20th ~~ed.~~, ~~or~~ 21st, or 22nd ed., Method 5310 D or USEPA NERL Methods 415.3 (rev. 1.1) or 415.3 (rev. 1.2).

BOARD NOTE: USEPA added Standard Methods, Methods 5310 B, C, and D as approved alternative methods for dissolved organic carbon in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added USEPA NERL Method 415.3 (rev. 1.2) as an approved alternative method for dissolved organic carbon in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added Standard Methods, 22nd ed., Methods 5310 B, C, and D as approved alternative methods for dissolved organic carbon in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

B) Ultraviolet Absorption at 254 nm (UV_{254}) by spectrometry: Standard Methods, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 5910 B or USEPA NERL Method 415.3 (rev. 1.1) or 415.3 (rev. 1.2). UV absorption must be measured at 253.7 nm (may be rounded off to 254 nm). Prior to analysis, UV_{254} samples must be filtered through a 0.45 µm pore-diameter filter. The pH of UV_{254} samples may not be adjusted. Samples must be analyzed as soon as practical after sampling, not to exceed 48 hours; and

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 5910 B as an approved alternative method for ultraviolet absorption~~absorbtion~~ at 254 nm in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added USEPA NERL Method 415.3 (rev. 1.2) as an approved alternative method for ultraviolet absorbance in appendix A to subpart C of 40 CFR 141 on November (at 74 Fed. Reg. 57908). USEPA added Standard Methods, 22nd ed., Method 5910 B as an approved alternative method for ultraviolet absorption at 254 nm in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

5) pH. All methods allowed in Section 611.611(a)(17) for measuring pH.

6) Magnesium. All methods allowed in Section 611.611(a) for measuring magnesium.

BOARD NOTE: Derived from 40 CFR 141.131 and appendix A to 40 CFR 141 (2013)~~(2009)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.382 Monitoring Requirements

a) General requirements.

1) A supplier must take all samples during normal operating conditions.

2) A supplier may consider multiple wells drawing water from a single aquifer as one treatment plant for determining the minimum number of

TTHM and HAA5 samples required with Agency approval.

3) Failure to monitor in accordance with the monitoring plan required under subsection (f) of this Section is a monitoring violation.

4) Where compliance is based on a running annual average of monthly or quarterly samples or averages and the supplier's failure to monitor makes it impossible to determine compliance with MCLs or MRDLs, this failure to monitor will be treated as a violation for the entire period covered by the annual average.

5) A supplier must use only data collected under the provisions of this Subpart I to qualify for reduced monitoring.

b) Monitoring requirements for disinfection byproducts (DBPs).

1) TTHMs and HAA5.

A) Routine monitoring. A supplier must monitor at the following frequency:

i) A Subpart B system supplier that serves 10,000 or more persons must collect four water samples per quarter per treatment plant. At least 25 percent of all samples collected each quarter must be collected at locations representing maximum residence time. The remaining samples may be taken at locations representative of at least average residence time in the distribution system and representing the entire distribution system, taking into account the number of persons served, the different sources of water, and the different treatment methods.

ii) A Subpart B system supplier that serves from 500 to 9,999 persons must collect one water sample per quarter per treatment plant. The samples must be collected from locations representing maximum residence time.

iii) A Subpart B system supplier that serves fewer than 500 persons must collect one sample per year per treatment

plant during month of warmest water temperature. The samples must be collected from locations representing maximum residence time. If the sample (or average of annual samples, if more than one sample is taken) exceeds the MCL, the supplier must increase the monitoring frequency to one sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the supplier meets the standards in subsection (b)(1)(D) of this Section.

iv) A supplier that uses only groundwater not under direct influence of surface water, which uses chemical disinfectant, and which serves 10,000 or more persons must collect one water sample per quarter per treatment plant. The samples must be collected from locations representing maximum residence time.

v) A supplier that uses only groundwater not under direct influence of surface water, which uses chemical disinfectant, and which serves fewer than 10,000 persons must collect one sample per year per treatment plant during month of warmest water temperature. The samples must be collected from locations representing maximum residence time. If the sample (or average of annual samples, if more than one sample is taken) exceeds MCL, the supplier must increase monitoring to one sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the supplier meets standards in subsection (b)(1)(D) of this Section.

BOARD NOTE: If a supplier elects to sample more frequently than the minimum required, at least 25 percent of all samples collected each quarter (including those taken in excess of the required frequency) must be taken at locations that represent the maximum residence time of the water in the distribution system. The remaining samples must be taken at locations representative of at least average residence time in the distribution system. For a supplier using groundwater not under the direct influence of surface water, multiple wells drawing water from a single aquifer

may be considered one treatment plant for determining the minimum number of samples required, with Agency approval.

B) A supplier may reduce monitoring, except as otherwise provided, in accordance with the following:

i) A Subpart B system supplier that serves 10,000 or more persons and which has a source water annual average TOC level, before any treatment, of less than or equal to 4.0 mg/ℓ may reduce monitoring if it has monitored for at least one year and its TTHM annual average is less than or equal to 0.040 mg/ℓ and HAA5 annual average is less than or equal to 0.030 mg/ℓ. The reduced monitoring allowed is a minimum of one sample per treatment plant per quarter at a distribution system location reflecting maximum residence time.

ii) A Subpart B system supplier that serves from 500 to 9,999 persons and which has a source water annual average TOC level, before any treatment, of less than or equal to 4.0 mg/ℓ may reduce monitoring if it has monitored at least one year and its TTHM annual average is less than or equal to 0.040 mg/ℓ and HAA5 annual average is less than or equal to 0.030 mg/ℓ. The reduced monitoring allowed is a minimum of one sample per treatment plant per year at a distribution system location reflecting maximum residence time during month of warmest water temperature.

BOARD NOTE: Any Subpart B system supplier that serves fewer than 500 persons may not reduce its monitoring to less than one sample per treatment plant per year.

iii) A supplier using only groundwater not under direct influence of surface water using chemical disinfectant and that serves 10,000 or more persons may reduce monitoring if it has monitored at least one year and its TTHM annual average is less than or equal to 0.040 mg/ℓ and HAA5 annual average is less than or equal to 0.030 mg/ℓ. The

reduced monitoring allowed is a minimum of one sample per treatment plant per year at a distribution system location reflecting maximum residence time during month of warmest water temperature.

iv) A supplier using only groundwater not under direct influence of surface water that uses chemical disinfectant and which serves fewer than 10,000 persons may reduce monitoring if it has monitored at least one year and its TTHM annual average is less than or equal to 0.040 mg/ℓ and HAA5 annual average is less than or equal to 0.030 mg/ℓ for two consecutive years or TTHM annual average is less than or equal to 0.020 mg/ℓ and HAA5 annual average is less than or equal to 0.015 mg/ℓ for one year. The reduced monitoring allowed is a minimum of one sample per treatment plant per three year monitoring cycle at a distribution system location reflecting maximum residence time during month of warmest water temperature, with the three-year cycle beginning on January 1 following the quarter in which the supplier qualifies for reduced monitoring.

C) Monitoring requirements for source water TOC. In order to qualify for reduced monitoring for TTHM and HAA5 under subsection (b)(1)(B) of this Section, a Subpart B system supplier not monitoring under the provisions of subsection (d) of this Section must take monthly TOC samples every 30 days at a location prior to any treatment. In addition to meeting other criteria for reduced monitoring in subsection (b)(1)(B) of this Section, the source water TOC running annual average must be ≤ 4.0 mg/ℓ (based on the most recent four quarters of monitoring) on a continuing basis at each treatment plant to reduce or remain on reduced monitoring for TTHM and HAA5. Once qualified for reduced monitoring for TTHM and HAA5 under subsection (b)(1)(B) of this Section, a system may reduce source water TOC monitoring to quarterly TOC samples taken every 90 days at a location prior to any treatment.

D) A Subpart B system supplier on a reduced monitoring schedule

may remain on that reduced schedule as long as the average of all samples taken in the year (for a supplier that must monitor quarterly) or the result of the sample (for a supplier that must monitor no more frequently than annually) is no more than 0.060 mg/ℓ and 0.045 mg/ℓ for TTHMs and HAA5, respectively. A supplier that does not meet these levels must resume monitoring at the frequency identified in subsection (b)(1)(A) of this Section in the quarter immediately following the monitoring period in which the supplier exceeds 0.060 mg/ℓ for TTHMs or 0.045 mg/ℓ for HAA5. For a supplier that uses only groundwater not under the direct influence of surface water and which serves fewer than 10,000 persons, if either the TTHM annual average is greater than 0.080 mg/ℓ or the HAA5 annual average is greater than 0.060 mg/ℓ, the supplier must go to increased monitoring identified in subsection (b)(1)(A) of this Section in the quarter immediately following the monitoring period in which the supplier exceeds 0.080 mg/ℓ for TTHMs or 0.060 mg/ℓ for HAA5.

E) The Agency may return a supplier to routine monitoring.

2) Chlorite. A CWS or NTNCWS supplier using chlorine dioxide, for disinfection or oxidation, must conduct monitoring for chlorite.

A) Routine monitoring.

i) Daily monitoring. A supplier must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the chlorite MCL, the supplier must take additional samples in the distribution system the following day at the locations required by subsection (b)(2)(B) of this Section, in addition to the sample required at the entrance to the distribution system.

ii) Monthly monitoring. A supplier must take a three-sample set each month in the distribution system. The supplier must take one sample at each of the following locations: near the first customer, at a location representative of average residence time, and at a location reflecting maximum residence time in the distribution system. Any

additional routine sampling must be conducted in the same manner (as three-sample sets, at the specified locations). The supplier may use the results of additional monitoring conducted under subsection (b)(2)(B) of this Section to meet the requirement for monitoring in this subsection (b)(2)(A)(ii).

B) Additional monitoring. On each day following a routine sample monitoring result that exceeds the chlorite MCL at the entrance to the distribution system, the supplier must take three chlorite distribution system samples at the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

C) Reduced monitoring.

i) Chlorite monitoring at the entrance to the distribution system required by subsection (b)(2)(A)(i) of this Section may not be reduced.

ii) Chlorite monitoring in the distribution system required by subsection (b)(2)(A)(ii) of this Section may be reduced to one three-sample set per quarter after one year of monitoring where no individual chlorite sample taken in the distribution system under subsection (b)(2)(A)(ii) of this Section has exceeded the chlorite MCL and the supplier has not been required to conduct monitoring under subsection (b)(2)(B) of this Section. The supplier may remain on the reduced monitoring schedule until either any of the three individual chlorite samples taken quarterly in the distribution system under subsection (b)(2)(A)(ii) of this Section exceeds the chlorite MCL or the supplier is required to conduct monitoring under subsection (b)(2)(B) of this Section, at which time the supplier must revert to routine monitoring.

3) Bromate.

A) Routine monitoring. A CWS or NTNCWS supplier using ozone, for disinfection or oxidation, must take one sample per month for each treatment plant in the system using ozone. A supplier must take samples monthly at the entrance to the distribution system while the ozonation system is operating under normal conditions.

B) Reduced monitoring. A supplier required to analyze for bromate may reduce monitoring from monthly to quarterly if the supplier's running annual average bromate concentration is not greater than 0.0025 mg/ℓ based on monthly bromate measurements under subsection (b)(3)(A) of this Section for the most recent four quarters, with samples analyzed using USEPA OGWDW Methods, Method 302.0, Method 317.0 (rev. 2.0), Method 326.0 (rev. 1.0), or Method 557 or USEPA Organic and Inorganic Methods, Method 321.8, each incorporated by reference in Section 611.102. If a supplier has qualified for reduced bromate monitoring under subsection (b)(3)(B)(i) of this Section, that supplier may remain on reduced monitoring as long as the running annual average of quarterly bromate samples not greater than 0.0025 mg/ℓ based on samples analyzed using USEPA OGWDW Methods, Method 302.0, Method 317.0, Method 326.0, or Method 557 or USEPA Organic and Inorganic Methods, Method 321.8. If the running annual average bromate concentration is greater than 0.0025 mg/ℓ, the supplier must resume routine monitoring required by subsection (b)(3)(A) of this Section.

c) Monitoring requirements for disinfectant residuals.

1) Chlorine and chloramines.

A) Routine monitoring. Until March 31, 2016, a~~A~~ CWS or NTNCWS supplier that uses chlorine or chloramines must measure the residual disinfectant level in the distribution system at the same point in the distribution system and at the same time as total coliforms are sampled, as specified in Section 611.521. Beginning April 1, 2016, a CWS or NTNCWS supplier that uses chlorine or chloramines must measure the residual disinfectant level in the distribution system at the same point in the distribution system and

at the same time as total coliforms are sampled, as specified in Sections 611.1054 through 611.1058. A Subpart B system supplier may use the results of residual disinfectant concentration sampling conducted under Section 611.532 for unfiltered systems or Section 611.533 for systems that filter, in lieu of taking separate samples.

B) Reduced monitoring. Monitoring may not be reduced.

2) Chlorine dioxide.

A) Routine monitoring. A CWS, an NTNCWS, or a transient non-CWS supplier that uses chlorine dioxide for disinfection or oxidation must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the MRDL, the supplier must take samples in the distribution system the following day at the locations required by subsection (c)(2)(B) of this Section, in addition to the sample required at the entrance to the distribution system.

B) Additional monitoring. On each day following a routine sample monitoring result that exceeds the MRDL, the supplier must take three chlorine dioxide distribution system samples. If chlorine dioxide or chloramines are used to maintain a disinfectant residual in the distribution system, or if chlorine is used to maintain a disinfectant residual in the distribution system and there are no disinfection addition points after the entrance to the distribution system (i.e., no booster chlorination), the supplier must take three samples as close to the first customer as possible, at intervals of at least six hours. If chlorine is used to maintain a disinfectant residual in the distribution system and there are one or more disinfection addition points after the entrance to the distribution system (i.e., booster chlorination), the supplier must take one sample at each of the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

C) Reduced monitoring. Monitoring may not be reduced.

d) Monitoring requirements for disinfection byproduct (DBP) precursors.

1) Routine monitoring. A Subpart B system supplier that uses conventional filtration treatment (as defined in Section 611.101) must monitor each treatment plant for TOC not past the point of combined filter effluent turbidity monitoring and representative of the treated water. A supplier required to monitor under this subsection (d)(1) must also monitor for TOC in the source water prior to any treatment at the same time as monitoring for TOC in the treated water. These samples (source water and treated water) are referred to as paired samples. At the same time as the source water sample is taken, a system must monitor for alkalinity in the source water prior to any treatment. A supplier must take one paired sample and one source water alkalinity sample per month per plant at a time representative of normal operating conditions and influent water quality.

2) Reduced monitoring. A Subpart B system supplier with an average treated water TOC of less than 2.0 mg/ℓ for two consecutive years, or less than 1.0 mg/ℓ for one year, may reduce monitoring for both TOC and alkalinity to one paired sample and one source water alkalinity sample per plant per quarter. The supplier must revert to routine monitoring in the month following the quarter when the annual average treated water TOC greater than or equal to 2.0 mg/ℓ.

e) Bromide. A supplier required to analyze for bromate may reduce bromate monitoring from monthly to once per quarter, if the supplier demonstrates that the average source water bromide concentration is less than 0.05 mg/ℓ based upon representative monthly measurements for one year. The supplier must continue bromide monitoring to remain on reduced bromate monitoring.

f) Monitoring plans. Each supplier required to monitor under this Subpart I must develop and implement a monitoring plan. The supplier must maintain the plan and make it available for inspection by the Agency and the general public no later than 30 days following the applicable compliance dates in Section 611.380(b). A Subpart B system supplier that serves more than 3,300 persons must submit a copy of the monitoring plan to the Agency no later than the date of the first report required under Section 611.384. After review, the Agency may require changes in any plan elements. The plan must include at least the following elements:

1) Specific locations and schedules for collecting samples for any parameters included in this Subpart I;

2) How the supplier will calculate compliance with MCLs, MRDLs, and treatment techniques; and

3) If approved for monitoring as a consecutive system, or if providing water to a consecutive system, under the provisions of Section 611.500, the sampling plan must reflect the entire distribution system.

BOARD NOTE: Derived from 40 CFR 141.132 (2013)~~(2012)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

SUBPART L: MICROBIOLOGICAL MONITORING
AND ANALYTICAL REQUIREMENTS

Section 611.526 Analytical Methodology

a) The standard sample volume required for total coliform analysis, regardless of analytical method used, is 100 mℓ.

b) Suppliers need only determine the presence or absence of total coliforms; a determination of total coliform density is not required.

c) Suppliers must conduct total coliform analyses in accordance with one of the following analytical methods, incorporated by reference in Section 611.102, or in accordance with an alternative method approved by the Agency pursuant to Section 611.480 (the time from sample collection to initiation of analysis may not exceed 30 hours, and the supplier is encouraged but not required to hold samples below 10° C during transit):

1) Total Coliform Fermentation Technique, as set forth in Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Methods 9221 A and B, as follows:

A) Lactose broth, as commercially available, may be used in lieu of lauryl tryptose broth if the supplier conducts at least 25 parallel tests between this medium and lauryl tryptose broth using the

water normally tested and this comparison demonstrates that the false-positive rate and false-negative rate for total coliforms, using lactose broth, is less than 10 percent;

B) If inverted tubes are used to detect gas production, the media should cover these tubes at least one-half to two-thirds after the sample is added; and

C) No requirement exists to run the completed phase on 10 percent of all total coliform-positive confirmed tubes.

2) Total Coliform Membrane Filter Technique, as set forth in Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Methods 9222 A, B, and C.

3) Presence-Absence (P-A) Coliform Test, as set forth in: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 9221 D, as follows:

A) No requirement exists to run the completed phase on 10 percent of all total coliform-positive confirmed tubes; and

B) Six-times formulation strength may be used if the medium is filter-sterilized rather than autoclaved.

4) ONPG-MUG test: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 9223. (The ONPG-MUG test is also known as the Autoanalysis Colilert System.)

5) Colisure Test (Autoanalysis Colilert System). (The Colisure Test may be read after an incubation time of 24 hours.)

BOARD NOTE: USEPA included the P-A Coliform and Colisure Tests for testing finished water under the coliform rule, but did not include them for the purposes of the surface water treatment rule, under Section 611.531, for which quantitation of total coliforms is necessary. For these reasons, USEPA included Standard Methods, Method 9221 C for the surface water treatment rule, but did not include it for the purposes of the total coliform rule, under this Section.

6) E*Colite® Test (Charm Sciences, Inc.).

7) m-ColiBlue24® Test (Hatch Company).

8) Readycult® 2000.

9) Chromocult® Method.

10) Colitag® Test.

11) Modified Colitag™ Method.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 9221 A, B, and D; 9222 A, B, and C; and 9223 as approved alternative methods in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Modified Colitag™ Method as an approved alternative method in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added Standard Methods, 22nd ed., Methods 9221 A and B and 9223 B as approved alternative methods for total coliforms in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

d) This subsection corresponds with 40 CFR 141.21(f)(4), which USEPA has marked "reserved." This statement maintains structural consistency with the federal regulations.

e) Suppliers must conduct fecal coliform analysis in accordance with the following procedure:

1) When the MTF Technique or P-A Coliform Test is used to test for total coliforms, shake the lactose-positive presumptive tube or P-A vigorously and transfer the growth with a sterile 3-mm loop or sterile applicator stick into brilliant green lactose bile broth and EC medium, defined below, to determine the presence of total and fecal coliforms, respectively.

2) For approved methods that use a membrane filter, transfer the total coliform-positive culture by one of the following methods: remove the membrane containing the total coliform colonies from the substrate with sterile forceps and carefully curl and insert the membrane into a tube of EC medium; (the laboratory may first remove a small portion of selected colonies for verification); swab the entire membrane filter surface with a sterile cotton swab and transfer the inoculum to EC medium (do not leave

the cotton swab in the EC medium); or inoculate individual total coliform-positive colonies into EC medium. Gently shake the inoculated tubes of EC medium to insure adequate mixing and incubate in a waterbath at 44.5 ±0.2° C for 24 ±2 hours. Gas production of any amount in the inner fermentation tube of the EC medium indicates a positive fecal coliform test.

3) EC medium is described in Standard Methods, 18th ed., 19th ed., ~~and~~ 20th, or 22nd ed., Method 9221E.

4) Suppliers need only determine the presence or absence of fecal coliforms; a determination of fecal coliform density is not required.

BOARD NOTE: USEPA added Standard Methods, 22nd ed., Method 9221 E as an approved alternative method for fecal coliforms in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

f) Suppliers must conduct analysis of E. coli in accordance with one of the following analytical methods, incorporated by reference in Section 611.102:

1) EC medium supplemented with 50 µg/ℓ of MUG (final concentration). EC medium is as described in subsection (e) of this Section. MUG may be added to EC medium before autoclaving. EC medium supplemented with 50 µg/ℓ MUG is commercially available. At least 10 mℓ of EC medium supplemented with MUG must be used. The inner inverted fermentation tube may be omitted. The procedure for transferring a total coliform-positive culture to EC medium supplemented with MUG is as in subsection (e) of this Section for transferring a total coliform-positive culture to EC medium. Observe fluorescence with an ultraviolet light (366 nm) in the dark after incubating tube at 44.5 ±2° C for 24 ±2 hours; or

2) Nutrient agar supplemented with 100 µg/ℓ MUG (final concentration), as described in Standard Methods, 19th ~~ed.~~, ~~and~~ 20th, or 22nd ed., Method 9222 G. This test is used to determine if a total coliform-positive sample, as determined by the MF technique, contains E. coli. Alternatively, Standard Methods, 18th ed., Method 9221 B may be used if the membrane filter containing a total coliform-positive colony or colonies is transferred to nutrient agar, as described in Method 9221 B (paragraph 3), supplemented with 100 µg/ℓ MUG . If Method 9221 B is used, incubate

the agar plate at 35° Celsius for four hours, then observe the colony or colonies under ultraviolet light (366-nm) in the dark for fluorescence. If fluorescence is visible, E. coli are present.

3) Minimal Medium ONPG-MUG (MMO-MUG) Test, as set forth in Appendix D of this Part. (The Autoanalysis Colilert System (Colisure Test) is a MMO-MUG test.) If the MMO-MUG test is total coliform positive after a 24-hour incubation, test the medium for fluorescence with a 366-nm ultraviolet light (preferably with a six-watt lamp) in the dark. If fluorescence is observed, the sample is E. coli-positive. If fluorescence is questionable (cannot be definitively read) after 24 hours incubation, incubate the culture for an additional four hours (but not to exceed 28 hours total), and again test the medium for fluorescence. The MMO-MUG test with hepes buffer is the only approved formulation for the detection of E. coli.

4) The Colisure Test (Autoanalysis Colilert System).

5) The membrane filter method with MI agar.

6) The E*Colite® Test.

7) The m-ColiBlue24® Test.

8) Readycult® 2000.

9) Chromocult® Method.

10) Colitag® Test.

11) ONPG-MUG Test: Standard Methods, 20th, ~~or~~ 21st, or 22nd ed., Method 9223 B.

12) Modified Colitag™ Method.

BOARD NOTE: USEPA added Standard~~Stadard~~ Methods, 20th or 21st ed., Method 9223 B and Standard Methods Online, Method 9223 B-97 as approved alternative methods for E. coli in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). Because Standard Methods, 21st ed.,

Method 9223 B is the same version as Standard Methods Online, Method 9223 B-97, the Board has not listed the Standard Methods Online version separately. USEPA added Standard Methods, 22nd ed., Method 9223 B as an approved alternative method for E. coli in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

g) As an option to the method set forth in subsection (f)(3) of this Section, a supplier with a total coliform-positive, MUG-negative, MMO-MUG test may further analyze the culture for the presence of E. coli by transferring a 0.1 mℓ, 28-hour MMO-MUG culture to EC medium + MUG with a pipet. The formulation and incubation conditions of the EC medium + MUG, and observation of the results, are described in subsection (f)(1) of this Section.

h) This subsection corresponds with 40 CFR 141.21(f)(8), a central listing of all documents incorporated by reference into the federal microbiological analytical methods. The corresponding Illinois incorporations by reference are located at Section 611.102. This statement maintains structural parity with USEPA regulations.

BOARD NOTE: Derived from 40 CFR 141.21(f) and appendix A to 40 CFR 141 (2013)~~(2009)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.528 Transition from Subpart L to Subpart AA Requirements

The provisions of Sections 611.521 and 611.524 apply until March 31, 2016. The provisions of Sections 611.522, 611.523, 611.525, 611.526 and 611.527 apply until all required repeat monitoring under Section 611.522 and fecal coliform or E. coli testing under Section 611.525 that was initiated by a total coliform-positive sample taken before April 1, 2016 is completed, as well as analytical method, reporting, recordkeeping, public notification, and consumer confidence report requirements associated with that monitoring and testing. Beginning April 1, 2016, the provisions of Subpart AA of this Part apply, with suppliers required to begin regular monitoring at the same frequency as the system-specific frequency required on March 31, 2016.

BOARD NOTE: Derived from 40 CFR 141.21(h) (2013).

(Source: Added at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.531 Analytical Requirements

The analytical methods specified in this Section, or alternative methods approved by the Agency pursuant to Section 611.480, must be used to demonstrate compliance with the requirements of only 611.Subpart B; they do not apply to analyses performed for the purposes of Sections 611.521 through 611.527 of this Subpart L. Measurements for pH, temperature, turbidity, and RDCs must be conducted under the supervision of a certified operator. Measurements for total coliforms, fecal coliforms and HPC must be conducted by a laboratory certified by the Agency to do such analysis. The following procedures must be performed by the following methods, incorporated by reference in Section 611.102:

a) A supplier must conduct analyses as follows:

1) The supplier must conduct analyses for pH in accordance with one of the methods listed at Section 611.611; and

2) The supplier must conduct analyses for total coliforms, fecal coliforms, heterotrophic bacteria, and turbidity in accordance with one of the following methods, and by using analytical test procedures contained in USEPA Technical Notes, incorporated by reference in Section 611.102, as follows:

A) Total Coliforms.

BOARD NOTE: The time from sample collection to initiation of analysis for source (raw) water samples required by Sections 611.521 and 611.532 and Subpart B of this Part only must not exceed eight hours. The supplier is encouraged but not required to hold samples below 10° C during transit.

i) Total coliform fermentation technique: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 9221 A, B, and C.

BOARD NOTE: Lactose broth, as commercially available, may be used in lieu of lauryl tryptose broth if the supplier conducts at least 25 parallel tests between this medium and lauryl tryptose broth using the water normally tested and this comparison demonstrates that the false-positive rate

and false-negative rate for total coliforms, using lactose broth, is less than 10 percent. If inverted tubes are used to detect gas production, the media should cover these tubes at least one-half to two-thirds after the sample is added. No requirement exists to run the completed phase on 10 percent of all total coliform-positive confirmed tubes.

ii) Total coliform membrane filter technique: Standard Methods, 18th, 19th, 20th, or 21st ed., Method 9222 A, B, and C.

iii) ONPG-MUG test (also known as the Autoanalysis Colilert System): Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 9223.

BOARD NOTE: USEPA included the P-A Coliform and Colisure Tests for testing finished water under the coliform rule, under Section 611.526, but did not include them for the purposes of the surface water treatment rule, under this Section, for which quantitation of total coliforms is necessary. For these reasons, USEPA included Standard Methods, Method 9221 C for the surface water treatment rule, but did not include it for the purposes of the total coliform rule, under Section 611.526.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 9221 A, B, and C; 9222 A, B, and C; and 9223 as approved alternative methods for total coliform in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods, 22nd ed., Methods 9221 A, B, and C and 9223 B as approved alternative methods for total coliform in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

B) Fecal Coliforms.

BOARD NOTE: The time from sample collection to initiation of analysis for source (raw) water samples required by Sections 611.521 and 611.532 and Subpart B of this Part only must not

exceed eight hours. The supplier is encouraged but not required to hold samples below 10° C during transit.

i) Fecal coliform procedure: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 9221 E.

BOARD NOTE: A-1 broth may be held up to seven days in a tightly closed screwcap tube at 4° C (39° F).

ii) Fecal Coliform Membrane Filter Procedure: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 9222 D.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 9221 E and 9222 D as approved alternative methods for fecal coliforms in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods, 22nd ed., Methods 9221 E and 9222 D as approved alternative methods for fecal coliforms in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

C) Heterotrophic bacteria.

i) Pour plate method: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 9215 B.

BOARD NOTE: The time from sample collection to initiation of analysis must not exceed eight hours. The supplier is encouraged but not required to hold samples below 10º C during transit.

ii) SimPlate method.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 9215 B as an approved alternative method for heterotrophic bacteria in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods, 22nd ed., Method 9215 B as an approved alternative

method for heterotrophic bacteria in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

D) Turbidity.
BOARD NOTE: Styrene divinyl benzene beads (e.g., AMCO-AEPA-1 or equivalent) and stabilized formazin (e.g., Hach StablCal™ or equivalent) are acceptable substitutes for formazin.

i) Nephelometric method: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 2130 B.

ii) Nephelometric method: USEPA Environmental Inorganic Methods, Method 180.1 (rev.2.0).

iii) GLI Method 2.

iv) Hach FilterTrak Method 10133.

v) Laser nephelometry (on-line): Mitchell Method M5271.

vi) LED nephelometry (on-line): Mitchell Method M5331 or AMI Turbiwell Method.

vii) LED nephelometry (portable): Orion Method AQ4500.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 9130 B as an approved alternative method for turbidity in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Mitchell Method M5271 and Orion Method AQ4500 as approved alternative methods for turbidity in appendix A to subpart C of 40 CFR 141 on August 3, 2009 (at 74 Fed. Reg. 38348). USEPA added AMI Turbiwell Method as an approved alternative method for turbidity in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added Standard Methods, 22nd ed., Method 2130 B as an approved alternative method for turbidity in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

E) Temperature: Standard Methods, 18th, 19th, 20th, or 21st ed., Method 2550.

b) A supplier must measure residual disinfectant concentrations with one of the following analytical methods:

1) Free chlorine.

A) Amperometric Titration.

i) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl D.

ii) ASTM Method D1253-03 or D1253-08.

B) DPD Ferrous Titrimetric: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl F.

C) DPD Colimetric: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl G.

D) Syringaldazine (FACTS): Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl H.

E) On-line chlorine analyzer: USEPA OGWDW Methods, Method 334.0.

F) Amperometric sensor: Palintest ChloroSense.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 4500-Cl D, F, G, and H; Method 4500-ClO_2 C and E as approved alternative methods for free chlorine in appendix A to subpart C of 40 CFR 141, added on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Method D1253-08, USEPA OGWDW Methods, Method 334.0, and Palintest ChloroSense as approved alternative methods for free chlorine in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added Standard Methods, 22nd ed., Methods 4500-Cl B, F, G, and H as approved alternative methods for free

chlorine in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

2) Total chlorine.

A) Amperometric Titration.~~:~~

i) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl D.

ii) ASTM Method D1253-03 or D1253-08.

B) Amperometric Titration (low level measurement): Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl E.

C) DPD Ferrous Titrimetric: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl F.

D) DPD Colimetric: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-Cl G.

E) Iodometric Electrode: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st , or 22nd ed., Method 4500-Cl I.

F) On-line chlorine analyzer: USEPA OGWDW Methods, Method 334.0.

G) Amperometric sensor: Palintest ChloroSense.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 4500-Cl D, E, F, G, and I as approved alternative methods for total chlorine in appendix A to subpart C of 40 CFR 141, added on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Method D1253-08, USEPA OGWDW Methods, Method 334.0, and Palintest ChloroSense as approved alternative methods for total chlorine in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added Standard Methods, 22nd ed., Methods 4500-Cl D, E, F, G, and I as approved alternative methods for total chlorine in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

3) Chlorine dioxide.

A) Amperometric Titration: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-ClO_2 C or E.

B) DPD Method: Standard Methods, 18th, 19th, or 20th ed., Method 4500-ClO_2 D.

C) Spectrophotometric: USEPA OGWDW Methods, Method 327.0 (rev. 1.1).

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method Method 4500-$C10_2$ C, D and E as an approved alternative method for chlorine dioxide in appendix A to subpart C of 40 CFR 141, added on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods. 22nd ed., Method 4500-$C10_2$ C and E as an approved alternative method for chlorine dioxide in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

4) Ozone: Indigo Method: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-O_3 B.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 4500-O_3 B as an approved alternative methods for ozone in appendix A to subpart C of 40 CFR 141, added on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods, 22nd ed., Method 4500-0_3 B as an approved alternative method for ozone in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

5) Alternative test methods: The Agency may grant a SEP pursuant to Section 611.110 that allows a supplier to use alternative chlorine test methods as follows:

A) DPD colorimetric test kits: Residual disinfectant concentrations for free chlorine and combined chlorine may also be measured by using DPD colorimetric test kits.

B) Continuous monitoring for free and total chlorine: Free and total

chlorine residuals may be measured continuously by adapting a specified chlorine residual method for use with a continuous monitoring instrument, provided the chemistry, accuracy, and precision remain the same. Instruments used for continuous monitoring must be calibrated with a grab sample measurement at least every five days or as otherwise provided by the Agency.

BOARD NOTE: Suppliers may use a five-tube test or a 10-tube test.

BOARD NOTE: Derived from 40 CFR 141.74(a) and appendix A to 40 CFR 141 (2013)~~(2009)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.532 Unfiltered PWSs

A supplier that uses a surface water source and does not provide filtration treatment must monitor, unless the Agency has determined, pursuant to Section 611.211, that filtration is required. If the Agency determines that filtration is required, it must specify alternative monitoring requirements, as appropriate, until filtration is in place. A supplier that uses a groundwater source under the direct influence of surface water and which does not provide filtration treatment must monitor within six months after the Agency has determined, pursuant to Section 611.212, that the groundwater source is under the direct influence of surface water unless the Agency has determined that filtration is required, in which case the Agency must specify alternative monitoring requirements, as appropriate, until filtration is in place.

a) Fecal coliform or total coliform density measurements as required by Section 611.231(a) must be performed on representative source water samples immediately prior to the first or only point of disinfectant application. The supplier must sample for fecal or total coliforms at the minimum frequency specified in Table B of this Part each week the supplier serves water to the public. Also, one fecal or total coliform density measurement must be made every day the supplier serves water to the public and the turbidity of the source water exceeds 1 NTU (these samples count towards the weekly coliform sampling requirement) unless the Agency determines that the supplier, for logistical reasons outside the supplier's control cannot have the sample analyzed within 30 hours of collection.

b) Turbidity measurements as required by Section 611.231(b) must be performed on

representative grab samples of source water immediately prior to the first or only point of disinfectant application every four hours (or more frequently) that the supplier serves water to the public. A supplier may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by a SEP issued pursuant to Section 611.110.

c) The total inactivation ratio for each day that the supplier is in operation must be determined based on the $CT_{99.9}$ values in Appendix B of this Part, as appropriate. The parameters necessary to determine the total inactivation ratio must be monitored as follows:

1) The temperature of the disinfected water must be measured at least once per day at each RDC sampling point.

2) If the supplier uses chlorine, the pH of the disinfected water must be measured at least once per day at each chlorine RDC sampling point.

3) The disinfectant contact times ("T") must be determined for each day during peak hourly flow.

4) The RDCs ("C") of the water before or at the first customer must be measured each day during peak hourly flow.

5) If a supplier uses a disinfectant other than chlorine, the supplier may monitor by other methods approved pursuant to Section 611.241(a)(1) and (a)(2).

d) The total inactivation ratio must be calculated as follows:

1) If the supplier uses only one point of disinfectant application, the supplier may determine the total inactivation ratio based on either of the following two methods:

A) One inactivation ratio ($Ai=CT_{calc}/CT_{99.9}$) is determined before or at the first customer during peak hourly flow and, if the Ai is greater than 1.0, the 99.9 percent Giardia lamblia inactivation requirement has been achieved; or

B) Successive Ai values, representing sequential inactivation ratios, are determined between the point of disinfectant application and a point before or at the first customer during peak hourly flow. Under this alternative, the following method must be used to calculate the total inactivation ratio:

i) Determine the following, for each sequence:

$$Ai = CT_{calc}/CT_{99.9}$$

ii) Add the Ai values together, as follows:

$$B = \sum(Ai)$$

iii) If B is greater than 1.0, the 99.9 percent Giardia lamblia inactivation requirement has been achieved.

2) If the supplier uses more than one point of disinfectant application before or at the first customer, the supplier must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hourly flow. The Ai value of each sequence and B must be calculated using the method in subsection (d)(1)(B) of this Section to determine if the supplier is in compliance with Section 611.241.

3) Although not required, the total percent inactivation (PI) for a supplier with one or more points of RDC monitoring may be calculated as follows:

$$PI = 100 - \frac{100}{10^{3B}}$$

e) The RDC of the water entering the distribution system must be monitored continuously, and the lowest value must be recorded each day, except that if there is a failure in the continuous monitoring equipment, grab sampling every four hours may be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment, and suppliers serving 3,300 or fewer persons may take grab samples in lieu of providing continuous monitoring on an ongoing basis at the frequencies prescribed in Table C of this Part. If at any time the RDC falls below 0.2 mg/ℓ in a system using grab sampling in lieu of continuous monitoring, the supplier must take a grab sample every four

hours until the RDC is equal to or greater than 0.2 mg/ℓ.

f) Points of measurement.

1) Until March 31, 2016, ~~The~~ RDC must be measured at least at the same points in the distribution system and at the same time as total coliforms are sampled, as specified in Subpart L of this Section. ~~, except that the~~ Beginning April 1, 2016, the RDC must be measured at least at the same points in the distribution system and at the same time as total coliforms are sampled, as specified in Sections 611.1054 through 611.1058. The Agency must allow a supplier that uses both a surface water source or a groundwater source under direct influence of surface water, and a groundwater source to take disinfectant residual samples at points other than the total coliform sampling points if the Agency determines, by a SEP issued pursuant to Section 611.110, that such points are more representative of treated (disinfected) water quality within the distribution system. HPC may be measured in lieu of RDC.

2) If the Agency determines, pursuant to Section 611.213, that a supplier has no means for having a sample analyzed for HPC, measured as specified in subsection (a) of this Section, the requirements of subsection (f)(1) of this Section do not apply to that supplier.

BOARD NOTE: Derived from 40 CFR 141.74(b) (2013)~~(2003)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.533 Filtered PWSs

A supplier that uses a surface water source or a groundwater source under the influence of surface water and provides filtration treatment must monitor in accordance with this Section.

a) Turbidity measurements as required by Section 611.250 must be performed on representative samples of the PWS's filtered water every four hours (or more frequently) that the supplier serves water to the public. A supplier may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by a SEP issued pursuant to Section 611.110. For any suppliers using slow sand filtration or filtration treatment other than conventional treatment,

direct filtration, or diatomaceous earth filtration, the Agency shall, by special exception permit condition, reduce the sampling frequency to once per day if it determines that less frequent monitoring is sufficient to indicate effective filtration performance. For suppliers serving 500 or fewer persons, the Agency shall, by a SEP issued pursuant to Section 611.110, reduce the turbidity sampling frequency to once per day, regardless of the type of filtration treatment used, if the Agency determines that less frequent monitoring is sufficient to indicate effective filtration performance.

b) RDC entering distribution system.

1) Suppliers serving more than 3300 persons. The RDC of the water entering the distribution system must be monitored continuously, and the lowest value must be recorded each day, except that, if there is a failure in the continuous monitoring equipment, grab sampling every four hours may be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment.

2) Suppliers serving 3,300 or fewer persons may take grab samples in lieu of providing continuous monitoring on an ongoing basis at the frequencies each day prescribed in Table C. If at any time the RDC falls below 0.2 mg/ℓ in a system using grab sampling in lieu of continuous monitoring, the supplier must take a grab sample every four hours until RDC is equal to or greater than 0.2 mg/ℓ.

c) Points of measurement.

1) Until March 31, 2016, the~~The~~ RDC must be measured at least at the same points in the distribution system and at the same time as total coliforms are sampled, as specified in Sections 611.521 through 611.527.~~, except that the~~ Beginning April 1, 2016, the RDC must be measured at least at the same points in the distribution system and at the same time as total coliforms are sampled, as specified in Sections 611.1054 through 611.1058. The Agency must allow a supplier that uses both a surface water source or a groundwater source under direct influence of surface water, and a groundwater source, to take RDC samples at points other than the total coliform sampling points if the Agency determines that such points are more representative of treated (disinfected) water quality within the distribution system. HPC, measured as specified in Section

611.531(a), may be measured in lieu of RDC.

2) Subsection (c)(1) of this Section does not apply if the Agency determines, pursuant to Section 611.213(c), that a system has no means for having a sample analyzed for HPC by a certified laboratory under the requisite time and temperature conditions specified by Section 611.531(a) and that the supplier is providing adequate disinfection in the distribution system.

BOARD NOTE: Derived from 40 CFR 141.74(c) (2013)~~(2003)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

SUBPART N: INORGANIC MONITORING AND ANALYTICAL REQUIREMENTS

Section 611.611 Inorganic Analysis

Analytical methods are from documents incorporated by reference in Section 611.102. These are mostly referenced by a short name defined by Section 611.102(a). Other abbreviations are defined in Section 611.101.

a) Analysis for the following contaminants must be conducted using the following methods or an alternative method approved pursuant to Section 611.480. Criteria for analyzing arsenic, chromium, copper, lead, nickel, selenium, sodium, and thallium with digestion or directly without digestion, and other analytical procedures, are contained in USEPA Technical Notes, incorporated by reference in Section 611.102.

BOARD NOTE: Because MDLs reported in USEPA Environmental Metals Methods 200.7 and 200.9 were determined using a 2× preconcentration step during sample digestion, MDLs determined when samples are analyzed by direct analysis (i.e., no sample digestion) will be higher. For direct analysis of cadmium and arsenic by USEPA Environmental Metals Method 200.7, and arsenic by Standard Methods 3120 B, sample preconcentration using pneumatic nebulization may be required to achieve lower detection limits. Preconcentration may also be required for direct analysis of antimony, lead, and thallium by USEPA Environmental Metals Method 200.9; antimony and lead by Standard Methods, 18th, 19th, or 21st ed., Method 3113 B; and lead by ASTM Method D3559-96 D or D3559-03 D unless multiple in-furnace depositions are made.

1) Alkalinity.

A) Titrimetric.

i) ASTM Method D1067-92 B, D1067-02 B, ~~or~~ D1067-06 B, or D1067-11 B;

ii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 2320 B; or

iii) Standard Methods Online, Method 3113 B-04.

B) Electrometric titration: USGS Methods, Method I-1030-85.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 2320 B as an approved alternative method for alkalinity in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Method D1067-06 B and Standard Methods Online, Method 3113 B-04 as approved alternative methods for alkalinity in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed., Method 2320 B and ASTM Method D1067-11 B as approved alternative methods for alkalinity in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

2) Antimony.

A) Inductively coupled plasma-mass spectrometry: USEPA Environmental Metals Methods, Method 200.8 (rev. 5.3).

B) Atomic absorption, hydride technique: ASTM Method D3697-92, D3697-02, or D3697-07.

C) Atomic absorption, platform furnace technique: USEPA Environmental Metals Methods, Method 200.9 (rev.2.2).

D) Atomic absorption, furnace technique:

i) Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3113 B; or

ii) Standard Methods Online, Method 3113 B-04.

E) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 3113B and USEPA NERL Method 200.5 as approved alternative methods for antimony in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Method D3697-07 as an approved alternative method for antimony in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908. USEPA added Standard Methods Online, Method 3113 B-04 as an approved alternative method for antimony in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed., Method 3113 B as an approved alternative method for antimony in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

3) Arsenic.

BOARD NOTE: If ultrasonic nebulization is used in the determination of arsenic by Method 200.8, the arsenic must be in the pentavalent state to provide uniform signal response. For direct analysis of arsenic with Method 200.8 using ultrasonic nebulization, samples and standards must contain one mg/ℓ of sodium hypochlorite.

A) Inductively coupled plasma-mass spectrometry: USEPA Environmental Metals Methods, Method 200.8 (rev. 5.3).

B) Atomic absorption, platform furnace technique: USEPA Environmental Metals Methods, Method 200.9 (rev. 2.2).

C) Atomic absorption, furnace technique.

i) ASTM Method D2972-97 C, D2972-03 C, or D2972-08 C;

ii) Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3113 B; or

iii) Standard Methods Online, Method 3113 B-04.

D) Atomic absorption, hydride technique.

i) ASTM Method D2972-97 B, D2972-03 C, or D2972-08 B;

ii) Standard Methods, 18th, 19th, or 21st ed., Method 3114 B; or

iii) Standard Methods Online, Method 3114 B-04.

E) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 3113 B and 3114 B USEPA NERL Method 200.5 as approved alternative methods for arsenic in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Methods D2972-08 B and C as approved alternative methods for arsenic in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added Standard Methods Online, Method 3113 B-04 and Method 3114 B-09~~3114 B-04~~ as approved alternative methods for arsenic in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed., Methods 3113 B and 3114 B as approved alternative methods for arsenic in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558). Because Standard Methods, 22nd ed., Method 3114 B is the same version as Standard Methods Online 3114 B-09, the Board has not listed the Standard Methods Online version separately.

4) Asbestos: Transmission electron microscopy: USEPA Asbestos Method-100.1 or USEPA Asbestos Method-100.2.

5) Barium.

A) Inductively coupled plasma.

i) USEPA Environmental Metals Methods, Method 200.7 (rev. 4.4); or

ii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 3120 B.

B) Inductively coupled plasma-mass spectrometry: USEPA Environmental Metals Methods, Method 200.8 (rev. 5.3).

C) Atomic absorption, direct aspiration technique: Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3111 D.

D) Atomic absorption, furnace technique:

i) Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3113 B; or

ii) Standard Methods Online, Method 3113 B-04.

E) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 3111 D, 3113 B, and 3120 B and USEPA NERL Method 200.5 as approved alternative methods for barium in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods Online, Method 3113 B-04 as an approved alternative method for barium in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed., Methods 3111 D, 3113 B, and 3120 B as approved alternative methods for barium in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

6) Beryllium.

A) Inductively coupled plasma.

i) USEPA Environmental Metals Methods, Method 200.7 (rev. 4.4); or

ii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 3120 B.

B) Inductively coupled plasma-mass spectrometry: USEPA Environmental Metals Methods, Method 200.8 (rev. 5.3).

C) Atomic absorption, platform furnace technique: USEPA Environmental Metals Methods, Method 200.9 (rev. 2.2).

D) Atomic absorption, furnace technique.

i) ASTM Method D3645-97 B, D3645-03 B, or D3645-08 B;

ii) Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3113 B; or

iii) Standard Methods Online, Method 3113 B-04.

E) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 3113 B and 3120 B and USEPA NERL Method 200.5 as approved alternative methods for beryllium in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Method D3645-08 B as an approved alternative method for beryllium in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added Standard Methods Online, Method 3113 B-04 as an approved alternative method for beryllium in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed., Methods 3113 B and 3120 B as approved alternative methods for beryllium in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

7) Cadmium.

A) Inductively coupled plasma arc furnace: USEPA Environmental Metals Methods, Method 200.7 (rev. 4.4).

B) Inductively coupled plasma-mass spectrometry: USEPA Environmental Metals Methods, Method 200.8 (rev. 5.3).

C) Atomic absorption, platform furnace technique: USEPA Environmental Metals Methods, Method 200.9 (rev. 2.2).

D) Atomic absorption, furnace technique:

i) Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3113 B; or

ii) Standard Methods Online, Method 3113 B-04.

E) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 3113 B and USEPA NERL Method 200.5 as approved alternative methods for cadmium in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods Online, Method 3113 B-04 as an approved alternative method for cadmium in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed., Method 3113 B as an approved alternative method for cadmium in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

8) Calcium.

A) EDTA titrimetric.

i) ASTM Method D511-93 A, D511-03 A, or D511-09 A; or

ii) Standard Methods, 18th or 19th ed., Method 3500-Ca D or Standard Methods, 20th, ~~or~~ 21st, or 22nd ed., Method 3500-Ca B.

B) Atomic absorption, direct aspiration.

i) ASTM Method D511-93 B, D511-03 B, or D511-09 B; or

ii) Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3111 B.

C) Inductively coupled plasma.

i) USEPA Environmental Metals Methods, Method 200.7 (rev. 4.4); or

ii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 3120 B.

D) Ion chromatography: ASTM Method D6919-03 or D6919-09.

E) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 3111 B, 3120 B, and 3500-Ca B and USEPA NERL Method 200.5 as approved alternative methods for calcium in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Methods D511-09 A and B as approved alternative methods for calcium in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added ASTM Method D6919-09 as an approved alternative method for calcium in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed., Methods 3111 B, 3120 B, and 3500-Ca B as approved alternative methods for calcium in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

9) Chromium.

A) Inductively coupled plasma.

i) USEPA Environmental Metals Methods, Method 200.7 (rev. 4.4); or

ii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 3120 B.

B) Inductively coupled plasma-mass spectrometry: USEPA Environmental Metals Methods, Method 200.8 (rev. 5.3).

C) Atomic absorption, platform furnace technique: USEPA Environmental Metals Methods, Method 200.9 (rev. 2.2).

D) Atomic absorption, furnace technique:

i) Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3113 B; or

ii) Standard Methods Online, Method 3113 B-04.

E) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 3113 B and 3120 B and USEPA NERL Method 200.5 as approved alternative methods for chromium in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods Online, Method 3113 B-04 as an approved alternative method for chromium in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed., Methods 3113 B and 3120 B as approved alternative methods for chromium in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

10) Copper.

A) Atomic absorption, furnace technique.

i) ASTM Method D1688-95 C, D1688-02 C, or D1688-07 C;

ii) Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3113 B; or

iii) Standard Methods Online, Method 3113 B-04.

B) Atomic absorption, direct aspiration.

i) ASTM Method D1688-95 A, D1688-02 A, or D1688-07 A; or

ii) Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3111 B.

C) Inductively coupled plasma.

i) USEPA Environmental Metals Methods, Method 200.7 (rev. 4.4); or

ii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 3120 B.

D) Inductively coupled plasma-mass spectrometry: USEPA Environmental Metals Methods, Method 200.8 (rev. 5.3).

E) Atomic absorption, platform furnace technique: USEPA Environmental Metals Methods, Method 200.9 (rev. 2.2).

F) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 3111 B, 3113 B, and 3120 B and USEPA NERL Method 200.5 as an approved alternative method for copper in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Methods D1688-07 A and C as approved alternative methods for copper in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added Standard Methods Online, Method 3113 B-04 as an approved alternative method for copper in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed., Methods 3111 B, 3113 B, and 3120 B as approved alternative methods for copper in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

11) Conductivity; Conductance.

A) ASTM Method D1125-95(1999) A; or

B) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 2510 B.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 2510 B as an approved alternative method for conductivity in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods, 22nd ed., Method 2510 B as an approved alternative method for conductivity in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

12) Cyanide.

A) Manual distillation (ASTM Method D2036-98 A or Standard Methods, 18th, 19th, or 20th ed., Method 4500-CN^- C), followed by spectrophotometric, amenable.

i) ASTM Method D2036-98 B or D2036-06~~2036-06~~ B; or

ii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-CN^- G.

B) Manual distillation (ASTM Method D2036-98 A or Standard Methods, 18th, 19th, or 20th ed., Method 4500-CN^- C), followed by spectrophotometric, manual.

i) ASTM Method D2036-98 A or D2036-06 A;

ii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-CN^- E; or

iii) USGS Methods, Method I-3300-85.

C) Spectrophotometric, semiautomated: USEPA Environmental Inorganic Methods, Method 335.4 (rev. 1.0).

D) Selective electrode: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-CN^- F.

E) UV/Distillation/Spectrophotometric: Kelada 01.

F) Microdistillation/Flow Injection/Spectrophotometric: QuikChem~~QuickChem~~ 10-204-00-1-X.

G) Ligand exchange and amperometry.

i) ASTM Method D6888-04~~D6888-03~~.

ii) OI Analytical Method OIA-1677 DW.

H) Gas chromatography-mass spectrometry headspace: Method ME355.01.

BOARD NOTE: USEPA added ASTM Method D2036-06 A and Standard Methods, 21st ed., Methods 4500-CN^-E, F, and G as approved alternative methods for cyanide in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Method ME355.01 as an approved alternative method for cyanide in appendix A to subpart C of 40 CFR 141 on August 3, 2009 (at 74 Fed. Reg. 38348). USEPA added Standard Methods, 22nd ed., Methods 4500-CN^- E, F, and G as approved alternative methods for cyanide in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

13) Fluoride.

A) Ion Chromatography.

i) USEPA Environmental Inorganic Methods, Method 300.0 (rev. 2.1) or USEPA Organic and Inorganic Methods, Method 300.1 (rev. 1.0);

ii) ASTM Method D4327-97 or D4327-03;

iii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4110 B; or

iv) Hach SPADNS 2 Method 10225.

B) Manual distillation, colorimetric SPADNS: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-F^- B and D.

C) Manual electrode.

i) ASTM Method D1179-93 B, D1179-99 B, D1179-04 B, or D1179-10B; or

ii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-F^- C.

D) Automated electrode: Technicon Methods, Method 380-75WE.

E) Automated alizarin.

i) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-F^- E; or

ii) Technicon Methods, Method 129-71W.

F) Capillary ion electrophoresis: ASTM Method D6508-00(2005).

BOARD NOTE: On March 12, 2007 (at 72 Fed. Reg. 11200), USEPA amended the entry for fluoride to add capillary ion electrophoresis in the table at corresponding 40 CFR 141.23(k)(1) to allow the use of "Waters Method D6508, Rev. 2." The Board attempt to locate a copy of the method disclosed that it is an ASTM method originally approved in 2000 and reapproved in 2005. The Board has cited to the ASTM Method D6508-00 (2005).

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 4110 B and 4500-F^- B, C, D, and E and ASTM Method D1179-04 B as approved alternative methods for fluoride in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Hach SPADNS 2 Method 10225 as an approved alternative method for fluoride in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added ASTM Method D1179-10 B as an

approved alternative method for fluoride in appendix A to subpart C of 40 CFR 141 on June 28, 2012 (at 77 Fed. Reg. 38523). USEPA added Standard Methods, 22nd ed., Methods 4110 B and 4500-F^- B, C, D, and E as approved alternative methods for fluoride in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

14) Lead.

A) Atomic absorption, furnace technique.

i) ASTM Method D3559-96 D, D3559-03 D, or D3559-08 D;

ii) Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3113 B; or

iii) Standard Methods Online, Method 3113 B-04.

B) Inductively coupled plasma-mass spectrometry: USEPA Environmental Metals Methods, Method 200.8 (rev. 5.3).

C) Atomic absorption, platform furnace technique: USEPA Environmental Metals Methods, Method 200.9 (rev. 2.2).

D) Differential Pulse Anodic Stripping Voltammetry: Palintest Method 1001.

E) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 3113 B and USEPA NERL Method 200.5 as approved alternative methods for lead in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Method D3559-08 D as an approved alternative method for lead in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added Standard Methods Online, Method 3113 B-04 as an approved alternative method for lead in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed.,

Method 3113 B as an approved alternative method for lead in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

15) Magnesium.

A) Atomic absorption.

i) ASTM Method D511-93 B, D511-03 B, or D511-09 B; or

ii) Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3111 B.

B) Inductively coupled plasma.

i) USEPA Environmental Metals Methods, Method 200.7 (rev. 4.4); or

ii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 3120 B.

C) Complexation titrimetric.

i) ASTM Method D511-93 A, D511-03 A, or D511-09 A; or

ii) Standard Methods, 18th or 19th ed., Method 3500-Mg E or Standard Methods, 20th, ~~or~~ 21st, or 22nd ed., Method 3500-Mg B.

D) Ion chromatography: ASTM Method D6919-03 or D6919-09.

E) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 3111 B, 3120 B, and 3500-Mg B and USEPA NERL Method 200.5 as approved alternative methods for magnesium in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Methods D511-09 A and B as approved alternative methods for magnesium in appendix A to subpart C of 40 CFR 141 on November 10,

2009 (at 74 Fed. Reg. 57908). USEPA added ASTM Method D6919-09 as an approved alternative method for magnesium in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed., Methods 3111 B, 3120 B, and 3500-Mg B as approved alternative methods for magnesium in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

16) Mercury.

A) Manual cold vapor technique.

i) USEPA Environmental Metals Methods, Method 245.1 (rev. 3.0);

ii) ASTM Method D3223-97 or D3223-02; or

iii) Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3112 B.~~;~~

~~iv) Standard Methods Online, Method 3112 B-09.~~

B) Automated cold vapor technique: USEPA Inorganic Methods, Method 245.2.

C) Inductively coupled plasma-mass spectrometry: USEPA Environmental Metals Methods, Method 200.8 (rev. 5.3).

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 3112 B as an approved alternative method for mercury in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods Online, Method 3112 B-09 as an approved alternative method for mercury in appendix A to subpart C of 40 CFR 141 on June 28, 2012 (at 77 Fed. Reg. 38523). USEPA added Standard Methods, 22nd ed., Method 3112 B-09 as an approved alternative method for mercury in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558). Because Standard Methods, 22nd ed., Method 3112 B is the same version as Standard Methods Online 3112 B-09, the Board has not listed Standard Methods, Online version separately.

17) Nickel.

A) Inductively coupled plasma.

i) USEPA Environmental Metals Methods, Method 200.7 (rev. 4.4); or

ii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 3120 B.

B) Inductively coupled plasma-mass spectrometry: USEPA Environmental Metals Methods, Method 200.8 (rev. 5.3).

C) Atomic absorption, platform furnace technique: USEPA Environmental Metals Methods, Method 200.9 (rev. 2.2).

D) Atomic absorption, direct aspiration technique: Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3111 B.

E) Atomic absorption, furnace technique:

i) Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3113 B; or

ii) Standard Methods Online, Method 3113 B-04.

F) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 3111 B, 3113 B, and 3120 B and USEPA NERL Method 200.5 as approved alternative methods for nickel in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods Online, Method 3113 B-04 as an approved alternative method for nickel in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed., Methods 3111 B, 3113 B, and 3120 B as approved alternative methods for nickel in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

18) Nitrate.

A) Ion chromatography.

i) USEPA Environmental Inorganic Methods, Method 300.0 (rev. 2.1) or USEPA Organic and Inorganic Methods, Method 300.1 (rev. 1.0);

ii) ASTM Method D4327-97 or D4327-03;

iii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4110 B; or

iv) Waters Test Method B-1011, available from Millipore Corporation.

B) Automated cadmium reduction.

i) USEPA Environmental Inorganic Methods, Method 353.2 (rev. 2.0);

ii) ASTM Method D3867-90 A; or

iii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-NO_3^- F.

C) Ion selective electrode.

i) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-NO_3^- D; or

ii) Technical Bulletin 601.

D) Manual cadmium reduction.

i) ASTM Method D3867-90 B; or

ii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-NO_3^- E.

E) Capillary ion electrophoresis: ASTM Method D6508-00(2005).

F) Reduction-colorimetric: Systea Easy (1-Reagent).

G) Direct colorimetric: Hach TNTplus 835/836 Method 10206.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 4110 B and 4500-NO_3^- D, E, and F as approved alternative methods for nitrate in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Systea Easy (1-Reagent) as an approved alternative method for nitrate in appendix A to subpart C of 40 CFR 141 on August 3, 2009 (at 73 Fed. Reg. 38348). USEPA added Hach TNTplus 835/836 Method 10206 as an approved alternative method for nitrate in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed., Methods 4110 B, 4500-NO_3^- D, E, and F as approved alternative methods for nitrate in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

19) Nitrite.

A) Ion chromatography.

i) USEPA Environmental Inorganic Methods, Method 300.0 (rev. 2.1) or USEPA Organic and Inorganic Methods, Method 300.1 (rev. 1.0);

ii) ASTM Method D4327-97 or D4327-03;

iii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4110 B; or

iv) Waters Test Method B-1011, available from Millipore Corporation.

B) Automated cadmium reduction.

i) USEPA Environmental Inorganic Methods, Method 353.2 (rev. 2.0);

ii) ASTM Method D3867-90 A; or

iii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-NO_3^- F.

C) Manual cadmium reduction.

i) ASTM Method D3867-90 B; or

ii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-NO_3^- E.

D) Spectrophotometric: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-NO_2^- B.

E) Capillary ion electrophoresis: ASTM Method D6508-00(2005).

F) Reduction-colorimetric: Systea Easy (1-Reagent).

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 4110 B, 4500-NO_3^- E and F; and 4500-NO_2^- B as approved alternative methods for nitrite in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Systea Easy (1-Reagent) as an approved alternative method for nitrite in appendix A to subpart C of 40 CFR 141 on August 3, 2009 (at 73 Fed. Reg. 38348). USEPA added Standard Methods, 22nd ed., Methods 4110 B, 4500-NO_3^- E and F, 4500-NO_2^- B, as approved alternative methods for nitrite in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

20) Orthophosphate (unfiltered, without digestion or hydrolysis).

A) Automated colorimetric, ascorbic acid.

i) USEPA Environmental Inorganic Methods, Method 365.1 (rev. 2.0); or

ii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-P F.

B) Single reagent colorimetric, ascorbic acid.

i) ASTM Method D515-88 A; or

ii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-P E.

C) Colorimetric, phosphomolybdate: USGS Methods, Method I-1601-85.

D) Colorimetric, phosphomolybdate, automated-segmented flow: USGS Methods, Method I-2601-90.

E) Colorimetric, phosphomolybdate, automated discrete: USGS Methods, Method I-2598-85.

F) Ion Chromatography.

i) USEPA Environmental Inorganic Methods, Method 300.0 (rev. 2.1) or USEPA Organic and Inorganic Methods, Method 300.1 (rev. 1.0);

ii) ASTM Method D4327-97 or D4327-03; or

iii) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4110 B.

G) Capillary ion electrophoresis: ASTM Method D6508-00(2005).

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 4110 B and~~,~~ 4500-P E and F as approved alternative methods for orthophosphate in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). Because Standard Methods, 21st ed., Methods 4500-P E and F are the same versions as Standard Methods Online 4500-P E-99 and F-99, the Board has not listed the Standard Methods Online versions separately.

USEPA added Standard Methods, 22nd ed., Methods 4110 B, 4500-P E and F as approved alternative methods for orthophosphate in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

21) pH: electrometric.

A) USEPA Inorganic Methods, Method 150.1 or Method 150.2;

B) ASTM Method D1293-95, ~~or~~ D1293-99, or D1293-12; or

C) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-H^+ B.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 4500-H^+ B as an approved alternative method for pH in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods, 22nd ed., Method 4500-H^+ B and ASTM Method D1293-12 as approved alternative methods for pH in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

22) Selenium.

A) Atomic absorption, hydride.

i) ASTM Method D3859-98 A, D3859-03 A, or D3859-08 A; or

ii) Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3114 B.~~; or~~

~~iii) Standard Methods Online, Method 3114 B-09.~~

B) Inductively coupled plasma-mass spectrometry: USEPA Environmental Metals Methods, Method 200.8 (rev. 5.3).

C) Atomic absorption, platform furnace technique: USEPA Environmental Metals Methods, Method 200.9 (rev. 2.2).

D) Atomic absorption, furnace technique.

i) ASTM Method D3859-98 B, D3859-03 B, or D3859-08 B;

ii) Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3113 B; or

iii) Standard Methods Online, Method 3113 B-04.

E) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 3113 B and 3114 B and USEPA NERL Method 200.5 as approved alternative methods for selenium in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Methods D3859-08 A and B as approved alternative methods for selenium in appendix A to subpart C of 40 CFR 141 on November 10, 2009 (at 74 Fed. Reg. 57908). USEPA added Standard Methods Online, Method 3113 B-04 and Method 3114 B-09 as approved alternative methods for selenium in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed., Methods 3113 B and 3114 B as approved alternative methods for selenium in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558). Because Standard Methods, 22nd ed., Method 3114 B is the same version as Standard Methods Online 3114 B-09, the Board has not listed the Standard Methods Online version separately.

23) Silica.

A) Colorimetric, molybdate blue: USGS Methods, Method I-1700-85.

B) Colorimetric, molybdate blue, automated-segmented flow: USGS Methods, Method I-2700-85.

C) Colorimetric: ASTM Method D859-94, D859-00, or D859-10.

D) Molybdosilicate: Standard Methods, 18th or 19th ed., Method 4500-Si D or Standard Methods, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-SiO_2 C.

E) Heteropoly blue: Standard Methods, 18th or 19th ed., Method 4500-Si E or Standard Methods, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-SiO_2 D.

F) Automated method for molybdate-reactive silica: Standard Methods, 18th or 19th ed., Method 4500-Si F or Standard Methods, 20th, ~~or~~ 21st, or 22nd ed., Method 4500-SiO_2 E.

G) Inductively coupled plasma.

i) USEPA Environmental Metals Methods, Method 200.7 (rev. 4.4); or

ii) Standard Methods, 18th, 19th, 20th, or 21st ed., Method 3120 B.

H) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

BOARD NOTE: USEPA added ASTM Method D859-05, Standard Methods, 21st ed.; Methods 3120 B and 4500-SiO_2 C, D, and E; and USEPA NERL Method 200.5 as approved alternative methods for silica in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Method D859-10 as an approved alternative method for silica in appendix A to subpart C of 40 CFR 141 on June 28, 2012 (at 77 Fed. Reg. 38523). USEPA added Standard Methods, 22nd ed., Methods 3120 B, 4500-SiO_2 C, D, and E as approved alternative methods for silica in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

24) Sodium.

A) Inductively coupled plasma: USEPA Environmental Metals Methods, Method 200.7 (rev. 4.4).

B) Atomic absorption, direct aspiration: Standard Methods, 18th, 19th, ~~or~~ 21st, or 22nd ed., Method 3111 B.

C) Ion chromatography: ASTM Method D6919-03 or D6919-09.

D) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 3113 B and USEPA NERL Method 200.5 as approved alternative methods for sodium in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Method D6919-09 as an approved alternative method for sodium in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed., Method 3111 B as an approved alternative method for sodium in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

25) Temperature; thermometric: Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 2550.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 2550 as an approved alternative method for temperature in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods, 22nd ed., Method 2550 as an approved alternative method for temperature in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

26) Thallium.

A) Inductively coupled plasma-mass spectrometry: USEPA Environmental Metals Methods, Method 200.8 (rev. 5.3).

B) Atomic absorption, platform furnace technique: USEPA Environmental Metals Methods, Method 200.9 (rev. 2.2).

b) Sample collection for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate, nitrite, selenium, and thallium pursuant to Sections 611.600 through 611.604 must be conducted using

the following sample preservation, container, and maximum holding time procedures:

BOARD NOTE: For cyanide determinations samples must be adjusted with sodium hydroxide to pH 12 at the time of collection. When chilling is indicated the sample must be shipped and stored at 4° C or less. Acidification of nitrate or metals samples may be with a concentrated acid or a dilute (50% by volume) solution of the applicable concentrated acid. Acidification of samples for metals analysis is encouraged and allowed at the laboratory rather than at the time of sampling provided the shipping time and other instructions in Section 8.3 of USEPA Environmental Metals Method 200.7, 200.8, or 200.9 are followed.

1) Antimony.

A) Preservative: Concentrated nitric acid to pH less than 2.

B) Plastic or glass (hard or soft).

C) Holding time: Samples must be analyzed as soon after collection as possible, but in any event within six months.

2) Arsenic.

A) Preservative: Concentrated nitric acid to pH less than 2.

B) Plastic or glass (hard or soft).

C) Holding time: Samples must be analyzed as soon after collection as possible, but in any event within six months.

3) Asbestos.

A) Preservative: Cool to 4° C.

B) Plastic or glass (hard or soft).

C) Holding time: Samples must be analyzed as soon after collection as possible, but in any event within 48 hours.

4) Barium.

A) Preservative: Concentrated nitric acid to pH less than 2.

B) Plastic or glass (hard or soft).

C) Holding time: Samples must be analyzed as soon after collection as possible, but in any event within six months.

5) Beryllium.

A) Preservative: Concentrated nitric acid to pH less than 2.

B) Plastic or glass (hard or soft).

C) Holding time: Samples must be analyzed as soon after collection as possible, but in any event within six months.

6) Cadmium.

A) Preservative: Concentrated nitric acid to pH less than 2.

B) Plastic or glass (hard or soft).

C) Holding time: Samples must be analyzed as soon after collection as possible, but in any event within six months.

7) Chromium.

A) Preservative: Concentrated nitric acid to pH less than 2.

B) Plastic or glass (hard or soft).

C) Holding time: Samples must be analyzed as soon after collection as possible, but in any event within six months.

8) Cyanide.

A) Preservative: Cool to 4° C. Add sodium hydroxide to pH greater than 12. See the analytical methods for information on sample preservation.

B) Plastic or glass (hard or soft).

C) Holding time: Samples must be analyzed as soon after collection as possible, but in any event within 14 days.

9) Fluoride.

A) Preservative: None.

B) Plastic or glass (hard or soft).

C) Holding time: Samples must be analyzed as soon after collection as possible, but in any event within one month.

10) Mercury.

A) Preservative: Concentrated nitric acid to pH less than 2.

B) Plastic or glass (hard or soft).

C) Holding time: Samples must be analyzed as soon after collection as possible, but in any event within 28 days.

11) Nickel.

A) Preservative: Concentrated nitric acid to pH less than 2.

B) Plastic or glass (hard or soft).

C) Holding time: Samples must be analyzed as soon after collection as possible, but in any event within six months.

12) Nitrate, chlorinated.

A) Preservative: Cool to 4° C.

B) Plastic or glass (hard or soft).

C) Holding time: Samples must be analyzed as soon after collection as possible, but in any event within 14 days.

13) Nitrate, non-chlorinated.

A) Preservative: Concentrated sulfuric acid to pH less than 2.

B) Plastic or glass (hard or soft).

C) Holding time: Samples must be analyzed as soon after collection as possible, but in any event within 14 days.

14) Nitrite.

A) Preservative: Cool to 4° C.

B) Plastic or glass (hard or soft).

C) Holding time: Samples must be analyzed as soon after collection as possible, but in any event within 48 hours.

15) Selenium.

A) Preservative: Concentrated nitric acid to pH less than 2.

B) Plastic or glass (hard or soft).

C) Holding time: Samples must be analyzed as soon after collection as possible, but in any event within six months.

16) Thallium.

A) Preservative: Concentrated nitric acid to pH less than 2.

B) Plastic or glass (hard or soft).

C) Holding time: Samples must be analyzed as soon after collection as possible, but in any event within six months.

c) Analyses under this Subpart N must be conducted by laboratories that received approval from USEPA or the Agency. The Agency must certify laboratories to conduct analyses for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate, nitrite, selenium, and thallium if the laboratory does as follows:

1) It analyzes performance evaluation (PE) samples, provided by the Agency pursuant to 35 Ill. Adm. Code 186, that include those substances at levels not in excess of levels expected in drinking water; and

2) It achieves quantitative results on the analyses within the following acceptance limits:

A) Antimony: ± 30% at greater than or equal to 0.006 mg/ℓ.

B) Arsenic: ± 30% at greater than or equal to 0.003 mg/ℓ.

C) Asbestos: 2 standard deviations based on study statistics.

D) Barium: ± 15% at greater than or equal to 0.15 mg/ℓ.

E) Beryllium: ± 15% at greater than or equal to 0.001 mg/ℓ.

F) Cadmium: ± 20% at greater than or equal to 0.002 mg/ℓ.

G) Chromium: ± 15% at greater than or equal to 0.01 mg/ℓ.

H) Cyanide: ± 25% at greater than or equal to 0.1 mg/ℓ.

I) Fluoride: ± 10% at 1 to 10 mg/ℓ.

J) Mercury: ± 30% at greater than or equal to 0.0005 mg/ℓ.

K) Nickel: ± 15% at greater than or equal to 0.01 mg/ℓ.

L) Nitrate: ± 10% at greater than or equal to 0.4 mg/ℓ.

M) Nitrite: ± 15% at greater than or equal to 0.4 mg/ℓ.

N) Selenium: ± 20% at greater than or equal to 0.01 mg/ℓ.

O) Thallium: ± 30% at greater than or equal to 0.002 mg/ℓ.

BOARD NOTE: Derived from 40 CFR 141.23(k) and appendix A to 40 CFR 141 (2013)~~(2011)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.612 Monitoring Requirements for Old Inorganic MCLs

a) Analyses for the purpose of determining compliance with the old inorganic MCLs of Section 611.300 are required as follows:

1) Analyses for all CWSs utilizing surface water sources must be repeated at yearly intervals.

2) Analyses for all CWSs utilizing only groundwater sources must be repeated at three-year intervals.

3) This subsection (a)(3) corresponds with 40 CFR 141.23(1)(3), which requires monitoring for the repealed old MCL for nitrate at a frequency specified by the state. The Board has followed the USEPA lead and repealed that old MCL. This statement maintains structural consistency with USEPA rules.

4) This subsection (a)(4) corresponds with 40 CFR 141.23(1)(4) ,which authorizes the state to determine compliance and initiate enforcement action. This statement maintains structural consistency with USEPA rules.

b) If the result of an analysis made under subsection (a) of this Section indicates that the level of any contaminant listed in Section 611.300 exceeds the old MCL, the supplier must report to the Agency within seven days and initiate three additional analyses at the same sampling point within one month.

c) When the average of four analyses made pursuant to subsection (b) of this

Section, rounded to the same number of significant figures as the old MCL for the substance in question, exceeds the old MCL, the supplier must notify the Agency and give notice to the public pursuant to Subpart V of this Part. Monitoring after public notification must be at a frequency designated by the Agency by a SEP issued~~granted~~ pursuant to Section 611.110 and must continue until the old MCL has not been exceeded in two successive samples or until a different monitoring schedule becomes effective as a condition to a variance, an adjusted standard, a site specific rule, an enforcement action, or another SEP issued~~granted~~ pursuant to Section 611.110.

d) This subsection (d) corresponds with 40 CFR 141.23(o), which pertains to monitoring for the repealed old MCL for nitrate. This statement maintains structural consistency with USEPA rules.

e) This subsection (e) corresponds with 40 CFR 141.23(p), which pertains to the use of existing data up until a date long since expired. This statement maintains structural consistency with USEPA rules.

f) Analyses conducted to determine compliance with the old MCLs of Section 611.300 must be made in accordance with the following methods, incorporated by reference in Section 611.102, or alternative methods approved by the Agency pursuant to Section 611.480.

1) Fluoride: The methods specified in Section 611.611(c) must apply for the purposes of this Section.

2) Iron.

A) Standard Methods.

i) Method 3111 B, 18th, 19th, ~~or~~ 21st, or 22nd ed.;

ii) Method 3113 B, 18th, 19th, ~~or~~ 21st, or 22nd ed.;

iii) Method 3120 B, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed.

B) Standard Methods Online, Method 3113 B-04.

C) USEPA Environmental Metals Methods.

i) Method 200.7 (rev. 4.4); or

ii) Method 200.9 (rev. 2.2).

D) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

~~BOARD NOTE: USEPA added this method as an approved alternative method in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods Online, Method 3113 B-04 as an approved alternative method for iron in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014).~~

BOARD NOTE: USEPA added USEPA NERL Method 200.5 as an approved alternative method in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods, 21st ed.; Methods 3111 B, 3113 B, and 3120 B and USEPA NERL Method 200.5 as approved alternative methods for iron in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods Online, Method 3113 B-04 as an approved alternative method for iron in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed., Methods 3111 D, 3113 B, and 3120 B as approved alternative methods for iron in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

3) Manganese.

A) Standard Methods.

i) Method 3111 B, 18th, 19th, ~~or~~ 21st, or 22nd ed.;

ii) Method 3113 B, 18th, 19th, ~~or~~ 21st, or 22nd ed.; or

iii) Method 3120 B, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed.

B) Standard Methods Online, Method 3113 B-04.

C) USEPA Environmental Metals Methods.

i) Method 200.7 (rev. 4.4);

ii) Method 200.8 (rev. 5.3); or

iii) Method 200.9 (rev. 2.2).

D) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

BOARD NOTE: USEPA added Standard Methods, 21st ed.; Methods 3111 B, 3113 B, and 3120 B and USEPA NERL Method 200.5 as approved alternative methods for manganese in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods Online, Method 3113 B-04 as an approved alternative method for manganese in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 22nd ed., Methods 3111 D, 3113 B, and 3120 B as approved alternative methods for manganese in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

4) Zinc.

A) Standard Methods.

i) Method 3111 B, 18th, 19th, ~~or~~ 21st, or 22nd ed.; or

ii) Method 3120 B, 18th , 19th, 20th, ~~or~~ 21st, or 22nd ed.

B) USEPA Environmental Metals Methods.

i) Method 200.7 (rev. 4.4); or

ii) Method 200.8 (rev. 5.3).

C) Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES): USEPA NERL Method 200.5.

BOARD NOTE: USEPA added Standard Methods, 21st ed.; Methods 3111 B and 3120 B and USEPA NERL Method 200.5 as approved alternative methods for zinc in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods, 22nd ed., Methods 3111 B and 3120 B as approved alternative methods for zinc in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

BOARD NOTE: The provisions of subsections (a) through (e) of this Section derive from 40 CFR 141.23(l) through (p) (2013)~~(2011)~~. Subsections (f)(2) through (f)(4) of this Section relate exclusively to additional State requirements. The Board retained subsection (f) of this Section to set forth methods for the inorganic contaminants for which there is a State-only MCL. The methods specified are those set forth in 40 CFR 143.4(b) and appendix A to subpart C of 40 CFR 141 (2013)~~(2011)~~, for secondary MCLs.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

SUBPART O: ORGANIC MONITORING AND ANALYTICAL REQUIREMENTS

Section 611.645 Analytical Methods for Organic Chemical Contaminants

Analysis for the Section 611.311(a) VOCs under Section 611.646; the Section 611.311(c) SOCs under Section 611.648; the Section 611.310 old MCLs under Section 611.641; and for THMs, TTHMs, and TTHM potential must be conducted using the methods listed in this Section. All methods are incorporated by reference in Section 611.102. Other required analytical test procedures germane to the conduct of these analyses are contained in the USEPA document, "Technical Notes of Drinking Water Methods," incorporated by reference in Section 611.102.

a) Volatile Organic Chemical Contaminants (VOCs).

Contaminant	Analytical Methods
Benzene	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Method 524.3 (rev. 1.0)
Carbon tetrachloride	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods,

	Methods~~Method~~ 524.3 (rev. 1.0), 524.4, and 551.1 (rev. 1.0)
Chlorobenzene	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0) and 524.4
1,2-Dichlorobenzene	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0) and 524.4
1,4-Dichlorobenzene	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0) and 524.4
1,2-Dichloroethane	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0) and 524.4
1,1-Dichloroethylene	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods 524.3 (rev. 1.0) and 524.4
cis-Dichloroethylene	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0) and 524.4
trans-Dichloroethylene	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0) and 524.4
Dichloromethane	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods,

	Methods~~Method~~ 524.3 (rev. 1.0) and 524.4
1,2-Dichloropropane	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0) and 524.4
Ethylbenzene	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0) and 524.4
Styrene	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0) and 524.4
Tetrachloroethylene	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0), 524.4, and 551.1 (rev. 1.0)
Toluene	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods 524.3 (rev. 1.0) and 524.4
1,1,1-Trichloroethane	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0), 524.4, and 551.1 (rev. 1.0)
Trichloroethylene	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0), 524.4, and 551.1 (rev. 1.0)
~~Toluene~~	~~USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Method~~

	~~524.3 (rev. 1.0)~~
1,2,4-Trichlorobenzene	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0) and 524.4
~~1,1-Dichloroethylene~~	~~USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Method 524.3 (rev. 1.0)~~
1,1,2-Trichloroethane	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0) and 524.4
Vinyl chloride	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0) and 524.4
Xylenes (total)	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0) and 524.4

BOARD NOTE: USEPA added USEPA OGWDW Method 524.3 (rev. 1.0) as an alternative method for all of the VOCs in appendix A to subpart C of 40 CFR 141 on August 3, 2009 (at 74 Fed. Reg. 38348). USEPA added USEPA OGWDW Method 524.4 as an approved alternative method for all of the VOCs in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

b) Synthetic Organic Chemical Contaminants (SOCs).

Contaminant	Analytical Methods
2,3,7,8-Tetrachlorodibenzodioxin (2,3,7,8-TCDD or dioxin)	Dioxin and Furan Method 1613 (rev. B)

2,4-D	USEPA Organic Methods, Methods 515.2 (rev. 1.1), 555 (rev. 1.0), and 515.1 (rev. 4.0); USEPA Organic and Inorganic Methods, Method 515.3 (rev. 1.0); USEPA OGWDW Methods, Method 515.4 (rev. 1.0); ASTM Method D5317-93 or D5317-98 (2003); Standard Methods, 21st or 22nd ed., Method 6640 B
2,4,5-TP (Silvex)	USEPA Organic Methods, Methods 515.2 (rev. 1.1), 555 (rev. 1.0), and 515.1 (rev. 4.0); USEPA Organic and Inorganic Methods, Method 515.3 (rev. 1.0); USEPA OGWDW Methods, Method 515.4 (rev. 1.0); ASTM Method D5317-93 or D5317-98 (2003); Standard Methods, 21st or 22nd ed., Method 6640 B
Alachlor	USEPA Organic Methods, Methods 505 (rev. 2.1)[1], 507 (rev. 2.1), 508.1 (rev. 2.0), 525.2 (rev. 2.0), 525.3 (ver. 1.0), and 551.1 (rev. 1.0)
Atrazine	USEPA Organic Methods, Methods 505 (rev. 2.1)[1], 507 (rev. 2.1), 508.1 (rev. 2.1), 523 (rev. 1.0), 525.2 (rev. 2.0), 525.3 (ver. 1.0), 536 (ver. 1.0), and 551.1 (rev. 1.0); Syngenta AG-625[2]
Benzo(a)pyrene	USEPA Organic Methods, Methods 525.2 (rev. 2.0), 525.3 (ver. 1.0), 550, and 550.1

Carbofuran	USEPA Organic Methods, Methods 531.1 (rev. 3.1); USEPA OGWDW Methods, Method 531.2 (rev. 1.0); Standard Methods, 18th ed. Supplement, 19th ed., or 20th ed., Method 6610; Standard Methods, 21st or 22nd ed., Method 6610 B~~; Standard Methods Online, Method 6610 B-04~~
Chlordane	USEPA Organic Methods, Methods 505 (rev. 2.1), 508 (rev. 3.1), 508.1 (rev. 2.1), 525.2 (rev. 2.0), and 525.3 (ver. 1.0)
Dalapon	USEPA Organic Methods, Methods 515.1 (rev. 4.0), 552.1 (rev. 1.0), and 552.2 (rev. 1.0); USEPA Organic and Inorganic Methods, Method 515.3 (rev. 1.0); USEPA OGWDW Methods, Methods 515.4 (rev. 1.0), 552.3 (rev. 1.0), and 557; Standard Methods, 21st or 22nd ed., Method 6640 B
Di(2-ethylhexyl)adipate	USEPA Organic Methods, Methods 506 (rev. 1.1), 525.2 (rev. 2.0), and 525.3 (ver. 1.0)
Di(2-ethylhexyl)phthalate	USEPA Organic Methods, Methods 506 (rev. 1.1), 525.2 (rev. 2.0), and 525.3 (ver. 1.0)
Dibromochloropropane (DBCP)	USEPA Organic Methods, Methods 504.1 (rev. 1.1), USEPA OGWDW Methods, Methods 524.3 (rev. 1.0) and 551.1 (rev. 1.0)

Dinoseb	USEPA Organic Methods, Methods 515.1 (rev. 4.0) and 515.2 (rev. 1.1); USEPA Organic and Inorganic Methods, Method 515.3 (rev. 1.0); USEPA OGWDW Methods, Methods 515.4 (rev. 1.0) and 555 (rev. 1.0); Standard Methods, 21st or 22nd ed., Method 6640 B
Diquat	USEPA NERL Method 549.2 (rev. 1.0)
Endothall	USEPA Organic Methods, Method 548.1 (rev. 1.0)
Endrin	USEPA Organic Methods, Methods 505 (rev. 2.1), 508 (rev. 3.1), 508.1 (rev. 2.0), 525.2 (rev. 2.0), 525.3 (ver. 1.0), and 551.1 (rev. 1.0)
Ethylene dibromide (EDB)	USEPA Organic Methods, Method 504.1 (rev. 1.1); USEPA OGWDW Methods, Methods 524.3 (rev. 1.0) and 551.1 (rev.1.0)
Glyphosate	USEPA Organic Methods, Method 547; Standard Methods, 18th ed., 19th ed., 20th, ~~or~~ 21st, or 22nd ed., Method 6651 B
Heptachlor	USEPA Organic Methods, Methods 505 (rev. 2.1), 508 (rev. 3.1), 508.1 (rev. 2.0), 525.2 (rev. 2.0), 525.3 (ver. 1.0), and 551.1 (rev. 1.0)
Heptachlor Epoxide	USEPA Organic Methods, Methods 505 (rev. 2.1), 508 (rev. 3.1), 508.1 (rev. 2.0), 525.2 (rev. 2.0), 525.3 (ver. 1.0), and 551.1 (rev.1.0)
Hexachlorobenzene	USEPA Organic Methods, Methods 505 (rev. 2.1), 508 (rev. 3.1), 508.1 (rev. 2.0), 525.2 (rev. 2.0), 525.3 (ver. 1.0), and 551.1 (rev. 1.0)

Hexachlorocyclopentadiene	USEPA Organic Methods, Methods 505 (rev. 2.1), 508 (rev. 3.1), 508.1 (rev. 2.0), 525.2 (rev. 2.0), 525.3 (ver. 1.0), and 551.1 (rev. 1.0)
Lindane	USEPA Organic Methods, Methods 505 (rev. 2.1), 508 (rev. 3.1), 508.1 (rev. 2.0), 525.2 (rev. 2.0), 525.3 (ver. 1.0), and 551.1 (rev. 1.0)
Methoxychlor	USEPA Organic Methods, Methods 505 (rev. 2.1), 508 (rev. 3.1), 508.1 (rev. 2.0), 525.2 (rev. 2.0), 525.3 (ver. 1.0), and 551.1 (rev. 1.0)
Oxamyl	USEPA Organic Methods, Method 531.1 (rev. 3.1); USEPA OGWDW Methods, Method 531.2 (rev. 1.0); Standard Methods, 18th ed. Supplement, 19th ed, or 20th ed., Method 6610; Standard Methods, 21st or 22nd ed., Method 6610 B~~; Standard Methods Online, Method 6610 B-04~~
PCBs (measured for compliance purposes as decachlorobiphenyl)	USEPA Organic Methods, Method 508A (rev. 1.0)
PCBs (qualitatively identified as Aroclors)	USEPA Organic Methods, Methods 505 (rev. 2.1), 508 (rev. 3.1), 508.1 (rev. 2.0), 525.2 (rev. 2.0), and 525.3 (ver. 1.0),
Pentachlorophenol	USEPA Organic Methods, Methods 515.1 (rev. 4.0), 515.2 (rev. 1.1), 525.2 (rev. 2.0), 525.3 (ver. 1.0) and 555 (rev. 1.0); USEPA Organic and Inorganic Methods, Method 515.3 (rev. 1.0); USEPA OGWDW Methods, Method 515.4 (rev. 1.0); ASTM Method D5317-93 or D5317-98 (2003); Standard Methods, 21st or 22nd ed., Method 6640 B

Picloram	USEPA Organic Methods, Methods 515.1 (rev. 4.0), 515.2 (rev. 1.1), and 555 (rev. 1.0); USEPA Organic and Inorganic Methods, Method 515.3 (rev. 1.0); USEPA OGWDW Methods, Method 515.4 (rev. 1.0); ASTM Method D5317-93 or D5317-98 (2003); Standard Methods, 21st or 22nd ed., Method 6640 B
Simazine	USEPA Organic Methods, Methods 505 (rev. 2.1)[1], 507 (rev. 2.1), 508.1 (rev. 2.0), 523 (ver. 1.0) 525.2 (rev. 2.0), 525.3 (ver. 1.0), 536 (ver. 1.0), and 551.1 (rev. 1.0)
Toxaphene	USEPA Organic Methods, Methods 505 (rev. 2.1), 508 (rev. 2.1), 508.1 (rev. 2.0), 525.2 (rev. 2.0), and 525.3 (ver. 1.0)

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 6610 B and Standard Methods Online, Method 6610 B-04 as approved alternative methods for carbofuran and oxamyl on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added USEPA OGWDW Method 524.3 (rev. 1.0) as an alternative method for dibromochloropropane and ethylene dibromide in appendix A to subpart C of 40 CFR 141 on August 3, 2009 (at 74 Fed. Reg. 38348). USEPA approved Standard Methods, 21st ed., Method 6640 B and Standard Methods Online, Method 6640 B-01 and USEPA OGWDW Methods, Method 557 as approved alternative methods for dalapon in appendix A to subpart C of 40 CFR 141 on June 8, 2010 (at 75 Fed. Reg. 32295). USEPA added Standard Methods, 21st ed., Method 6640 B as an approved alternative method for 2,4-D, 2,4,5-TP (Silvex), dinoseb, pentachlorophenol, and picloram in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, Online, Method 6640 B-01 as an approved alternative method for 2,4-D, 2,4,5-TP (Silvex), dalapon, dinoseb, pentachlorophenol, and picloram and in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). Since the version of Method 6640-B that appears in Standard Methods Online is the same as that which appears in Standard Methods, 21st ed., the Board has cited only to Standard Methods, 21st ed. USEPA added Standard Methods, 21st ed., Method 6651 B as an approved alternative method for glyphosate in appendix A to

subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods Online, Method 6651 B-00 as an approved alternative method for glyphosate in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). Since the version of Method 6651 B that appears in Standard Methods Online is the same as that which appears in Standard Methods, 21st ed., the Board has cited only to Standard Methods, 21st ed. USEPA approved USEPA OGWDW Methods, Method 523 (ver. 1.0) and Method 536 (ver. 1.0) as approved alternative methods for atrazine and simazine and USEPA NERL Methods, Method 525.3 as an approved alternative method for alachlor, atrazine, benzo(a)pyrene, chlordane, di(2-ethylhexyl)adipate, di(2-ethylhexyl)phthalate, endrin, heptachlor, 'heptachlor epoxide, hexachlorobenzene, hexachlorocyclopentadiene, lindane, methoxychlor, PCBs (as arachlors), pentachlorophenyl,- simazine, and toxaphene in appendix A to subpart C of 40 CFR 141 on June 8, 2012 (at 77 Fed. Reg. 38523). USEPA added Standard Methods, 22nd ed., Method 6610 B and Standard Methods Online, Method 6610 B-04 as an approved alternative method for carbofuran and oxamyl; Standard Methods, 22nd ed., Method 6640 B and Standard Methods Online, Method 6640 B-01 as an approved method for 2,4-D, 2,4,5-TP (silvex), dalapon, dinoseb, pentachlorophenol, and picloram; and Standard Methods, 22nd ed., Method 6651 B for glyphosate in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558). Because Standard Methods, 22nd ed., Methods 6610 B and 6640 B-01 are the same versions as Standard Methods Online 6610 B-04 and 6640 B-01, the Board has not listed the Standard Methods Online versions separately.

c) Total Trihalomethanes (TTHMs).

Contaminant	Analytical Methods
Total Trihalomethanes (TTHMs), Trihalomethanes (THMs), and Maximum Total Trihalomethane Potential	USEPA Organic Methods, Methods 502.2 (rev. 2.1) and 524.2 (rev. 4.1); USEPA OGWDW Methods, Methods~~Method~~ 524.3 (rev. 1.0), 524.4, and 551.1 (rev. 1.0)

BOARD NOTE: USEPA added USEPA OGWDW Method 524.3 (rev. 1.0) as an alternative method for total trihalomethane in appendix A to subpart C of 40 CFR

141 on August 3, 2009 (at 74 Fed. Reg. 38348). USEPA added USEPA OGWDW Method 524.4 as an approved alternative method for total trihalomethanes in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

d) State-Only MCLs (for which a method is not listed in subsections (a) through (c) of this Section).

Contaminant	Analytical Methods
Aldrin	USEPA Organic Methods, Methods 505 (rev. 2.1), 508 (rev. 3.1), 508.1 (rev. 2.0), and 525.2 (rev. 2.0)
DDT	USEPA Organic Methods, Methods 505 (rev. 2.1) and 508 (rev. 3.1)
Dieldrin	USEPA Organic Methods, Methods 505 (rev. 2.1), 508 (rev. 3.1), 508.1 (rev. 2.0), and 525.2 (rev. 2.0)

e) The following footnotes are appended to method entries in subsections (a) and (b) of this Section:

[1] denotes that, for the particular contaminant, a nitrogen-phosphorus detector should be substituted for the electron capture detector in method 505 (or another approved method should be used) to determine alachlor, atrazine, and simazine if lower detection limits are required.

[2] denotes that Syngenta Method AG-625 may not be used for the analysis of atrazine in any system where chlorine dioxide is used for drinking water treatment. In samples from all other systems, any result for atrazine generated by Syngenta Method AG-625 that is greater than one-half the maximum contaminant level (MCL) (in other words, greater than 0.0015 mg/ℓ or 1.5 µg/ℓ) must be confirmed using another approved method for this contaminant and should use additional volume of the original sample collected for compliance monitoring. In instances where a result from Syngenta Method AG-625 triggers such confirmatory testing, the confirmatory result is to be used to determine compliance.

BOARD NOTE: Derived from 40 CFR 141.24(e) and appendix A to subpart C of 40 CFR 141 (2013~~2011~~).

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

SUBPART Q: RADIOLOGICAL MONITORING AND ANALYTICAL REQUIREMENTS

Section 611.720 Analytical Methods

a) The methods specified below, or alternative methods approved by the Agency pursuant to Section 611.480, incorporated by reference in Section 611.102, are to be used to determine compliance with Section 611.330, except in cases where alternative methods have been approved in accordance with Section 611.480.

1) Gross Alpha and Beta.

A) Standard Methods.

i) Method 302, 13th ed.; or

ii) Method 7110 B, 17th, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed.;

B) USEPA Interim Radiochemical Methods: pages 1-3;

C) USEPA Radioactivity Methods, Method 900.0;

D) USEPA Radiochemical Analyses: pages 1-5;

E) USEPA Radiochemistry Procedures, Method 00-01; or

F) USGS Methods, Method R-1120-76.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 7110 B as an approved alternative method for gross alpha and beta in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods, 22nd ed., Method 7110 B as an approved alternative method for gross alpha and beta in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

2) Gross Alpha.

A) Standard Methods, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 7110 C; or

B) USEPA Radiochemistry Procedures, Method 00-02.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 7110 C as an approved alternative method for gross alpha in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616).See the comment appended to 611.611(a)(2)(D)(ii) re Standard Methods Online, Method 3113 B-04 for antimony. USEPA added Standard Methods, 22nd ed., Method 7110 C as an approved alternative method for gross alpha in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

3) Radium-226.

A) ASTM Methods.

i) Method D2460-97 or D2460-07; or

ii) Method D3454-97 or D3454-05;

B) New York Radium Method;

C) Standard Methods.

i) Method 304, 13th ed.;

ii) Method 305, 13th ed.;

iii) Method 7500-Ra B, 17th, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed.; or

iv) Method 7500-Ra C, 17th, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed.;

D) EML Procedures Manual (27th or 28th ed.), Method Ra-04;

E) USEPA Interim Radiochemical Methods: pages 13-15 or 16-23;

F) USEPA Radioactivity Methods, Methods 903.0, 903.1;

G) USEPA Radiochemical Analyses, pages 19-32;

H) USEPA Radiochemistry Procedures, Method Ra-03 or Ra-04; or

I) USGS Methods.

i) Method R-1140-76; or

ii) Method R-1141-76.

J) Georgia Radium Method.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 7500-Ra B and C as approved alternative methods for radium-226 in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Methods D2460-07 and D3454-05 as approved alternative methods for radium-226 in appendix A to subpart C of 40 CFR 141 on June 8, 2010 (at 75 Fed. Reg. 32295). USEPA added Standard Methods, 22nd ed., Methods 7500-Ra B and C as approved alternative methods for radium-226 in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

4) Radium-228.

A) Standard Methods, 17th, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 7500-Ra D;

B) New York Radium Method;

C) USEPA Interim Radiochemical Methods, pages 24-28;

D) USEPA Radioactivity Methods, Method 904.0;

E) USEPA Radiochemical Analyses, pages 19-32;

F) USEPA Radiochemistry Procedures, Method Ra-05;

G) USGS Methods, Method R-1142-76;

H) New Jersey Radium Method; or

I) Georgia Radium Method.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 7500-Ra D as an approved alternative method for radium-228 in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616).

USEPA added Standard Methods, 22nd ed., Method 7500-Ra D as an approved alternative method for radium 228 in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

5) Uranium.

A) Standard Methods, 17th, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed., Method 7500-U B or 7500-U C;

B) Standard Methods, 20th or 21st ed., Method 3125;

C) ASTM Methods.

i) Method D2907-97;

ii) Method D3972-97, ~~or~~ D3972-02, or D3972-09;

iii) Method D5174-97, D5174-02, or D5174-07~~, or D3972-09~~;

iv) Method D5673-03, Method D5673-05, or Method D5673-10; or

v) Method D6239-09;

D) USEPA Radioactivity Methods, Methods 908.0, 908.1;

E) USEPA Environmental Metals Methods, Method 200.8 (rev. 5.3);

F) USEPA Radiochemical Analyses, pages 33-48;

G) USEPA Radiochemistry Procedures, Method 00-07;

H) EML Procedures Manual (27th or 28th ed.), Method U-02 or U-04; or

I) USGS Methods.

i) Method R-1180-76;

ii) Method R-1181-76; or

iii) Method R-1182-76.

BOARD NOTE: If uranium (U) is determined by mass, a conversion factor of 0.67 pCi/µg of uranium must be used. This conversion factor is based on the 1:1 activity ratio of ^{234}U and ^{238}U that is characteristic of naturally occurring uranium.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 7500-U B and Method 7500-U C and ASTM Method D5673-05 as approved alternative methods for uranium in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Method D5174-07 as an approved alternative method for uranium in appendix A to subpart C of 40 CFR 141 on June 8, 2010 (at 75 Fed. Reg. 32295). USEPA added ASTM Method D3972-09 as an approved alternative method for uranium in appendix A to subpart C of 40 CFR 141 on June 24, 2011 (at 76 Fed. Reg. 37014). USEPA added Standard Methods, 21st ed., Method 3125 and ASTM Methods D5673-10 and D6329-09 as approved alternative methods for uranium in appendix A to subpart C of 40 CFR 141 on June 3, 2012 (at 77 Fed. Reg. 38523). USEPA added Standard Methods, 22nd ed., Methods 7500-U B and C as approved alternative methods for uranium in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

6) Radioactive Cesium.

A) ASTM Methods.

i) Method D2459-72; or

ii) Method D3649-91, D3649-98a, or D3649-06;

B) Standard Methods.

i) Method 7120, 19th, 20th, ~~or~~ 21st, or 22nd ed.; or

ii) Method 7500-Cs B, 17th, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed.;

C) EML Procedures Manual (27th or 28th ed.), Method 4.5.2.3;

D) USEPA Interim Radiochemical Methods, pages 4-5;

E) USEPA Radioactivity Methods, Methods 901.0, 901.1;

F) USEPA Radiochemical Analyses, pages 92-95; or

G) USGS Methods.

i) Method R-1110-76; or

ii) Method R-1111-76.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 7120 and 7500-Cs B as approved alternative methods for radioactive cesium in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Method D3649-06 as an approved alternative method for radioactive cesium in appendix A to subpart C of 40 CFR 141 on June 8, 2010 (at 75 Fed. Reg. 32295). USEPA added Standard Methods, 22nd ed., Methods 7120 and 7500-Cs B as approved alternative methods for radioactive cesium in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

7) Radioactive Iodine.

A) ASTM Methods.

i) D3649-91, D3649-98a, or D3649-06; or

ii) D4785-93, D4785-98, or D4785-08;

B) Standard Methods.

i) Method 7120, 19th, 20th, ~~or~~ 21st, or 22nd ed.;

ii) Method 7500-I B, 17th, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed.;

iii) Method 7500-I C, 17th, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed.; or

iv) Method 7500-I D, 17th, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed.;

C) EML Procedures Manual (27th or 28th ed.), Method 4.5.2.3;

D) USEPA Interim Radiochemical Methods, pages 6-8 or 9-12;

E) USEPA Radiochemical Analyses, pages 92-95; or

F) USEPA Radioactivity Methods, Methods 901.1 or 902.0.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 7120 and 7500-I B, C, and D as approved alternative methods for radioactive iodine in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Methods D3649-06 and D4785-08 as approved alternative methods for radioactive iodine in appendix A to subpart C of 40 CFR 141 on June 8, 2010 (at 75 Fed. Reg. 32295). USEPA added Standard Methods, 22nd ed., Methods 7120 and 7500-I B, C, and D as approved alternative methods for radioactive iodine in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

8) Radioactive Strontium-89 & 90.

A) Standard Methods.

i) Method 303, 13th ed.; or

ii) Method 7500-Sr B, 17th, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed.;

B) EML Procedures Manual (27th or 28th ed.), Method Sr-01 or Sr-02.

C) USEPA Interim Radiochemical Methods, pages 29-33;

D) USEPA Radioactivity Methods, Method 905.0;

E) USEPA Radiochemical Analyses, pages 65-73;

F) USEPA Radiochemistry Procedures, Method Sr-04; or

G) USGS Methods, Method R-1160-76.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 7500-Sr B as an approved alternative method for radioactive strontium in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Standard Methods, 22nd ed., Method 7500-Sr B as an approved alternative method for radioactive strontium 89 and 90 in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

9) Tritium.

A) ASTM Methods: Method D4107-91, D4107-98, or D4107-08;

B) Standard Methods.

i) Method 306, 13th ed.; or

ii) Method 7500-^{3}H B, 17th, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed.;

C) USEPA Interim Radiochemical Methods, pages 34-37;

D) USEPA Radioactivity Methods, Method 906.0;

E) USEPA Radiochemical Analyses, pages 87-91;

F) USEPA Radiochemistry Procedures, Method H-02; or

G) USGS Methods, Method R-1171-76.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Method 7500-^{3}H B as an approved alternative method for tritium in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Method D4107-08 as an approved alternative method for tritium in appendix A to subpart C of 40 CFR 141 on June 8, 2010 (at 75 Fed. Reg. 32295). USEPA added Standard Methods, 22nd ed., Method 7500-^{3}H B as an approved alternative method for tritium in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

10) Gamma Emitters.

A) ASTM Methods.

i) Method D3649-91, D3649-98a, or D3649-06; or

ii) Method D4785-93, D4785-00a, or D4785-08;

B) Standard Methods.

i) Method 7120, 19th, 20th, ~~or~~ 21st, or 22nd ed.;

ii) Method 7500-Cs B, 17th, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed.; or

iii) Method 7500-I B, 17th, 18th, 19th, 20th, ~~or~~ 21st, or 22nd ed.;

C) EML Procedures Manual (27th or 28th ed.), Method Ga-01-R;

D) USEPA Radioactivity Methods, Methods 901.0, 901.1, or 902.0;

E) USEPA Radiochemical Analyses, pages 92-95; or

F) USGS Methods, Method R-1110-76.

BOARD NOTE: USEPA added Standard Methods, 21st ed., Methods 7120, 7500-Cs B, and 7500-I B as approved alternative methods for gamma emitters in appendix A to subpart C of 40 CFR 141 on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added ASTM Methods D3649-08 and D4785-08 as approved alternative methods for tritium in appendix A to subpart C of 40 CFR 141 on June 8, 2010 (at 75 Fed. Reg. 32295). USEPA added Standard Methods, 22nd ed., Methods 7120, 7500-Cs B, and 7500-I B as approved alternative methods for gamma emitters in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

b) When the identification and measurement of radionuclides other than those listed in subsection (a) of this Section are required, the following methods, incorporated by reference in Section 611.102, are to be used, except in cases where alternative methods have been approved in accordance with Section 611.480:

1) "Procedures for Radiochemical Analysis of Nuclear Reactor Aqueous Solutions," available from NTIS.

2) EML Procedures Manual (27th or 28th ed.), available from USDOE, EML.

c) For the purpose of monitoring radioactivity concentrations in drinking water, the required sensitivity of the radioanalysis is defined in terms of a detection limit. The detection limit must be that concentration which can be counted with a precision of plus or minus 100 percent at the 95 percent confidence level (1.96σ, where σ is the standard deviation of the net counting rate of the sample).

1) To determine compliance with Section 611.330(b), (c), and (e), the detection limit must not exceed the concentrations set forth in the following table:

Contaminant	Detection Limit
Gross alpha particle activity	3 pCi/ℓ
Radium-226	1 pCi/ℓ
Radium-228	1 pCi/ℓ
Uranium	1 µg/ℓ

BOARD NOTE: Derived from 40 CFR 141.25(c) Table B (2013)~~(2012)~~.

2) To determine compliance with Section 611.330(d), the detection limits must not exceed the concentrations listed in the following table:

Radionuclide	Detection Limit
Tritium	1,000 pCi/ℓ
Strontium-89	10 pCi/ℓ
Strontium-90	2 pCi/ℓ
Iodine-131	1 pCi/ℓ
Cesium-134	10 pCi/ℓ
Gross beta	4 pCi/ℓ
Other radionuclides	1/10 of applicable limit

BOARD NOTE: Derived from 40 CFR 141.25(c) Table C (2013)~~(2012)~~.

d) To judge compliance with the MCLs listed in Section 611.330, averages of data must be used and must be rounded to the same number of significant figures as the MCL for the substance in question.

BOARD NOTE: Derived from 40 CFR 141.25 and appendix A to subpart C of 40 CFR 141 (2013)~~(2012~~).

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

SUBPART S: GROUNDWATER RULE

Section 611.802 Groundwater Source Microbial Monitoring and Analytical Methods

a) Triggered source water monitoring.

1) General requirements. A GWS supplier must conduct triggered source water monitoring if the ~~following~~ conditions in either subsections (a)(1)(A) and (a)(1)(B) or (a)(1)(A) and (a)(1)(C) of this Section exist.~~:~~

A) The supplier does not provide at least 4-log treatment of viruses (using inactivation, removal, or an Agency-approved combination of 4-log virus inactivation and removal) before or at the first customer for each groundwater source.~~; and~~

B) Until March 31, 2016, the~~The~~ supplier is notified that a sample collected pursuant to Section 611.521 is total coliform-positive, and the sample is not invalidated by the Agency pursuant to Section 611.523.

C) Beginning April 1, 2016, the system is notified that a sample collected under Sections 611.1054 through 611.1057 is total coliform-positive and the sample is not invalidated under Section 611.1053(c).

2) Sampling requirements. A GWS supplier must collect, within 24 hours after notification of the total coliform-positive sample, at least one groundwater source sample from each groundwater source in use at the time the total coliform-positive sample was collected pursuant to Section 611.521 until March 31, 2016, or collected pursuant to Sections 611.1054 through 611.1057 beginning April 1, 2016, except as provided in subsection (a)(2)(B) of this Section.

A) The Agency may, by a SEP issued pursuant to Section 611.110, extend the 24-hour time limit on a case-by-case basis if it determines that the supplier cannot collect the groundwater source water sample within 24 hours due to circumstances beyond the supplier's control. In the case of an extension, the Agency must specify how much time the supplier has to collect the sample.

B) If approved by the Agency, a supplier with more than one groundwater source may meet the requirements of this subsection (a)(2) by sampling a representative groundwater source or sources. If directed by the Agency by a SEP issued pursuant to Section 611.110, the supplier must submit for Agency approval a triggered source water monitoring plan that identifies one or more groundwater sources that are representative of each monitoring site in the system's sample siting plan pursuant to Section 611.521 and that the system intends to use for representative sampling pursuant to this subsection (a).

C) Until March 31, 2016, a~~A~~ GWS supplier that serves 1,000 or fewer people may use a repeat sample collected from a groundwater source to meet both the requirements of Section 611.522 and to satisfy the monitoring requirements of subsection (a)(2) of this Section for that groundwater source only if the Agency approves the use of E. coli as a fecal indicator for source water monitoring pursuant to this subsection (a) by a SEP issued pursuant to Section 611.110. If the repeat sample collected from the groundwater source is E.coli positive, the system must comply with subsection (a)(3) of this Section.

D) Beginning April 1, 2016, a GWS supplier that serves 1,000 or fewer people may use a repeat sample collected from a groundwater source to meet both the requirements of Subpart AA of this Part and to satisfy the monitoring requirements of subsection (a)(2) of this Section for that groundwater source only if the Agency, by a SEP issued pursuant to Section 611.110, approves the use of E. coli as a fecal indicator for source water monitoring pursuant to this subsection (a) and approves the use of a single sample for meeting both the triggered source water monitoring requirements in this subsection (a) and the repeat monitoring requirements in Section 611.1058. If the repeat sample

collected from the groundwater source is E. coli-positive, the system must comply with subsection (a)(3) of this Section.

3) Additional requirements. If the Agency does not require corrective action pursuant to Section 611.803(a)(2) for a fecal indicator-positive source water sample collected pursuant to subsection (a)(2) of this Section that is not invalidated pursuant to subsection (d) of this Section, the system must collect five additional source water samples from the same source within 24 hours after being notified of the fecal indicator-positive sample.

4) Consecutive and wholesale systems.

A) In addition to the other requirements of this subsection (a), a consecutive GWS supplier that has a total coliform-positive sample collected pursuant to Section 611.521 until March 31, 2016, or pursuant to Sections 611.1054 through 611.1057 beginning April 1, 2016, must notify the wholesale systems within 24 hours after being notified of the total coliform-positive sample.

B) In addition to the other requirements of this subsection (a), a wholesale GWS supplier must comply with the following requirements:

i) A wholesale GWS supplier that receives notice from a consecutive system it serves that a sample collected pursuant to Section 611.521 until March 31, 2016, or collected pursuant to Sections 611.1054 through 611.1057 beginning April 1, 2016, is total coliform-positive must, within 24 hours after being notified, collect a sample from its groundwater sources pursuant to subsection (a)(2) of this Section and analyze it for a fecal indicator pursuant to subsection (c) of this Section.

ii) If the sample collected pursuant to subsection (a)(4)(B)(i) of this section is fecal indicator-positive, the wholesale GWS supplier must notify all consecutive systems served by that groundwater source of the fecal indicator source water positive within 24 hours of being notified of the

groundwater source sample monitoring result and must meet the requirements of subsection (a)(3) of this Section.

5) Exceptions to the triggered source water monitoring requirements. A GWS supplier is not required to comply with the source water monitoring requirements of subsection (a) of this Section if either of the following conditions exists:

A) The Agency determines, and documents in writing, by a SEP issued pursuant to Section 611.110, that the total coliform-positive sample collected pursuant to Section 611.521 until March 31, 2016, or collected pursuant to Sections 611.1054 through 611.1057 beginning April 1, 2016, is caused by a distribution system deficiency; or

B) The total coliform-positive sample collected pursuant to Section 611.521 until March 31, 2016, or collected pursuant to Sections 611.1054 through 611.1057 beginning April 1, 2016, is collected at a location that meets Agency criteria for distribution system conditions that will cause total coliform-positive samples.

b) Assessment source water monitoring. If directed by the Agency by a SEP issued pursuant to Section 611.110, a GWS supplier must conduct assessment source water monitoring that meets Agency-determined requirements for such monitoring. A GWS supplier conducting assessment source water monitoring may use a triggered source water sample collected pursuant to subsection (a)(2) of this Section to meet the requirements of subsection (b) of this Section. Agency-determined assessment source water monitoring requirements may include the following:

1) Collection of a total of 12 groundwater source samples that represent each month the system provides groundwater to the public;

2) Collection of samples from each well, unless the system obtains written Agency approval to conduct monitoring at one or more wells within the GWS that are representative of multiple wells used by that system and which draw water from the same hydrogeologic setting;

3) Collection of a standard sample volume of at least 100 mℓ for fecal indicator analysis, regardless of the fecal indicator or analytical method used;

4) Analysis of all groundwater source samples using one of the analytical methods listed in subsection (c)(2) of this Section for the presence of E. coli, enterococci, or coliphage;

5) Collection of groundwater source samples at a location prior to any treatment of the groundwater source unless the Agency approves a sampling location after treatment; and

6) Collection of groundwater source samples at the well itself, unless the system's configuration does not allow for sampling at the well itself and the Agency approves an alternate sampling location by a SEP issued pursuant to Section 611.110 that is representative of the water quality of that well.

c) Analytical methods.

1) A GWS supplier subject to the source water monitoring requirements of subsection (a) of this Section must collect a standard sample volume of at least 100 mℓ for fecal indicator analysis, regardless of the fecal indicator or analytical method used.

2) A GWS supplier must analyze all groundwater source samples collected pursuant to subsection (a) of this Section using one of the analytical methods listed in subsections (c)(2)(A) through (c)(2)(C) of this Section, each incorporated by reference in Section 611.102, or alternative methods approved by the Agency pursuant to Section 611.480, subject to the limitations of subsection (c)(2)(D) of this Section, for the presence of E. coli, enterococci, or coliphage:

A) E. coli:

i) Autoanalysis Colilert System, Standard Methods, 20th, ~~or~~ 21st, or 22nd ed., Method 9223 B.

ii) Colisure Test, Standard Methods, 20th, ~~or~~ 21st , or 22nd ed., Method 9223 B.

iii) Membrane Filter Method with MI Agar, USEPA Method 1604.

iv) m-ColiBlue24 Test.

v) E*Colite Test.

vi) EC-MUG, Standard Methods, 20th or 22nd ed., Method 9221 F.

vii) NA-MUG, Standard Methods, 20th ed., Method 9222 G.

viii) Colilert-18, Standard Methods, 20th, ~~or~~ 21st, or 22nd ed., Method 9223 B.

ix) Readycult® 2007.

x) Modified Colitag™ Method.

xi) Chromomcult® Method.

BOARD NOTE: EC-MUG (Standard Methods, Method 9221F) or NA-MUG (Standard Methods, Method 9222G) can be used for E. coli testing step, as described in Section 611.526(f)(1) or (f)(2) after use of Standard Methods, 18th, 19th, 20th , or 21st ed., Method 9221 B, 9221 D, 9222 B, or 9222 C. USEPA added Standard Methods, 21st ed., Method 9223 B as an approved alternative method for E. coli on June 3, 2008 (at 73 Fed. Reg. 31616). USEPA added Readycult® 2007, Modified Colitag™ Method, and Chromocult® Method as approved alternative methods for E. coli on June 8, 2010 (at 75 Fed. Reg. 32295). USEPA added Standard Methods, 22nd ed., Methods 9221 F and 9223 B as approved alternative methods for E. coli in appendix A to subpart C of 40 CFR 141 on May 31, 2013 (at 78 Fed. Reg. 32558).

B) Enterococci:

i) Multiple-Tube Technique, Standard Methods, 20th ed., Method 9230 B or Standard Methods Online, Method 9230 B-04.

ii) Membrane Filter Technique, Standard Methods, 20th ed., Method 9230 C, and USEPA Method 1600.

BOARD NOTE: The holding time and temperature for groundwater samples are specified in subsection (c)(2)(D) of this Section, rather than as specified in Section 8 of USEPA Method 1600.

iii) Enterolert.

BOARD NOTE: Medium is available through IDEXX Laboratories, Inc., at the address set forth in Section 611.102(b). Preparation and use of the medium must be as set forth in the article that embodies the method as incorporated by reference in Section 611.102(b).

BOARD NOTE: USEPA added Standard Methods Online, Method 9230 B-04 as an approved alternative method for enterococci on June 3, 2008 (at 73 Fed. Reg. 31616).

C) Coliphage:

i) Two-Step Enrichment Presence-Absence Procedure, USEPA Method 1601 or Charm Fast Phage.

ii) Single Agar Layer Procedure, USEPA Method 1602.

D) Limitation on methods use. The time from sample collection to initiation of analysis may not exceed 30 hours. The GWS supplier is encouraged but is not required to hold samples below 10°C during transit.

d) Invalidation of a fecal indicator-positive groundwater source sample.

1) A GWS supplier may obtain Agency invalidation of a fecal indicator-positive groundwater source sample collected pursuant to subsection (a) of this Section only under either of the following conditions:

A) The supplier provides the Agency with written notice from the laboratory that improper sample analysis occurred; or

B) The Agency determines and documents in writing by a SEP issued pursuant to Section 611.110 that there is substantial evidence that a fecal indicator-positive groundwater source sample is not related to source water quality.

2) If the Agency invalidates a fecal indicator-positive groundwater source sample, the GWS supplier must collect another source water sample pursuant to subsection (a) of this Section within 24 hours after being notified by the Agency of its invalidation decision, and the supplier must have it analyzed for the same fecal indicator using the analytical methods in subsection (c) of this Section. The Agency may extend the 24-hour time limit on a case-by-case basis if the supplier cannot collect the source water sample within 24 hours due to circumstances beyond its control. In the case of an extension, the Agency must specify how much time the system has to collect the sample.

e) Sampling location.

1) Any groundwater source sample required pursuant to subsection (a) of this Section must be collected at a location prior to any treatment of the groundwater source unless the Agency approves a sampling location after treatment.

2) If the supplier's system configuration does not allow for sampling at the well itself, it may collect a sample at an Agency-approved location to meet the requirements of subsection (a) of this Section if the sample is representative of the water quality of that well.

f) New sources. If directed by the Agency by a SEP issued pursuant to Section 611.110, a GWS supplier that places a new groundwater source into service after November 30, 2009 must conduct assessment source water monitoring pursuant

to subsection (b) of this Section. If directed by the SEP, the system must begin monitoring before the groundwater source is used to provide water to the public.

g) Public Notification. A GWS supplier with a groundwater source sample collected pursuant to subsection (a) or (b) of this Section that is fecal indicator-positive and which is not invalidated pursuant to subsection (d) of this Section, including a consecutive system supplier served by the groundwater source, must conduct public notification pursuant to Section 611.902.

h) Monitoring Violations. A failure to meet the requirements of subsections (a) through (f) of this Section is a monitoring violation that requires the GWS supplier to provide public notification pursuant to Section 611.904.

BOARD NOTE: Derived from 40 CFR 141.402 and appendix A to 40 CFR 141 (2013)~~(2010)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.805 Reporting and Recordkeeping for GWS Suppliers

a) Reporting. In addition to the requirements of Section 611.840, a GWS supplier regulated pursuant to this Subpart S must provide the following information to the Agency:

1) A GWS supplier conducting compliance monitoring pursuant to Section 611.803(b) must notify the Agency any time the supplier fails to meet any Agency-specified requirements including, but not limited to, minimum residual disinfectant concentration, membrane operating criteria or membrane integrity, and alternative treatment operating criteria, if operation in accordance with the criteria or requirements is not restored within four hours. The GWS supplier must notify the Agency as soon as possible, but in no case later than the end of the next business day.

2) After completing any corrective action pursuant to Section 611.803(a), a GWS supplier must notify the Agency within 30 days after completion of the corrective action.

3) If a GWS supplier subject to the requirements of Section 611.802(a) does not conduct source water monitoring pursuant to Section

611.802(a)(5)(B), the supplier must provide documentation to the Agency within 30 days of the total coliform-positive sample that it met the Agency criteria.

b) Recordkeeping. In addition to the requirements of Section 611.860, a GWS supplier regulated pursuant to this Subpart S must maintain the following information in its records:

1) Documentation of corrective actions. Documentation must be kept for a period of not less than ten years.

2) Documentation of notice to the public as required pursuant to Section 611.803(a)(7). Documentation must be kept for a period of not less than three years.

3) Records of decisions pursuant to Section 611.802(a)(5)(B) and records of invalidation of fecal indicator-positive groundwater source samples pursuant to Section 611.802(d). Documentation must be kept for a period of not less than five years.

4) For a consecutive system supplier, documentation of notification to the wholesale systems of total coliform-positive~~total coliform positive~~ samples that are not invalidated pursuant to Section 611.523 until March 31, 2016, or pursuant to Section 611.1053 beginning April 1, 2016. Documentation must be kept for a period of not less than five years.

5) For a supplier, including a wholesale system supplier, that is required to perform compliance monitoring pursuant to Section 611.803(b), the following information:

A) Records of the supplier-specified, Agency-approved minimum disinfectant residual. Documentation must be kept for a period of not less than ten years;

B) Records of the lowest daily residual disinfectant concentration and records of the date and duration of any failure to maintain the Agency-prescribed minimum residual disinfectant concentration for a period of more than four hours. Documentation must be kept for a period of not less than five years; and

C) Records of supplier-specified, Agency-approved compliance requirements for membrane filtration and of parameters specified by the supplier for Agency-approved alternative treatment and records of the date and duration of any failure to meet the membrane operating, membrane integrity, or alternative treatment operating requirements for more than four hours. Documentation must be kept for a period of not less than five years.

BOARD NOTE: Derived from 40 CFR 141.405 (2013)~~, as added at 71 Fed. Reg. 65574 (Nov. 8, 2006)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

SUBPART U: CONSUMER CONFIDENCE REPORTS

Section 611.883 Content of the Reports

a) Each CWS must provide to its customers an annual report that contains the information specified in this Section and Section 611.884.

b) Information on the source of the water delivered.

1) Each report must identify the sources of the water delivered by the CWS by providing information on the following:

A) The type of the water (e.g., surface water, groundwater); and

B) The commonly used name (if any) and location of the body (or bodies) of water.

2) If a source water assessment has been completed, the report must notify consumers of the availability of this information and the means to obtain it. In addition, systems are encouraged to highlight in the report significant sources of contamination in the source water area if they have readily available information. Where a system has received a source water assessment from the Agency, the report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the Agency or written by the supplier .

c) Definitions.

1) Each report must include the following definitions:

A) Maximum Contaminant Level Goal or MCLG: The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.

BOARD NOTE: Although an MCLG is not an NPDWR that the Board must include in the Illinois SDWA regulations, the use of this definition is mandatory where the term "MCLG" is defined.

B) Maximum Contaminant Level or MCL: The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

2) A report for a CWS operating under relief from an NPDWR issued under Section 611.111, 611.112, 611.130, or 611.131 must include the following definition: "Variances, Adjusted Standards, and Site-specific Rules: State permission not to meet an MCL or a treatment technique under certain conditions."

3) A report that contains data on contaminants that USEPA regulates using any of the following terms must include the applicable definitions:

A) Treatment technique: A required process intended to reduce the level of a contaminant in drinking water.

B) Action level: The concentration of a contaminant that, if exceeded, triggers treatment or other requirements that a water system must follow.

C) Maximum residual disinfectant level goal or MRDLG: The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.

BOARD NOTE: Although an MRDLG is not an NPDWR that the Board must include in the Illinois SDWA regulations, the use of

this definition is mandatory where the term "MRDLG" is defined.

D) Maximum residual disinfectant level or MRDL: The highest level of a disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

4) A report that contains information regarding a Level 1 or Level 2 assessment required under Subpart AA of this Part must include the applicable of the following definitions:

A) "Level 1 assessment: A level 1 assessment is a study of the water system to identify potential problems and determine (if possible) why total coliform bacteria have been found in our water system."

B) "Level 2 assessment: A level 2 assessment is a very detailed study of the water system to identify potential problems and determine (if possible) why an E. coli MCL violation has occurred or why total coliform bacteria have been found in our water system on multiple occasions."

d) Information on detected contaminants.

1) This subsection (d) specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring (except Cryptosporidium). It applies to the following:

A) Contaminants subject to an MCL, action level, MRDL, or treatment technique (regulated contaminants);

B) Contaminants for which monitoring is required by Section 611.510 (unregulated contaminants); and

C) Disinfection byproducts or microbial contaminants for which monitoring is required by Section 611.382 and Subpart L of this Part, except as provided under subsection (e)(1) of this Section, and which are detected in the finished water.

2) The data relating to these contaminants must be displayed in one table or

in several adjacent tables. Any additional monitoring results that a CWS chooses to include in its report must be displayed separately.

3) The data must have been derived from data collected to comply with monitoring and analytical requirements during calendar year 1998 for the first report and must be derived from the data collected in subsequent calendar years , except that the following requirements also apply:

A) Where a system is allowed to monitor for regulated contaminants less often than once a year, the tables must include the date and results of the most recent sampling, and the report must include a brief statement indicating that the data presented in the report is from the most recent testing done in accordance with the regulations. No data older than five years need be included.

B) Results of monitoring in compliance with Section 611.382 and Subpart L need only be included for five years from the date of last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.

4) For detected regulated contaminants (listed in Appendix A of this Part), the tables must contain the following:

A) The MCL for that contaminant expressed as a number equal to or greater than 1.0 (as provided in Appendix A of this Part);

B) The federal Maximum Contaminant Level Goal (MCLG) for that contaminant expressed in the same units as the MCL;

C) If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique or action level, as appropriate, specified in subsection (c)(3) of this Section;

D) For contaminants subject to an MCL, except turbidity, ~~and~~ total coliforms, fecal coliforms, and E. coli, the highest contaminant level used to determine compliance with an NPDWR, and the

range of detected levels, as follows:

i) When compliance with the MCL is determined annually or less frequently: the highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL.

ii) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a monitoring location: the highest average of any of the monitoring locations and the range of all monitoring locations expressed in the same units as the MCL. For the MCLs for TTHM and HAA5 in Section 611.312(b)(2), the supplier must include the highest locational running annual average for TTHM and HAA5 and the range of individual sample results for all monitoring locations expressed in the same units as the MCL. If results from more than one location exceed the TTHM or HAA5 MCL, the supplier must include the locational running annual average for each location whose results exceed the MCL.

iii) When compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all monitoring locations: the average and range of detection expressed in the same units as the MCL. The supplier is required to include individual sample results for the IDSE conducted under Subpart W of this Part when determining the range of TTHM and HAA5 results to be reported in the annual consumer confidence report for the calendar year that the IDSE samples were taken.

BOARD NOTE to subsection (d)(4)(D): When rounding of results to determine compliance with the MCL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in Appendix A of this Part; derived from 40 CFR 153 (2013)~~(2006)~~.

E) For turbidity the following:

i) When it is reported pursuant to Section 611.560: the highest average monthly value.

ii) When it is reported pursuant to the requirements of Section 611.211(b): the highest monthly value. The report must include an explanation of the reasons for measuring turbidity.

iii) When it is reported pursuant to Section 611.250, 611.743, or 611.955(b): the highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in Section 611.250, 611.743, or 611.955(b) for the filtration technology being used. The report must include an explanation of the reasons for measuring turbidity;

F) For lead and copper the following: the 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level;

G) For total coliform analytical results until March 31, 2016, the following:

i) The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or

ii) The highest monthly percentage of positive samples for systems collecting at least 40 samples per month;

H) For fecal coliform and E. coli until March 31, 2016, the following: the total number of positive samples; ~~and~~

I) The likely sources of detected contaminants to the best of the supplier's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and must be used when available to the supplier. If the supplier lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in Appendix G of this Part that are most

applicable to the CWS; and.

J) For E. coli analytical results under Subpart AA of this Part, the total number of positive samples.

5) If a CWS distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table must contain a separate column for each service area and the report must identify each separate distribution system. Alternatively, a CWS may produce separate reports tailored to include data for each service area.

6) The tables must clearly identify any data indicating violations of MCLs, MRDLs, or treatment techniques, and the report must contain a clear and readily understandable explanation of the violation including the following: the length of the violation, the potential adverse health effects, and actions taken by the CWS to address the violation. To describe the potential health effects, the CWS must use the relevant language of Appendix A of this Part.

7) For detected unregulated contaminants for which monitoring is required (except Cryptosporidium), the tables must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

e) Information on Cryptosporidium, radon, and other contaminants as follows:

1) If the CWS has performed any monitoring for Cryptosporidium, including monitoring performed to satisfy the requirements of Subpart L of this Part, that indicates that Cryptosporidium may be present in the source water or the finished water, the report must include the following:

A) A summary of the results of the monitoring; and

B) An explanation of the significance of the results.

2) If the CWS has performed any monitoring for radon that indicates that radon may be present in the finished water, the report must include the following:

A) The results of the monitoring; and

B) An explanation of the significance of the results.

3) If the CWS has performed additional monitoring that indicates the presence of other contaminants in the finished water, the report must include the following:

A) The results of the monitoring; and

B) An explanation of the significance of the results noting the existence of any health advisory or proposed regulation.

f) Compliance with an NPDWR. In addition to the requirements of subsection (d)(6) of this Section, the report must note any violation that occurred during the year covered by the report of a requirement listed below, and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the CWS has taken to correct the violation.

1) Monitoring and reporting of compliance data.

2) Filtration and disinfection prescribed by Subpart B of this Part. For CWSs that have failed to install adequate filtration or disinfection equipment or processes, or have had a failure of such equipment or processes that constitutes a violation, the report must include the following language as part of the explanation of potential adverse health effects: Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

3) Lead and copper control requirements prescribed by Subpart G of this Part. For systems that fail to take one or more actions prescribed by Section 611.350(d), 611.351, 611.352, 611.353, or 611.354, the report must include the applicable language of Appendix A of this Part for lead, copper, or both.

4) Treatment techniques for acrylamide and epichlorohydrin prescribed by Section 611.296. For systems that violate the requirements of Section

611.296, the report must include the relevant language from Appendix A of this Part.

5) Recordkeeping of compliance data.

6) Special monitoring requirements prescribed by Sections 611.510 and 611.630.

7) Violation of the terms of a variance, adjusted standard, site-specific rule, or administrative or judicial order.

g) Variances, adjusted standards, and site-specific rules. If a system is operating under the terms of a variance, adjusted standard, or site-specific rule issued under Section 611.111, 611.112, or 611.131, the report must contain the following:

1) An explanation of the reasons for the variance, adjusted standard, or site-specific rule;

2) The date on which the variance, adjusted standard, or site-specific rule was issued;

3) A brief status report on the steps the CWS is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance, adjusted standard, or site-specific rule; and

4) A notice of any opportunity for public input in the review, or renewal, of the variance, adjusted standard, or site-specific rule.

h) Additional information.

1) The report must contain a brief explanation regarding contaminants that may reasonably be expected to be found in drinking water, including bottled water. This explanation may include the language of subsections (h)(1)(A) through (h)(1)(C) of this Section or CWSs may use their own comparable language. The report also must include the language of subsection (h)(1)(D) of this Section.

A) The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells.

As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity.

B) Contaminants that may be present in source water include the following:

i) Microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife;

ii) Inorganic contaminants, such as salts and metals, which can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming;

iii) Pesticides and herbicides, which may come from a variety of sources such as agriculture, urban stormwater runoff, and residential uses;

iv) Organic chemical contaminants, including synthetic and volatile organic chemicals, which are byproducts of industrial processes and petroleum production, and can also come from gas stations, urban stormwater runoff, and septic systems; and

v) Radioactive contaminants, which can be naturally-occurring or be the result of oil and gas production and mining activities.

C) In order to ensure that tap water is safe to drink, USEPA prescribes regulations that limit the amount of certain contaminants in water provided by public water systems. United States Food and Drug Administration (USFDA) regulations establish limits for contaminants in bottled water that must provide the same protection for public health.

D) Drinking water, including bottled water, may reasonably be

expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the USEPA Safe Drinking Water Hotline (800-426-4791).

2) The report must include the telephone number of the owner, operator, or designee of the CWS as a source of additional information concerning the report.

3) In communities with a large proportion of non-English speaking residents, as determined by the Agency, the report must contain information in the appropriate languages regarding the importance of the report or contain a telephone number or address where such residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language.

4) The report must include information about opportunities for public participation in decisions that may affect the quality of the water.

5) The CWS may include such additional information as it deems necessary for public education consistent with, and not detracting from, the purpose of the report.

6) Suppliers required to comply with Subpart S of this Part.

A) Any GWS supplier that receives written notice from the Agency of a significant deficiency or which receives notice from a laboratory of a fecal indicator-positive groundwater source sample that is not invalidated by the Agency pursuant to Section 611.802(d) must inform its customers of any significant deficiency that is uncorrected at the time of the next report or of any fecal indicator-positive groundwater source sample in the next report. The supplier must continue to inform the public annually until the Agency, by a SEP issued pursuant to Section 611.110, determines that particular significant deficiency is corrected or the fecal contamination in the groundwater source is addressed pursuant to Section 611.803(a). Each report must include the following information:

i) The nature of the particular significant deficiency or the source of the fecal contamination (if the source is known) and the date the significant deficiency was identified by the Agency or the dates of the fecal indicator-positive groundwater source samples;

ii) Whether or not the fecal contamination in the groundwater source has been addressed pursuant to Section 611.803(a) and the date of such action;

iii) For each significant deficiency or fecal contamination in the groundwater source that has not been addressed pursuant to Section 611.803(a), the Agency-approved plan and schedule for correction, including interim measures, progress to date, and any interim measures completed; and

iv) If the system receives notice of a fecal indicator-positive groundwater source sample that is not invalidated by the Agency pursuant to Section 611.802(d), the potential health effects using the health effects language of Appendix A of this Part.

B) If directed by the Agency by a SEP issued pursuant to Section 611.110, a supplier with significant deficiencies that have been corrected before the next report is issued must inform its customers of the significant deficiency, how the deficiency was corrected, and the date of correction pursuant to subsection (h)(6)(A) of this Section.

7) Suppliers required to comply with Subpart AA of this Part.

A) Any supplier required to comply with the Level 1 assessment requirement or a Level 2 assessment requirement that is not due to an E. coli MCL violation must include in the report the text found in subsections (h)(7)(A)(i) and (h)(7)(A)(ii) or (h)(7)(A)(i) and (h)(7)(A)(iii) of this Section, as appropriate, filling in the blanks accordingly and the text found in subsection (h)(7)(A)(iv) of this Section, if appropriate.

i) "Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that were found during these assessments."

ii) "During the past year we were required to conduct [insert number of Level 1 assessments] Level 1 assessment(s). [insert number of level 1 assessments] Level 1 assessment(s) were completed. In addition, we were required to take [insert number of corrective actions] corrective actions and we completed [insert number of corrective actions] of these actions."

iii) "During the past year [insert number of Level 2 assessments] Level 2 assessments were required to be completed for our water system. [insert number of Level 2 assessments] Level 2 assessments were completed. In addition, we were required to take [insert number of corrective actions] corrective actions and we completed [insert number of corrective actions] of these actions."

iv) Any supplier that has failed to complete all the required assessments or correct all identified sanitary defects is in violation of the treatment technique requirement and must also include one or both of the following statements, as appropriate: "During the past year we failed to conduct all of the required assessment(s)." or "During the past year we failed to correct all identified defects that were found during the assessment."

B) Any supplier required to conduct a level 2 assessment due to an E. coli MCL violation must include in the report the text found in

subsections (h)(7)(B)(i) and (h)(7)(B)(ii) of this Section, filling in the blanks accordingly and the appropriate alternative text found in subsection (h)(7)(B)(ii) of this Section, if appropriate.

i) "E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems. We found *E. coli* bacteria, indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that were found during these assessments."

ii) "We were required to complete a Level 2 assessment because we found E. coli in our water system. In addition, we were required to take [insert number of corrective actions] corrective actions and we completed [insert number of corrective actions] of these actions."

iii) Any supplier that has failed to complete the required assessment or correct all identified sanitary defects is in violation of the treatment technique requirement and must also include one or both of the following statements, as appropriate: "We failed to conduct the required assessment." or "We failed to correct all sanitary defects that were identified during the assessment that we conducted."

C) If a supplier detects E. coli and has violated the E. coli MCL, in addition to completing the table, as required in subsection (d)(4) of this Section, the supplier must include one or more of the following statements to describe any noncompliance, as applicable:

i) "We had an E. coli-positive repeat sample following a total coliform-positive routine sample."

ii) "We had a total coliform-positive repeat sample following an E. coli-positive routine sample."

iii) "We failed to take all required repeat samples following an E. coli-positive routine sample."

iv) "We failed to test for E. coli when any repeat sample tested positive for total coliform."

D) If a supplier detects E. coli and has not violated the E. coli MCL, in addition to completing the table as required in subsection (d)(4) of this Section, the supplier may include a statement that explains that, although it has detected E. coli, it is not in violation of the E. coli MCL.

BOARD NOTE: Derived from 40 CFR 141.153 (2013)~~(2006), as amended at 71 Fed. Reg. 65574 (Nov. 8, 2006)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.885 Report Delivery and Recordkeeping

a) Except as provided in subsection (g) of this Section, each CWS must mail or otherwise directly deliver one copy of the report to each customer.

b) The CWS must make a good faith effort to reach consumers who do not get water bills, using a means approved by the Agency by a SEP issued~~granted~~ pursuant to Section 611.110. A good faith effort to reach consumers includes, but is not limited to, methods such as the following: posting the reports on the Internet, advertising the availability of the report in the news media, publication in a local newspaper, or delivery to community organizations.

c) No later than the date the CWS is required to distribute the report to its customers, each CWS must mail a copy of the report to the Agency, followed within three months by a certification that the report has been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to the Agency.

d) No later than the date the CWS is required to distribute the report to its customers, each CWS must deliver the report to any other agency or clearinghouse identified by the Agency.

e) Each CWS must make its reports available to the public upon request.

f) Each CWS serving 100,000 or more persons must post its current year's report to a publicly-accessible site on the Internet.

g) The Governor or his designee may waive the requirement of subsection (a) of this Section for a CWS serving fewer than 10,000 persons.

1) Such a CWS must do the following:

A) The CWS must publish the report in one or more local newspapers serving the county in which the CWS is located;

B) The CWS must inform the customers that the report will not be mailed, either in the newspapers in which the report is published or by other means approved by the Agency; and

C) The CWS must make the report available to the public upon request.

2) Systems serving fewer than 500 persons may forgo the requirements of subsections (g)(1)(A) and (g)(1)(B) of this Section if they provide notice at least once per year to their customers by mail, by door-to-door delivery, or by posting in a location approved by the Agency that the report is available upon request.

h) Any system subject to this Subpart U must retain copies of its consumer confidence report for no less than three years.

BOARD NOTE: Derived from 40 CFR 141.155 (2013)~~(2002)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

SUBPART V: PUBLIC NOTIFICATION OF DRINKING WATER VIOLATIONS

Section 611.901 General Public Notification Requirements

The requirements of this Subpart V replace former notice requirements.

a) Who must give public notice. Each owner or operator of a public water system (a CWS, an NTNCWS, or a transient non-CWS) must give notice for all violations of an NPDWR and for other situations, as listed in this subsection (a). The term "NPDWR violation" is used in this Subpart V to include violations of an MCL, an MRDL, a treatment technique, monitoring requirements, or a testing procedure set forth in this Part. Appendix G to this Part identifies the tier assignment for each specific violation or situation requiring a public notice.

1) NPDWR violations.

A) A failure to comply with an applicable MCL or MRDL.

B) A failure to comply with a prescribed treatment technique.

C) A failure to perform water quality monitoring, as required by this Part.

D) A failure to comply with testing procedures as prescribed by this Part.

2) Relief equivalent to a variance and exemptions under sections 1415 and 1416 of SDWA.

A) Operation under relief equivalent to a SDWA section 1415 variance, under Section 611.111, or a SDWA section 1416 exemption, under Section 611.112.

B) A failure to comply with the requirements of any schedule that has been set under relief equivalent to a SDWA section 1415 variance, under Section 611.111, or a SDWA section 1415 exemption, under Section 611.112.

3) Special public notices.

A) The occurrence of a waterborne disease outbreak or other

waterborne emergency.

B) An exceedence of the nitrate MCL by a non-CWS, where granted permission by the Agency under Section 611.300(d).

C) An exceedence of the secondary fluoride standard of Section 611.858.

D) The availability of unregulated contaminant monitoring data.

E) Other violations and situations determined by the Agency by a SEP issued pursuant to Section 611.110 to require a public notice under this Subpart V, not already listed in Appendix G of this Part.

b) The type of public notice required for each violation or situation. The public notice requirements of this Subpart V are divided into three tiers, to take into account the seriousness of the violation or situation and of any potential adverse health effects that may be involved. The public notice requirements for each violation or situation listed in subsection (a) of this Section are determined by the tier to which it is assigned. This subsection (b) provides the definition of each tier. Appendix G of this Part identifies the tier assignment for each specific violation or situation.

1) Tier 1 public notice: required for NPDWR violations and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure.

2) Tier 2 public notice: required for all other NPDWR violations and situations with potential to have serious adverse effects on human health.

3) Tier 3 public notice: required for all other NPDWR violations and situations not included in Tier 1 and Tier 2.

c) Who must receive notice.

1) Each PWS supplier must provide public notice to persons served by the water supplier, in accordance with this Subpart V. A PWS supplier that sells or otherwise provides drinking water to another PWS supplier (i.e., to a consecutive system) is required to give public notice to the owner or

operator of the consecutive system; the consecutive system supplier is responsible for providing public notice to the persons it serves.

2) If a PWS supplier has a violation in a portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system, the Agency may allow the system to limit distribution of the public notice to only persons served by that portion of the system that is out of compliance. Permission by the Agency for limiting distribution of the notice must be granted in writing, by a SEP issued~~granted~~ pursuant to Section 611.110.

3) A copy of the notice must also be sent to the Agency, in accordance with the requirements under Section 611.840(d).

BOARD NOTE: Derived from 40 CFR 141.201 (2013)~~(2002)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.902 Tier 1 Public Notice: Form, Manner, and Frequency of Notice

a) Violations or situations that require a Tier 1 public notice. This subsection (a) lists the violation categories and other situations requiring a Tier 1 public notice. Appendix G of this Part identifies the tier assignment for each specific violation or situation. The violation categories include:

1) Until March 31, 2016, violation~~Violation~~ of the MCL for total coliforms when fecal coliform or E. coli are present in the water distribution system (as specified in Section 611.325(b)), or when the water supplier fails to test for fecal coliforms or E. coli when any repeat sample tests positive for coliform (as specified in Section 611.525). Beginning April 1, 2016, violation of the MCL for E. coli (as specified in Section 611.325(c)).

2) Violation of the MCL for nitrate, nitrite, or total nitrate and nitrite, as defined in Section 611.301, or when the water supplier fails to take a confirmation sample within 24 hours after the supplier's receipt of the results from the first sample showing an exceedence of the nitrate or nitrite MCL, as specified in Section 611.606(b).

3) Exceedence of the nitrate MCL by a non-CWS supplier, where permitted

to exceed the MCL by the Agency under Section 611.300(d), as required under Section 611.909.

4) Violation of the MRDL for chlorine dioxide, as defined in Section 611.313(a), when one or more samples taken in the distribution system the day following an exceedence of the MRDL at the entrance of the distribution system exceed the MRDL, or when the water supplier does not take the required samples in the distribution system, as specified in Section 611.383(c)(2)(A).

5) This subsection (a)(5) refers to a violation of the former turbidity standard of Section 611.320, which the Board repealed because it applied to no suppliers in Illinois. This statement maintains structural consistency with the federal regulations.

6) Violation of the Surface Water Treatment Rule (SWTR), Interim Enhanced Surface Water Treatment Rule (IESWTR), or Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) treatment technique requirement resulting from a single exceedence of the maximum allowable turbidity limit (as identified in Appendix G), where the Agency determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the supplier learns of the violation.

7) Occurrence of a waterborne disease outbreak, as defined in Section 611.101, or other waterborne emergency (such as a failure or significant interruption in key water treatment processes, a natural disaster that disrupts the water supply or distribution system, or a chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination).

8) Detection of E. coli, enterococci, or coliphage in source water samples, as specified in Section 611.802(a) and (b).

9) Other violations or situations with significant potential to have serious adverse effects on human health as a result of short-term exposure, as determined by the Agency by a SEP issued pursuant to Section 611.110.

b) When the Tier 1 public notice is to be provided. Additional steps required. A

PWS supplier must do the following:

1) It must provide a public notice as soon as practical but no later than 24 hours after the supplier learns of the violation;

2) It must initiate consultation with the Agency as soon as practical, but no later than 24 hours after the PWS supplier learns of the violation or situation, to determine additional public notice requirements; and

3) It must comply with any additional public notification requirements (including any repeat notices or direction on the duration of the posted notices) that are established as a result of the consultation with the Agency. Such requirements may include the timing, form, manner, frequency, and content of repeat notices (if any) and other actions designed to reach all persons served.

c) The form and manner of the public notice. A PWS supplier must provide the notice within 24 hours in a form and manner reasonably calculated to reach all persons served. The form and manner used by the PWS supplier are to fit the specific situation, but must be designed to reach residential, transient, and non-transient users of the water system. In order to reach all persons served, a water supplier is to use, at a minimum, one or more of the following forms of delivery:

1) Appropriate broadcast media (such as radio and television);

2) Posting of the notice in conspicuous locations throughout the area served by the water supplier;

3) Hand delivery of the notice to persons served by the water supplier; or

4) Another delivery method approved in writing by the Agency by a SEP issued pursuant to Section 611.110.

BOARD NOTE: Derived from 40 CFR 141.202 (2013)~~(2006), as amended at 71 Fed. Reg. 65574 (Nov. 8, 2006)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.903 Tier 2 Public Notice: Form, Manner, and Frequency of Notice

a) Violations or situations that require a Tier 2 public notice. This subsection (a) lists the violation categories and other situations requiring a Tier 2 public notice. Appendix G to this Part identifies the tier assignment for each specific violation or situation.

1) All violations of the MCL, MRDL, and treatment technique requirements, except where a Tier 1 notice is required under Section 611.902(a) or where the Agency determines by a SEP issued pursuant to Section 611.110 that a Tier 1 notice is required.

2) Violations of the monitoring and testing procedure requirements, where the Agency determines by a SEP issued pursuant to Section 611.110 that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation.

3) Failure to comply with the terms and conditions of any relief equivalent to a SDWA section 1415 variance or a SDWA section 1416 exemption in place.

4) Failure to take corrective action or failure to maintain at least 4-log treatment of viruses (using inactivation, removal, or an Agency-approved combination of 4-log virus inactivation and removal) before or at the first customer pursuant to Section 611.803(a).

b) When Tier 2 public notice is to be provided.

1) A PWS supplier must provide the public notice as soon as practical, but no later than 30 days after the supplier learns of the violation. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but in no case for less than seven days, even if the violation or situation is resolved. The Agency may, in appropriate circumstances, by a SEP issued pursuant to Section 611.110, allow additional time for the initial notice of up to three months from the date the supplier learns of the violation. It is not appropriate for the Agency to grant an extension to the 30-day deadline for any unresolved violation or to allow across-the-board extensions by rule or policy for other violations or situations requiring a Tier 2 public notice. Extensions granted by the Agency must be in writing.

2) The PWS supplier must repeat the notice every three months as long as the violation or situation persists, unless the Agency determines that appropriate circumstances warrant a different repeat notice frequency. In no circumstance may the repeat notice be given less frequently than once per year. It is not appropriate for the Agency to allow less frequent repeat notice for an MCL or treatment technique violation under the Total Coliform Rule or Subpart AA of this Part or a treatment technique violation under the Surface Water Treatment Rule or Interim Enhanced Surface Water Treatment Rule. It is also not appropriate for the Agency to allow across-the-board reductions in the repeat notice frequency for other ongoing violations requiring a Tier 2 repeat notice. An Agency determination allowing repeat notices to be given less frequently than once every three months must be in writing.

3) For the turbidity violations specified in this subsection (b)(3), a PWS supplier must consult with the Agency as soon as practical but no later than 24 hours after the supplier learns of the violation, to determine whether a Tier 1 public notice under Section 611.902(a) is required to protect public health. When consultation does not take place within the 24-hour period, the water system must distribute a Tier 1 notice of the violation within the next 24 hours (i.e., no later than 48 hours after the supplier learns of the violation), following the requirements under Section 611.902(b) and (c). Consultation with the Agency is required for the following:

A) Violation of the turbidity MCL under Section 611.320(b); or

B) Violation of the SWTR, IESWTR, or treatment technique requirement resulting from a single exceedence of the maximum allowable turbidity limit.

c) The form and manner of Tier 2 public notice. A PWS supplier must provide the initial public notice and any repeat notices in a form and manner that is reasonably calculated to reach persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

1) Unless directed otherwise by the Agency in writing, by a SEP issued

pursuant to Section 611.110, a CWS supplier must provide notice by the following:

A) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the PWS supplier; and

B) Any other method reasonably calculated to reach other persons regularly served by the supplier, if they would not normally be reached by the notice required in subsection (c)(1)(A) of this Section. Such persons may include those who do not pay water bills or do not have service connection addresses (e.g., house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.). Other methods may include: Publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others (e.g., apartment building owners or large private employers); posting in public places served by the supplier or on the Internet; or delivery to community organizations.

2) Unless directed otherwise by the Agency in writing, by a SEP issued pursuant to Section 611.110, a non-CWS supplier must provide notice by the following means:

A) Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the supplier, or by mail or direct delivery to each customer and service connection (where known); and

B) Any other method reasonably calculated to reach other persons served by the system if they would not normally be reached by the notice required in subsection (c)(2)(A) of this Section. Such persons may include those served who may not see a posted notice because the posted notice is not in a location they routinely pass by. Other methods may include the following: Publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or delivery of multiple copies in central locations (e.g., community centers).

BOARD NOTE: Derived from 40 CFR 141.203 (2013)~~(2006), as amended at 71 Fed. Reg. 65574 (Nov. 8, 2006)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.904 Tier 3 Public Notice: Form, Manner, and Frequency of Notice

a) Violations or situations that require a Tier 3 public notice. This subsection (a) lists the violation categories and other situations requiring a Tier 3 public notice. Appendix G of this Part identifies the tier assignment for each specific violation or situation.

1) Monitoring violations under this Part, except where a Tier 1 notice is required under Section 611.902(a) or where the Agency determines by a SEP issued pursuant to Section 611.110 that a Tier 2 notice is required;

2) Failure to comply with a testing procedure established in this Part, except where a Tier 1 notice is required under Section 611.902(a) or where the Agency determines by a SEP issued pursuant to Section 611.110 that a Tier 2 notice is required;

3) Operation under relief equivalent to a SDWA section 1415 variance granted under Section 611.111 or relief equivalent to a SDWA section 1416 exemption granted under Section 611.112;

4) Availability of unregulated contaminant monitoring results, as required under Section 611.907; ~~and~~

5) Exceedence of the secondary standard for fluoride under Section 611.858, as required under Section 611.908; and~~.~~

6) Reporting and recordkeeping violations under Subpart AA of this Part.

b) When the Tier 3 public notice is to be provided.

1) A PWS supplier must provide the public notice not later than one year after the supplier learns of the violation or situation or begins operating under relief equivalent to a SDWA section 1415 variance or section 1416 exemption. Following the initial notice, the supplier must repeat the

notice annually for as long as the violation, relief equivalent to a SDWA section 1415 variance or section 1416 exemption, or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, relief equivalent to a SDWA section 1415 variance or section 1416 exemption, or other situation persists, but in no case less than seven days (even if the violation or situation is resolved).

2) Instead of individual Tier 3 public notices, a PWS supplier may use an annual report detailing all violations and situations that occurred during the previous twelve months, as long as the timing requirements of subsection (b)(1) of this Section are met.

c) The form and manner of the Tier 3 public notice. A PWS supplier must provide the initial notice and any repeat notices in a form and manner that is reasonably calculated to reach persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

1) Unless directed otherwise by the Agency by a SEP issued pursuant to Section 611.110 in writing, a CWS supplier must provide notice by the following:

A) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the supplier; and

B) Any other method reasonably calculated to reach other persons regularly served by the supplier, if they would not normally be reached by the notice required in subsection (c)(1)(A) of this Section. Such persons may include those who do not pay water bills or do not have service connection addresses (e.g., house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.). Other methods may include the following: publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others (e.g., apartment building owners or large private employers); posting in public places or on the Internet; or delivery to community organizations.

2) Unless directed otherwise by the Agency by a SEP issued pursuant to Section 611.110 in writing, a non-CWS supplier must provide notice by the following:

A) Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the supplier, or by mail or direct delivery to each customer and service connection (where known); and

B) Any other method reasonably calculated to reach other persons served by the supplier, if they would not normally be reached by the notice required in subsection (c)(2)(A) of this Section. Such persons may include those who may not see a posted notice because the notice is not in a location they routinely pass by. Other methods may include the following: publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations (e.g., community centers).

d) When the Consumer Confidence Report may be used to meet the Tier 3 public notice requirements. For a CWS supplier, the Consumer Confidence Report (CCR) required under Subpart U of this Part may be used as a vehicle for the initial Tier 3 public notice and all required repeat notices, as long as the following is true:

1) The CCR is provided to persons served no later than 12 months after the supplier learns of the violation or situation as required under Section 611.904(b);

2) The Tier 3 notice contained in the CCR follows the content requirements under Section 611.905; and

3) The CCR is distributed following the delivery requirements under Section 611.904(c).

BOARD NOTE: Derived from 40 CFR 141.204 (2013)~~(2002)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART Z: ENHANCED TREATMENT FOR CRYPTOSPORIDIUM

Section 611.1007 Source Water Monitoring Requirements: Grandfathering Previously Collected Data

a) Initial source monitoring and Cryptosporidium samples.

1) A supplier may comply with the initial source water monitoring requirements of Section 611.1001(a) by grandfathering sample results collected before the supplier is required to begin monitoring (i.e., previously collected data). To be grandfathered, the sample results and analysis must meet the criteria in this Section and the Agency must approve the use of the data by a SEP issued pursuant to Section 611.110.

2) A filtered system supplier may grandfather Cryptosporidium samples to meet the requirements of Section 611.1001(a) when the supplier does not have corresponding E. coli and turbidity samples. A supplier that grandfathers Cryptosporidium samples without E. coli and turbidity samples is not required to collect E. coli and turbidity samples when it completes the requirements for Cryptosporidium monitoring pursuant to Section 611.1001(a).

b) E. coli sample analysis. The analysis of E. coli samples must meet the analytical method and approved laboratory requirements of Sections 611.1004 and 611.1005.

c) Cryptosporidium sample analysis. The analysis of Cryptosporidium samples must meet the criteria in this subsection (c).

1) Laboratories must analyze Cryptosporidium samples using one of the following analytical methods, or alternative methods approved by the Agency pursuant to Section 611.480:

A) USEPA OGWDW Methods, Method 1623 (05), incorporated by reference in Section 611.102;

B) USEPA OGWDW Methods, Method 1622 (05), incorporated by reference in Section 611.102;

C) USEPA OGWDW Methods, Method 1623 (01), incorporated by reference in Section 611.102;

D) USEPA OGWDW Methods, Method 1622 (01), incorporated by reference in Section 611.102;

E) USEPA OGWDW Methods, Method 1623 (99), incorporated by reference in Section 611.102; or

F) USEPA OGWDW Methods, Method 1622 (99), incorporated by reference in Section 611.102.

2) For each Cryptosporidium sample, the laboratory analyzed at least 10 ℓ of sample or at least 2 mℓ of packed pellet or as much volume as could be filtered by two filters that USEPA approved for the methods listed in subsection (c)(1) of this Section.

d) Sampling location. The sampling location must meet the conditions in Section 611.1003.

e) Sampling frequency. Cryptosporidium samples were collected no less frequently than each calendar month on a regular schedule, beginning no earlier than January 1999. Sample collection intervals may vary for the conditions specified in Section 611.1002(b)(1) and (b)(2) if the supplier provides documentation of the condition when reporting monitoring results.

1) The Agency may, by a SEP issued pursuant to Section 611.110, approve grandfathering of previously collected data where there are time gaps in the sampling frequency if the supplier conducts additional monitoring that the Agency has specified by a SEP issued pursuant to Section 611.110 to ensure that the data used to comply with the initial source water monitoring requirements of Section 611.1001(a) are seasonally representative and unbiased.

2) A supplier may grandfather previously collected data where the sampling frequency within each month varied. If the Cryptosporidium sampling frequency varied, the supplier must follow the monthly averaging procedure in Section 611.1010(b)(5) or Section 611.1012(a)(3), as applicable, when calculating the bin classification for a filtered system

supplier or the mean Cryptosporidium concentration for an unfiltered system supplier.

f) Reporting monitoring results for grandfathering. A supplier that requests to grandfather previously collected monitoring results must report the following information by the applicable dates listed in this subsection. A supplier must report this information to the Agency.

1) A supplier must report that it intends to submit previously collected monitoring results for grandfathering. This report must specify the number of previously collected results the supplier will submit, the dates of the first and last sample, and whether a supplier will conduct additional source water monitoring to meet the requirements of Section 611.1001(a). The supplier must report this information no later than the applicable date set forth in Section 611.1002.

2) A supplier must report previously collected monitoring results for grandfathering, along with the associated documentation listed in subsections (f)(2)(A) through (f)(2)(D) of this Section, no later than two months after the applicable date listed in Section 611.1001(c).

A) For each sample result, a supplier must report the applicable data elements in Section 611.1006.

B) A supplier must certify that the reported monitoring results include all results that it generated during the time period beginning with the first reported result and ending with the final reported result. This applies to samples that were collected from the sampling location specified for source water monitoring pursuant to this Subpart Z, which were not spiked, and which were analyzed using the laboratory's routine process for the analytical methods listed in this Section.

C) The supplier must certify that the samples were representative of a plant's source waters and the source waters have not changed. It must report a description of the sampling locations, which must address the position of the sampling location in relation to its water sources and treatment processes, including points of chemical addition and filter backwash recycle.

D) For Cryptosporidium samples, the laboratory or laboratories that analyzed the samples must provide a letter certifying that the quality control criteria specified in the methods listed in subsection (c)(1) of this Section were met for each sample batch associated with the reported results. Alternatively, the laboratory may provide bench sheets and sample examination report forms for each field, matrix spike, initial precision and recovery, ongoing precision and recovery, and method blank sample associated with the reported results.

g) If the Agency determines that a previously collected data set submitted for grandfathering was generated during source water conditions that were not normal for the supplier, such as a drought, the Agency may, by a SEP issued pursuant to Section 611.110, disapprove the data. Alternatively, the Agency may, by a SEP issued pursuant to Section 611.110, approve the previously collected data if the supplier reports additional source water monitoring data, as determined by the Agency, to ensure that the data set used pursuant to Section 611.1010 or Section 611.1012 represents average source water conditions for the supplier.

h) If a supplier submits previously collected data that fully meet the number of samples required for initial source water monitoring pursuant to Section 611.1001(a), and some of the data are rejected due to not meeting the requirements of this Section, the supplier must conduct additional monitoring to replace rejected data on a schedule that the Agency has approved by a SEP issued pursuant to Section 611.110. A supplier is not required to begin this additional monitoring until two months after notification that data have been rejected and additional monitoring is necessary.

BOARD NOTE: Derived from 40 CFR 141.707 (2013)~~(2007)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

SUBPART AA: REVISED TOTAL COLIFORM RULE
~~AIRCRAFT DRINKING WATER RULE~~

Section 611.1051 General

a) General. The provisions of this Subpart AA include both MCL and treatment technique requirements.

b) Applicability. The provisions of this Subpart AA apply to all PWSs.

c) Compliance date. Systems must comply with the provisions of this Subpart AA beginning April 1, 2016, unless otherwise specified in this Subpart AA.

d) This subsection (d) corresponds with 40 CFR 141.851(d), a provision that pertains to USEPA implementation, which is not necessary in the Illinois regulations. This statement maintains structural consistency with the federal regulations.

e) Violations of NPDWRs. Failure to comply with the applicable requirements of Sections 611.1051 through 611.1061, including requirements established by the State pursuant to these provisions, is a violation of the NPDWRs in this Subpart AA.

BOARD NOTE: Derived from 40 CFR 141.851 (2013).

(Source: Added at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.1052 Analytical Methods and Laboratory Certification

a) Analytical methodology.

1) The standard sample volume required for analysis, regardless of analytical method used, is 100 mℓ.

2) A supplier needs only determine the presence or absence of total coliforms and E. coli; a determination of density is not required.

3) The time from sample collection to initiation of test medium incubation may not exceed 30 hours. Suppliers are encouraged but not required to hold samples below 10º C during transit.

4) If water having residual chlorine (measured as free, combined, or total chlorine) is to be analyzed, sufficient sodium thiosulfate ($Na_2S_2O_3$) must be added to the sample bottle before sterilization to neutralize any residual chlorine in the water sample. Dechlorination procedures are addressed in

section 2 of Standard Methods, 20th or 21st ed., Method 9060 A, each incorporated by reference in Section 611.102.

5) The supplier must conduct total coliform and E. coli analyses in accordance with one of the following analytical methods, each incorporated by reference in Section 611.102:

BOARD NOTE: All monitoring and analyses must be done in accordance with the version of the approved method recited in this subsection (a) and incorporated by reference in Section 611.102. The methods listed are the only versions that may be used for compliance with this Subpart AA. Laboratories should be careful to use only the approved versions of the methods, as product package inserts may not be the same as the approved versions of the methods.

A) Total coliforms, lactose fermentation methods:

i) Standard total coliform fermentation technique: sections 1 and 2 of Standard Methods, 20th, 21st, or 22nd ed., Method 9221 B; or

BOARD NOTE: Lactose broth, as commercially available, may be used in lieu of lauryl tryptose broth, if the supplier conducts at least 25 parallel tests between lactose broth and lauryl tryptose broth using the water normally tested, and if the findings from this comparison demonstrate that the false-positive rate and false-negative rate for total coliforms, using lactose broth, is less than 10 percent. Because Standard Methods, 21st ed., Method 9221 B is the same version as Standard Methods Online 9221 B-99, the Board has not listed the Standard Methods Online version separately.

ii) Presence-absence (P–A) coliform test: sections 1 and 2 of Standard Methods, 20th or 21st, Method 9221 D.

BOARD NOTE: A multiple tube enumerative format, as described in Standard Methods, 20th or 21st, Method 9221 D, is approved for this method for use in presence-absence

determination under this Subpart AA. Because Standard Methods, 21st ed., Method 9221 D is the same version as Standard Methods Online 9221 D-99, the Board has not listed the Standard Methods Online version separately.

B) Total coliforms, membrane filtration methods:

i) Standard total coliform membrane filter procedure: Standard Methods, 20th or 21st ed., Method 9222 B or C.

BOARD NOTE: Because Standard Methods, 20th ed., Methods 9222 B and C are the same version as Standard Methods Online 9222 B and C-97, the Board has not listed the Standard Methods Online version separately.

ii) Membrane filtration using MI medium: USEPA Method 1604.

iii) m-ColiBlue24® Test.

BOARD NOTE: All filtration series must begin with membrane filtration equipment that has been sterilized by autoclaving. Exposure of filtration equipment to UV light is not adequate to ensure sterilization. Subsequent to the initial autoclaving, exposure of the filtration equipment to UV light may be used to sanitize the funnels between filtrations within a filtration series. Alternatively, membrane filtration equipment that is pre-sterilized by the manufacturer (i.e., disposable funnel units) may be used.

iv) Chromocult.

BOARD NOTE: All filtration series must begin with membrane filtration equipment that has been sterilized by autoclaving. Exposure of filtration equipment to UV light is not adequate to ensure sterilization. Subsequent to the initial autoclaving, exposure of the filtration equipment to UV light may be used to sanitize the funnels between filtrations within a filtration series. Alternatively,

membrane filtration equipment that is pre-sterilized by the manufacturer (i.e., disposable funnel units) may be used.

C) Total coliforms, enzyme substrate methods:

i) Colilert®: Standard Methods, 20th, 21st, or 22nd ed., Method 9223 B;

BOARD NOTE: Multiple-tube and multi-well enumerative formats for this method are approved for use in presence-absence determination under this Subpart AA.

ii) Colisure®: Standard Methods, 20th, 21st, or 22nd ed., Method 9223 B;

BOARD NOTE: Multiple-tube and multi-well enumerative formats for this method are approved for use in presence-absence determination under this Subpart AA. Colisure© results may be read after an incubation time of 24 hours. Because Standard Methods, 20th ed., Method 9223 B is the same version as Standard Methods Online 9223 B-97, the Board has not listed the Standard Methods Online version separately.

iii) E*Colite® Test;

iv) Readycult® 2007 test;

v) Modified Colitag™ test.

D) E. coli (following lactose fermentation methods) EC-MUG medium: section 1 of Standard Methods, 20th, 21st, or 22nd ed., Method 9221 F.

E) E. coli, partition method:

i) EC broth with MUG (EC-MUG): section 1.c(2) of Standard Methods, 20th or 21st ed., Method 9222 G; or

BOARD NOTE: The following changes must be made to the EC broth with MUG (EC–MUG) formulation: potassium dihydrogen phosphate (KH_2PO_4) must be 1.5 g, and 4-methylumbelliferyl-β-D-glucuronide must be 0.05 g.

ii) NA-MUG medium: section 1.c(1) of Standard Methods, 20th or 21st ed., Method 9222 G.

F) E. coli, membrane filtration methods:

i) Membrane filtration using MI medium: USEPA Method 1604.

ii) m-ColiBlue24® test.

BOARD NOTE: All filtration series must begin with membrane filtration equipment that has been sterilized by autoclaving. Exposure of filtration equipment to UV light is not adequate to ensure sterilization. Subsequent to the initial autoclaving, exposure of the filtration equipment to UV light may be used to sanitize the funnels between filtrations within a filtration series. Alternatively, membrane filtration equipment that is pre-sterilized by the manufacturer (i.e., disposable funnel units) may be used.

iii) Chromocult.

BOARD NOTE: All filtration series must begin with membrane filtration equipment that has been sterilized by autoclaving. Exposure of filtration equipment to UV light is not adequate to ensure sterilization. Subsequent to the initial autoclaving, exposure of the filtration equipment to UV light may be used to sanitize the funnels between filtrations within a filtration series. Alternatively, membrane filtration equipment that is pre-sterilized by the manufacturer (i.e., disposable funnel units) may be used.

G) E. coli, enzyme substrate methods:

i) Colilert®: Standard Methods, 20th, 21st, or 22nd ed., Method 9223 B;

BOARD NOTE: Multiple-tube and multi-well enumerative formats for this method are approved for use in presence-absence determination under this Subpart AA. Because Standard Methods, 20th ed., Method 9223 B is the same version as Standard Methods Online 9223 B-97, the Board has not listed the Standard Methods Online version separately.

ii) Colisure®: Standard Methods, 20th, 21st, or 22nd ed., Method 9223 B;

BOARD NOTE: Multiple-tube and multi-well enumerative formats for this method are approved for use in presence-absence determination under this Subpart AA. Colisure® results may be read after an incubation time of 24 hours. Because Standard Methods, 20th ed., Method 9223 B is the same version as Standard Methods Online 9223 B-97, the Board has not listed the Standard Methods Online version separately.

iii) E*Colite® test;

iv) Readycult® 2007 test;

v) Modified Colitag™ test.

BOARD NOTE: USEPA added of Standard Methods, 22nd ed., Methods 9221 B (sections 1 and 2) and 9223 B as approved alternative methods for total coliforms and Standard Methods, 22nd ed., Methods 9221 F (section 1) and 9223 B for as approved alternative methods for E. coli in appendix A to subpart C of 40 CFR 141 on June 21, 2013 (at 78 Fed. Reg. 37463).

b) Laboratory certification. A supplier must have all compliance samples required by this Subpart AA analyzed by a certified laboratory in one of the categories listed in Section 611.490(a). The laboratory used by the supplier must be certified

for each method (and associated contaminants) that is used for compliance monitoring analyses under this Subpart AA.

c) This subsection (c) corresponds with 40 CFR 141.1052(c), which is a centralized listing of incorporations by reference for the purposes of subpart Y to 40 CFR 141. The Board has centrally located all incorporations by reference in Section 611.102. This statement maintains structural consistency with the federal rules.

BOARD NOTE: Derived from 40 CFR 141.852 (2013).

(Source: Added at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.1053 General Monitoring Requirements for all PWSs

a) Sample siting plans.

1) A supplier must develop a written sample siting plan that identifies sampling sites and a sample collection schedule that are representative of water throughout the distribution system not later than March 31, 2016. These plans are subject to Agency review and revision. The supplier must collect total coliform samples according to the written sample siting plan. Monitoring required by Sections 611.1054 through 611.1058 may take place at a customer's premises, a dedicated sampling station, or another designated compliance sampling location. Routine and repeat sample sites and any sampling points necessary to meet the requirements of Subpart S of this Part must be reflected in the sampling plan.

2) A supplier must collect samples at regular time intervals throughout the month, except that systems that use only ground water and serve 4,900 or fewer people may collect all required samples on a single day if they are taken from different sites.

3) A supplier must take at least the minimum number of required samples even if the system has had an E. coli MCL violation or has exceeded the coliform treatment technique triggers in Section 611.1059(a).

4) A supplier may conduct more compliance monitoring than is required by this Subpart AA to investigate potential problems in the distribution system and use monitoring as a tool to assist in uncovering problems. A

supplier may take more than the minimum number of required routine samples and must include the results in calculating whether the coliform treatment technique trigger in Section 611.1059(a)(1)(A) and (a)(1)(B) has been exceeded only if the samples are taken in accordance with the existing sample siting plan and are representative of water throughout the distribution system.

5) A supplier must identify repeat monitoring locations in the sample siting plan. Unless the provisions of subsections (a)(5)(A) or (a)(5)(B) are met, the supplier must collect at least one repeat sample from the sampling tap where the original total coliform-positive sample was taken, and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sampling site. If a total coliform-positive sample is at the end of the distribution system, or one service connection away from the end of the distribution system, the supplier must still take all required repeat samples. However, the Agency may grant a SEP pursuant to Section 611.110 that allows an alternative sampling location in lieu of the requirement to collect at least one repeat sample upstream or downstream of the original sampling site. Except as provided for in subsection (a)(5)(B), a supplier required to conduct triggered source water monitoring pursuant to Section 611.802(a) must take ground water source samples in addition to repeat samples required under this Subpart AA.

A) A supplier may propose repeat monitoring locations to the Agency that the supplier believes to be representative of a pathway for contamination of the distribution system. A supplier may elect to specify either alternative fixed locations or criteria for selecting repeat sampling sites on a situational basis in a standard operating procedure (SOP) in its sample siting plan. The supplier must design its SOP to focus the repeat samples at locations that best verify and determine the extent of potential contamination of the distribution system area based on specific situations. The Agency may, by a SEP issued pursuant to Section 611.110, modify the SOP or require alternative monitoring locations as the Agency determines is necessary.

B) A GWS supplier that serves 1,000 or fewer people may propose repeat sampling locations to the Agency that differentiate potential

source water and distribution system contamination (e.g., by sampling at entry points to the distribution system). A GWS supplier that has a single well and which is required to conduct triggered source water monitoring may, as allowed by a SEP issued pursuant to Section 611.110, take one of its repeat samples at the monitoring location required for triggered source water monitoring pursuant to Section 611.802(a). The supplier must justify an Agency determination that the sample siting plan remains representative of water quality in the distribution system. If approved by a SEP issued pursuant to Section 611.110, the supplier may use that sample result to meet the monitoring requirements in both Section 611.802(a) and this Section.

i) If a repeat sample taken at the monitoring location required for triggered source water monitoring is E. coli-positive, the supplier has violated the E. coli MCL and must also comply with Section 611.802(a)(3). If a supplier takes more than one repeat sample at the monitoring location required for triggered source water monitoring, the supplier may reduce the number of additional source water samples required under Section 611.802(a)(3) by the number of repeat samples taken at that location that were not E. coli-positive.

ii) If a supplier takes more than one repeat sample at the monitoring location required for triggered source water monitoring under Section 611.802(a), and more than one repeat sample is E. coli-positive, the supplier has violated the E. coli MCL and must also comply with Section 611.803(a)(1).

iii) If all repeat samples taken at the monitoring location required for triggered source water monitoring are E. coli-negative and a repeat sample taken at a monitoring location other than the one required for triggered source water monitoring is E. coli-positive, the supplier has violated the E. coli MCL, but is not required to comply with Section 611.802(a)(3).

6) The Agency may, by a SEP issued pursuant to Section 611.110, review, revise, and approve, as appropriate, repeat sampling proposed by a supplier pursuant to subsections (a)(5)(A) and (a)(5)(B) of this Section. The supplier must justify an Agency determination that the sample siting plan remains representative of the water quality in the distribution system. The Agency may determine that monitoring at the entry point to the distribution system (especially for undisinfected ground water systems) is effective to differentiate between potential source water and distribution system problems.

b) Special purpose samples. Special purpose samples, such as those taken to determine whether disinfection practices are sufficient following pipe placement, replacement, or repair, must not be used to determine whether the coliform treatment technique trigger has been exceeded. Repeat samples taken pursuant to Section 611.1058 are not considered special purpose samples, and must be used to determine whether the coliform treatment technique trigger has been exceeded.

c) Invalidation of total coliform samples. A total coliform-positive sample invalidated under this subsection (c) does not count toward meeting the minimum monitoring requirements of this Subpart AA.

1) The Agency may, by a SEP issued pursuant to Section 611.110, invalidate a total coliform-positive sample only if the conditions of subsection (c)(1)(A), (c)(1)(B), or (c)(1)(C) of this Section are met.

A) The laboratory establishes that improper sample analysis caused the total coliform-positive result.

B) The Agency, on the basis of the results of repeat samples collected as required under Section 611.1058(a), determines that the total coliform-positive sample resulted from a domestic or other non-distribution system plumbing problem. The Agency cannot invalidate a sample on the basis of repeat sample results unless all repeat samples collected at the same tap as the original total coliform-positive sample are also total coliform-positive, and all repeat samples collected at a location other than the original tap are total coliform-negative (e.g., a Agency cannot invalidate a total coliform-positive sample on the basis of repeat samples if all the

repeat samples are total coliform-negative, or if the system has only one service connection).

C) The Agency has substantial grounds to believe that a total coliform-positive result is due to a circumstance or condition that does not reflect water quality in the distribution system. In this case, the system must still collect all repeat samples required under Section 611.1058(a), and use them to determine whether a coliform treatment technique trigger in Section 611.1059 has been exceeded. To invalidate a total coliform-positive sample under this subsection (c)(1), the decision and supporting rationale must be documented in writing and approved and signed by the Agency, as a SEP issued pursuant to Section 611.110. The Agency must make this document available to USEPA and the public. The written documentation must state the specific cause of the total coliform-positive sample, and what action the supplier has taken, or will take, to correct this problem. The Agency may not invalidate a total coliform-positive sample solely on the grounds that all repeat samples are total coliform-negative.

2) A laboratory must invalidate a total coliform sample (unless total coliforms are detected) if the sample produces a turbid culture in the absence of gas production using an analytical method where gas formation is examined (e.g., the multiple-tube fermentation technique), produces a turbid culture in the absence of an acid reaction in the presence-absence (P–A) coliform test, or exhibits confluent growth or produces colonies too numerous to count with an analytical method using a membrane filter (e.g., membrane filter technique). If a laboratory invalidates a sample because of such interference, the supplier must collect another sample from the same location as the original sample within 24 hours of being notified of the interference problem, and have it analyzed for the presence of total coliforms. The supplier must continue to re-sample within 24 hours and have the samples analyzed until it obtains a valid result. The Agency may, by a SEP issued pursuant to Section 611.110, waive the 24-hour time limit on a case-by-case basis. Alternatively, the Agency or any interested person may file a petition for rulemaking, pursuant to Sections 27 and 28 of the Act [415 ILCS 5/27 and 28], to establish criteria for waiving the 24-hour sampling time limit to use in lieu of case-by-case extensions.

(Source: Added at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.1054 Routine Monitoring Requirements for Non-CWSs that Serve 1,000 or Fewer People Using Only Groundwater

a) General.

1) This Section applies to non-CWS suppliers that use only groundwater (except groundwater under the direct influence of surface water, as defined in Section 611.102) and which serve 1,000 or fewer people.

2) Following any total coliform-positive sample taken pursuant to this Section, a supplier must comply with the repeat monitoring requirements and E. coli analytical requirements in Section 611.1058.

3) Once all monitoring required by this Section and Section 611.1058 for a calendar month has been completed, a supplier must determine whether any coliform treatment technique triggers specified in Section 611.1059 have been exceeded. If any trigger has been exceeded, the supplier must complete assessments as required by Section 611.1059.

4) For the purpose of determining eligibility for remaining on or qualifying for quarterly monitoring under the provisions of subsections (f)(4) and (g)(2), respectively, of this Section for transient non-CWS suppliers, the Agency may elect to not count monitoring violations under Section 611.1060(c)(1) if the missed sample is collected no later than the end of the monitoring period following the monitoring period in which the sample was missed. The supplier must collect the make-up sample in a different week than the routine sample for that monitoring period and should collect the sample as soon as possible during the monitoring period. The Agency may not use this provision under subsection (h) of this Section. This authority does not affect the provisions of Sections 611.1060(c)(1) and 611.1061(a)(4) of this Part.

b) Monitoring frequency for total coliforms. A supplier must monitor each calendar quarter that the supplier provides water to the public, except for a seasonal system supplier or as provided under subsections (c) through (h) and (j) of this Section. A

seasonal system supplier must meet the monitoring requirements of subsection (i) of this Section.

c) Transition to this Subpart AA.

1) A supplier, including a seasonal system supplier, must continue to monitor according to the total coliform monitoring schedules under Sections 611.521 through 611.527 that were in effect on March 31, 2016, unless any of the conditions for increased monitoring in subsection (f) of this Section are triggered on or after April 1, 2016, or unless otherwise directed by the Agency.

2) Beginning April 1, 2016, the Agency must perform a special monitoring evaluation during each sanitary survey to review the status of the supplier's system, including the distribution system, to determine whether the supplier is on an appropriate monitoring schedule. After the Agency has performed the special monitoring evaluation during each sanitary survey, the Agency may modify the supplier's monitoring schedule, as the Agency determines is necessary, or the Agency may allow the supplier to stay on its existing monitoring schedule, consistent with the provisions of this Section. The Agency may not allow a supplier to begin less frequent monitoring under the special monitoring evaluation unless the supplier has already met the applicable criteria for less frequent monitoring in this Section. For a seasonal system supplier on quarterly or annual monitoring, this evaluation must include review of the approved sample siting plan, which must designate the time periods for monitoring based on site-specific considerations (e.g., during periods of highest demand or highest vulnerability to contamination). The seasonal system supplier must collect compliance samples during these time periods.

d) Annual site visits. Beginning no later than calendar year 2017, a supplier on annual monitoring, including a seasonal system supplier, must have an initial and recurring annual site visit by the Agency that is equivalent to a Level 2 assessment or an annual voluntary Level 2 assessment that meets the criteria in Section 611.1059(b) to remain on annual monitoring. The periodic required sanitary survey may be used to meet the requirement for an annual site visit for the year in which the sanitary survey was completed.

e) Criteria for annual monitoring. Beginning April 1, 2016, the Agency may, by a SEP issued pursuant to Section 611.110, reduce the monitoring frequency for a well-operated GWS supplier from quarterly routine monitoring to no less than annual monitoring, if the supplier demonstrates that it meets the criteria for reduced monitoring in subsections (e)(1) through (e)(3) of this Section, except for a supplier that has been on increased monitoring under the provisions of subsection (f) of this Section. A supplier on increased monitoring under subsection (f) of this Section must meet the provisions of subsection (g) of this Section to go to quarterly monitoring and must meet the provisions of subsection (h) of this Section to go to annual monitoring.

1) The supplier's system has a clean compliance history for a minimum of 12 months;

2) The most recent sanitary survey shows that the supplier's system is free of sanitary defects or has corrected all identified sanitary defects, has a protected water source, and meets Agency-approved construction standards; and

3) The Agency has conducted an annual site visit within the last 12 months, and the supplier has corrected all identified sanitary defects. The supplier may substitute a Level 2 assessment that meets the criteria in Section 611.1059(b) for the Agency annual site visit.

f) Increased monitoring requirements for suppliers on quarterly or annual monitoring. A supplier on quarterly or annual monitoring that experiences any of the events identified in subsections (f)(1) through (f)(4) of this Section must begin monthly monitoring the month following the event. A supplier on annual monitoring that experiences the event identified in subsections (f)(5) of this Section must begin quarterly monitoring the quarter following the event. The supplier must continue monthly or quarterly monitoring until the requirements in subsection (g) of this Section for quarterly monitoring or subsection (h) of this Section for annual monitoring are met. A supplier on monthly monitoring for reasons other than those identified in subsections (f)(1) through (f)(4) of this Section is not considered to be on increased monitoring for the purposes of subsections (g) and (h) of this Section.

1) The supplier's system triggers a Level 2 assessment or two Level 1 assessments under the provisions of Section 611.1059 in a rolling 12-month period.

2) The supplier's system has an E. coli MCL violation.

3) The supplier's system has a coliform treatment technique violation.

4) The supplier's system has two Subpart AA monitoring violations or one Subpart AA monitoring violation and one Level 1 assessment under the provisions of Section 611.1059 in a rolling 12-month period for a system on quarterly monitoring.

5) The supplier's system has one Subpart AA monitoring violation for a system on annual monitoring.

g) Requirements for returning to quarterly monitoring. The Agency may, by a SEP issued pursuant to Section 611.110, reduce the monitoring frequency for a supplier on monthly monitoring triggered under subsection (f) of this Section to quarterly monitoring if the supplier's system meets the criteria in subsections (g)(1) and (g)(2) of this Section.

1) Within the last 12 months, the supplier must have a completed sanitary survey or a site visit of its system by the Agency or a voluntary Level 2 assessment of its system by a party approved by the Agency, the supplier's system must be free of sanitary defects, and the supplier's system must have a protected water source; and

2) The supplier's system must have a clean compliance history for a minimum of 12 months.

h) Requirements for a supplier on increased monitoring to qualify for annual monitoring. The Agency may, by a SEP issued pursuant to Section 611.110, reduce the monitoring frequency for a supplier on increased monitoring under subsection (f) of this Section if the supplier's system meets the criteria in subsection (g) of this Section and the criteria in subsections (h)(1) and (h)(2) of this Section.

1) An annual site visit by the Agency and correction of all identified sanitary defects. The supplier may substitute a voluntary Level 2 assessment by a party approved by the Agency for the Agency annual site visit in any given year.

2) The supplier must have in place or adopt one or more of the following additional enhancements to the water system barriers to contamination:

A) Cross connection control, as approved by the Agency.

B) An operator certified by an appropriate Agency certification program or regular visits by a circuit rider certified by an appropriate Agency certification program.

C) Continuous disinfection entering the distribution system and a residual in the distribution system in accordance with criteria specified by the Agency.

D) Demonstration of maintenance of at least a four-log removal or inactivation of viruses as provided for under Section 141.403(b)(3).

E) Other equivalent enhancements to water system barriers as approved by the State.

i) Seasonal systems.

1) Beginning April 1, 2016, all seasonal system suppliers must demonstrate completion of an Agency-approved start-up procedure, which may include a requirement for startup sampling prior to serving water to the public.

2) A seasonal system supplier must monitor every month that it is in operation unless it meets the criteria in subsections (i)(2)(i) through (iii) of this Section to be eligible for monitoring less frequently than monthly beginning April 1, 2016, except as provided under subsection (c) of this Section.

A) Seasonal a system supplier monitoring less frequently than monthly must have an approved sample siting plan that designates

the time period for monitoring based on site-specific considerations (e.g., during periods of highest demand or highest vulnerability to contamination). A seasonal system supplier must collect compliance samples during this time period.

B) To be eligible for quarterly monitoring, the supplier must meet the criteria in subsection (g) of this Section.

C) To be eligible for annual monitoring, the supplier must meet the criteria under subsection (h) of this Section.

3) The Agency may, by a SEP issued pursuant to Section 611.110, exempt any seasonal system supplier from some or all of the requirements for seasonal system suppliers if the entire distribution system remains pressurized during the entire period that the supplier's system is not operating, except that a supplier that monitors less frequently than monthly must still monitor during the vulnerable period designated by the Agency.

j) Additional routine monitoring the month following a total coliform-positive sample. A supplier that collects samples on a quarterly or annual frequency must conduct additional routine monitoring the month following one or more total coliform-positive samples (with or without a Level 1 treatment technique trigger). The supplier must collect at least three routine samples during the next month, except that the Agency may, by a SEP issued pursuant to Section 611.110, waive this requirement if the conditions of subsection (j)(1), (j)(2), or (j)(3) of this Section are met. The supplier may either collect samples at regular time intervals throughout the month or may collect all required routine samples on a single day if samples are taken from different sites. The supplier must use the results of additional routine samples in coliform treatment technique trigger calculations under Section 611.1059(a).

1) The Agency may, by a SEP issued pursuant to Section 611.110, waive the requirement to collect three routine samples the next month in which the supplier provides water to the public if the Agency, or an agent approved by the Agency, performs a site visit before the end of the next month in which the supplier's system provides water to the public. Although a sanitary survey need not be performed, the site visit must be sufficiently detailed to allow the Agency to determine whether additional monitoring

or any corrective action is needed. The Agency cannot approve an employee of the supplier to perform this site visit, even if the employee is an agent approved by the Agency to perform sanitary surveys.

2) The Agency may, by a SEP issued pursuant to Section 611.110, waive the requirement to collect three routine samples the next month in which the supplier provides water to the public if the Agency has determined why the sample was total coliform-positive and has established that the supplier has corrected the problem or will correct the problem before the end of the next month in which the supplier's system serves water to the public. In this case, the Agency must document this decision to waive the following month's additional monitoring requirement in writing, have it approved and signed by the supervisor of the Agency official who recommends such a decision, and make this document available to USEPA and public. The written documentation must describe the specific cause of the total coliform-positive sample and what action the supplier has taken or will take to correct this problem.

3) The Agency may not waive the requirement to collect three additional routine samples the next month in which the supplier's system provides water to the public solely on the grounds that all repeat samples are total coliform-negative. If the Agency determines that the supplier has corrected the contamination problem before the supplier takes the set of repeat samples required in Section 611.1058, and all repeat samples were total coliform-negative, the Agency may, by a SEP issued pursuant to Section 611.110, waive the requirement for additional routine monitoring the next month.

BOARD NOTE: Derived from 40 CFR 141.854 (2013).

(Source: Added at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.1055 Routine Monitoring Requirements for CWSs0 That Serve 1,000 or Fewer People Using Only Groundwater

a) General.

1) This Section applies to CWS suppliers that use only ground water (except ground water under the direct influence of surface water, as defined in Section 611.102) and which serve 1,000 or fewer people.

2) Following any total coliform-positive sample taken under the provisions of this Section, the supplier must comply with the repeat monitoring requirements and E. coli analytical requirements in Section 611.1058.

3) Once all monitoring required by this Section and Section 611.1058 for a calendar month has been completed, the supplier must determine whether any coliform treatment technique triggers specified in Section 611.1059 have been exceeded. If any trigger has been exceeded, the supplier must complete assessments as required by Section 611.1059.

b) Monitoring frequency for total coliforms. The monitoring frequency for total coliforms is one sample per month, except as provided for under subsections (c) through (f) of this Section.

c) Transition to Subpart AA.

1) A supplier must continue to monitor according to the total coliform monitoring schedules under Sections 611.521 through 611.527 that were in effect on March 31, 2016, unless any of the conditions in subsection (e) of this Section are triggered on or after April 1, 2016, or unless otherwise directed by the Agency, by a SEP issued pursuant to Section 611.110.

2) Beginning April 1, 2016, the Agency must perform a special monitoring evaluation during each sanitary survey to review the status of the supplier's system, including the distribution system, to determine whether the system is on an appropriate monitoring schedule. After the Agency has performed the special monitoring evaluation during each sanitary survey, the Agency may, by a SEP issued pursuant to Section 611.110, modify the supplier's monitoring schedule, as necessary. Alternatively, the Agency may allow the supplier to stay on its existing monitoring schedule, consistent with the provisions of this Section. The Agency may not allow a supplier to begin less frequent monitoring under the special monitoring evaluation unless the supplier has already met the applicable criteria for less frequent monitoring in this Section.

d) Criteria for reduced monitoring.

1) The Agency may, by a SEP issued pursuant to Section 611.110, reduce the monitoring frequency from monthly monitoring to no less than quarterly monitoring if the supplier is in compliance with Agency-certified operator provisions and demonstrates that it meets the criteria in subsections (d)(1)(A) through (d)(1)(C) of this Section. A supplier that loses its certified operator must return to monthly monitoring the month following that loss.

A) The supplier has a clean compliance history for a minimum of 12 months.

B) The most recent sanitary survey shows the supplier is free of sanitary defects (or has an approved plan and schedule to correct them and is in compliance with the plan and the schedule), has a protected water source, and meets Agency-approved construction standards.

C) The supplier meets at least one of the following criteria:

i) An annual site visit by the Agency that is equivalent to a Level 2 assessment or an annual Level 2 assessment by a party approved by the Agency and correction of all identified sanitary defects (or an approved plan and schedule to correct them and is in compliance with the plan and schedule).

ii) Cross connection control, as approved by the Agency.

iii) Continuous disinfection entering the distribution system and a residual in the distribution system in accordance with criteria specified by the Agency.

iv) Demonstration of maintenance of at least a 4-log removal or inactivation of viruses as provided for under Section 611.803(b)(3).

v) Other equivalent enhancements to water system barriers as approved by the Agency.

e) Return to routine monthly monitoring requirements. A supplier on quarterly monitoring that experience any of the events in subsections (e)(1) through (e)(4) of this Section must begin monthly monitoring the month following the event. The supplier must continue monthly monitoring until it meets the reduced monitoring requirements in subsection (d) of this Section.

1) The supplier triggers a Level 2 assessment or two Level 1 assessments in a rolling 12-month period.

2) The supplier has an E. coli MCL violation.

3) The supplier has a coliform treatment technique violation.

4) The supplier has two Subpart AA monitoring violations in a rolling 12-month period.

f) Additional routine monitoring the month following a total coliform-positive sample. A supplier collecting samples on a quarterly frequency must conduct additional routine monitoring the month following one or more total coliform-positive samples (with or without a Level 1 treatment technique trigger). A supplier must collect at least three routine samples during the next month, except that the Agency may, by a SEP issued pursuant to Section 611.110, waive this requirement if the conditions of subsection (f)(1), (f)(2), or (f)(3) of this Section are met. A supplier may either collect samples at regular time intervals throughout the month or may collect all required routine samples on a single day if samples are taken from different sites. A supplier must use the results of additional routine samples in coliform treatment technique trigger calculations.

1) The Agency may, by a SEP issued pursuant to Section 611.110, waive the requirement to collect three routine samples the next month in which the supplier's system provides water to the public if the Agency, or an agent approved by the Agency, performs a site visit before the end of the next month in which the supplier's system provides water to the public. Although a sanitary survey need not be performed, the site visit must be sufficiently detailed to allow the Agency to determine whether additional monitoring or any corrective action is needed. The Agency cannot

approve an employee of the supplier to perform this site visit, even if the employee is an agent approved by the Agency to perform sanitary surveys.

2) The Agency may, by a SEP issued pursuant to Section 611.110, waive the requirement to collect three routine samples the next month in which the supplier's system provides water to the public if the Agency has determined why the sample was total coliform-positive and has established that the supplier has corrected the problem or will correct the problem before the end of the next month in which the supplier's system serves water to the public. In this case, the Agency must document this decision to waive the following month's additional monitoring requirement in writing, have it approved and signed by the supervisor of the Agency official who recommends such a decision, and make this document available to USEPA and the public. The written documentation must describe the specific cause of the total coliform-positive sample and what action the supplier has taken or will take to correct this problem.

3) The Agency may not waive the requirement to collect three additional routine samples the next month in which the supplier's system provides water to the public solely on the grounds that all repeat samples are total coliform-negative. If the Agency determines that the supplier has corrected the contamination problem before the supplier takes the set of repeat samples required in Section 611.1058, and all repeat samples were total coliform-negative, the Agency may, by a SEP issued pursuant to Section 611.110, waive the requirement for additional routine monitoring the next month.

BOARD NOTE: Derived from 40 CFR 141.855 (2013).

(Source: Added at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.1056 Routine Monitoring Requirements for Subpart B Systems That Serve 1,000 or Fewer People

a) General.

1) The provisions of this Section apply to a Subpart B system supplier that serves 1,000 or fewer people.

2) Following any total coliform-positive sample taken under the provisions of this Section, a supplier must comply with the repeat monitoring requirements and E. coli analytical requirements in Section 611.1058.

3) Once all monitoring required by this Section and Section 611.1058 for a calendar month has been completed, a supplier must determine whether any coliform treatment technique triggers specified in Section 611.1059 have been exceeded. If any trigger has been exceeded, the supplier must complete assessments as required by Section 611.1059.

4) Seasonal system suppliers.

A) Beginning April 1, 2016, all seasonal system suppliers must demonstrate completion of an Agency-approved start-up procedure, which may include a requirement for start-up sampling prior to serving water to the public.

B) The Agency may, by a SEP issued pursuant to Section 611.110, exempt any seasonal system supplier from some or all of the requirements for seasonal system suppliers if the supplier's entire distribution system remains pressurized during the entire period that the supplier's system is not operating.

b) Routine monitoring frequency for total coliforms. A Subpart B system supplier (including a consecutive system supplier) must monitor monthly. A supplier may not reduce monitoring.

c) Unfiltered Subpart B system suppliers. A Subpart B system supplier that does not practice filtration in compliance with Subparts B, R, X, and Z of this Part must collect at least one total coliform sample near the first service connection each day that the turbidity level of the source water, measured as specified in Section 611.532(b), exceeds 1 NTU. When one or more turbidity measurements in any day exceed 1 NTU, the supplier must collect this coliform sample within 24 hours of the first exceedance, unless the Agency determines that the supplier, for logistical reasons outside the supplier's control, cannot have the sample analyzed within 30 hours of collection, and the Agency identifies an alternative sample collection schedule. Sample results from the coliform monitoring required by this subsection (c) must be included in determining whether the coliform treatment technique trigger in Section 611.1059 has been exceeded.

BOARD NOTE: Derived from 40 CFR 141.856 (2013).

(Source: Added at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.1057 Routine Monitoring Requirements for PWSs That Serve More Than 1,000 People

a) General.

1) The provisions of this Section apply to public water systems serving more than 1,000 persons.

2) Following any total coliform-positive sample taken under the provisions of this Section, the supplier must comply with the repeat monitoring requirements and E. coli analytical requirements in Section 611.1058.

3) Once all monitoring required by this Section and Section 611.1058 for a calendar month has been completed, a supplier must determine whether any coliform treatment technique triggers specified in Section 611.1059 have been exceeded. If any trigger has been exceeded, the supplier must complete assessments as required by Section 611.1059.

4) Seasonal systems.

A) Beginning April 1, 2016, a seasonal system supplier must demonstrate completion of an Agency-approved start-up procedure, which may include a requirement for start-up sampling prior to serving water to the public.

B) The Agency may, by a SEP issued pursuant to Section 611.110, exempt any seasonal system supplier from some or all of the requirements for seasonal system suppliers if the supplier's entire distribution system remains pressurized during the entire period that the supplier's system is not operating.

b) Monitoring frequency for total coliforms. The monitoring frequency for total coliforms is based on the population served by the supplier's system, as follows:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TOTAL COLIFORM MONITORING FREQUENCY FOR PUBLIC WATER SYSTEMS SERVING MORE THAN 1,000 PEOPLE

Population served	Minimum number of samples per month
1,001 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5
4,901 to 5,800	6
5,801 to 6,700	7
6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 12,900	10
12,901 to 17,200	15
17,201 to 21,500	20
21,501 to 25,000	25
25,001 to 33,000	30
33,001 to 41,000	40
41,001 to 50,000	50
50,001 to 59,000	60
59,001 to 70,000	70
70,001 to 83,000	80

83,001 to 96,000	90
96,001 to 130,000	100
130,001 to 220,000	120
220,001 to 320,000	150
320,001 to 450,000	180
450,001 to 600,000	210
600,001 to 780,000	240
780,001 to 970,000	270
970,001 to 1,230,000	300
1,230,001 to 1,520,000	330
1,520,001 to 1,850,000	360
1,850,001 to 2,270,000	390
2,270,001 to 3,020,000	420
3,020,001 to 3,960,000	450
3,960,001 or more	480

c) Unfiltered Subpart B systems. A Subpart B system supplier that does not practice filtration in compliance with Subparts B, R, X, and Z of this Part must collect at least one total coliform sample near the first service connection each day that the turbidity level of the source water, measured as specified in Section 611.532(b), exceeds 1 NTU. When one or more turbidity measurements in any day exceed 1 NTU, the supplier must collect this coliform sample within 24 hours of the first exceedance, unless the Agency determines that the supplier, for logistical reasons outside the supplier's control, cannot have the sample analyzed within 30 hours of collection, and the Agency identifies an alternative sample collection schedule. Sample results from this coliform monitoring must be included in determining

whether the coliform treatment technique trigger in Section 611.1059 has been exceeded.

d) Reduced monitoring. A supplier may not reduce monitoring, except for a non-CWS supplier that uses only ground water (and not ground water under the direct influence of surface water) and which serves 1,000 or fewer people in some months and more than 1,000 persons in other months. In months when more than 1,000 persons are served, the supplier must monitor at the frequency specified in subsection (a) of this Section. In months when the supplier serves 1,000 or fewer people, the Agency may, by a SEP issued pursuant to Section 611.110, reduce the monitoring frequency, in writing, to a frequency allowed under Section 611.1054 for a similarly situated supplier that always serves 1,000 or fewer people, taking into account the provisions in Section 611.1054(e) through (g).

BOARD NOTE: Derived from 40 CFR 141.857 (2013).

(Source: Added at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.1058 Repeat Monitoring and E. coli Requirements

a) Repeat monitoring.

1) If a sample taken under Sections 611.1054 though 611.1057 is total coliform-positive, the supplier must collect a set of repeat samples within 24 hours of being notified of the positive result. The supplier must collect no fewer than three repeat samples for each total coliform-positive sample found. The Agency may, by a SEP issued pursuant to Section 611.110, extend the 24- hour limit on a case-by-case basis if the supplier has a logistical problem in collecting the repeat samples within 24 hours that is beyond its control. Alternatively, the Agency may implement criteria for the supplier to use in lieu of case-by-case extensions. In the case of an extension, the Agency must specify how much time the supplier has to collect the repeat samples. The Agency cannot waive the requirement for a supplier to collect repeat samples in subsections (a)(1) through (a)(3) of this Section.

2) The supplier must collect all repeat samples on the same day, except that the Agency may, by a SEP issued pursuant to Section 611.110, allow a supplier with a single service connection to collect the required set of

repeat samples over a three-day period or to collect a larger volume repeat samples in one or more sample containers of any size, as long as the total volume collected is at least 300 mℓ.

3) The supplier must collect an additional set of repeat samples in the manner specified in subsections (a)(1) through (a)(3) of this Section if one or more repeat samples in the current set of repeat samples is total coliform-positive. The supplier must collect the additional set of repeat samples within 24 hours of being notified of the positive result, unless the Agency extends the limit as provided in subsection (a)(1) of this Section. The supplier must continue to collect additional sets of repeat samples until either total coliforms are not detected in one complete set of repeat samples or the supplier determines that a coliform treatment technique trigger specified in Section 611.1059(a) has been exceeded as a result of a repeat sample being total coliform-positive and notifies the Agency. If a trigger identified in Section 611.1059 is exceeded as a result of a routine sample being total coliform-positive, the supplier is required to conduct only one round of repeat monitoring for each total coliform-positive routine sample.

4) After a supplier collects a routine sample and before it learns the results of the analysis of that sample, if the supplier collects another routine sample from within five adjacent service connections of the initial sample, and the initial sample, after analysis, is found to contain total coliforms, then the system may count the subsequent sample as a repeat sample instead of as a routine sample.

5) Results of all routine and repeat samples taken under Sections 611.1054 through 611.1058 not invalidated by the Agency must be used to determine whether a coliform treatment technique trigger specified in Section 611.1059 has been exceeded.

b) Escherichia coli (E. coli) testing.

1) If any routine or repeat sample is total coliform-positive, the supplier must analyze that total coliform-positive culture medium to determine if E. coli are present. If E. coli are present, the supplier must notify the Agency by the end of the day when the supplier is notified of the test result, unless the supplier is notified of the result after the Agency office is closed and the

Agency does not have either an after-hours phone line or an alternative notification procedure, in which case the supplier must notify the Agency before the end of the next business day.

2) The Agency has the discretion to allow a supplier, on a case-by-case basis, to forego E. coli testing on a total coliform-positive sample if that supplier assumes that the total coliform-positive sample is E. coli-positive. Accordingly, the supplier must notify the Agency as specified in subsection (b)(1) of this Section and the provisions of Section 141.63(c) apply.

BOARD NOTE: Derived from 40 CFR 141.858 (2013).

(Source: Added at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.1059 Coliform Treatment Technique Triggers and Assessment Requirements for Protection Against Potential Fecal Contamination

a) Treatment technique triggers. A supplier must conduct assessments in accordance with subsection (b) of this Section after exceeding treatment technique triggers in subsections (a)(1) and (a)(2) of this Section.

1) Level 1 treatment technique triggers.

A) For a supplier taking 40 or more samples per month, the supplier exceeds 5.0% total coliform-positive samples for the month.

B) For a supplier taking fewer than 40 samples per month, the supplier has two or more total coliform-positive samples in the same month.

C) The supplier fails to take every required repeat sample after any single total coliform-positive sample.

2) Level 2 treatment technique triggers.

A) An E. coli MCL violation, as specified in Section 611.1060(a).

B) A second Level 1 trigger as defined in subsection (a)(1) of this Section, within a rolling 12-month period, unless the Agency, by a SEP issued pursuant to Section 611.110, has determined a likely reason that the samples that caused the first Level 1 treatment technique trigger were total coliform-positive and has established that the supplier has corrected the problem.

C) For a supplier with approved annual monitoring, a level 1 trigger in two consecutive years.

b) Requirements for assessments.

1) A supplier must ensure that Level 1 and Level 2 assessments are conducted in order to identify the possible presence of sanitary defects and defects in distribution system coliform monitoring practices. Level 2 assessments must be conducted by parties approved by the Agency.

2) When conducting assessments, the supplier must ensure that the assessor evaluates minimum elements that include review and identification of inadequacies in sample sites; sampling protocol; sample processing; atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., small ground water systems); and existing water quality monitoring data. The supplier must conduct the assessment consistent with any Agency directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

3) Level 1 assessments. A supplier must conduct a Level 1 assessment consistent with Agency requirements if the supplier exceeds one of the treatment technique triggers in subsection (a)(1) of this Section.

A) The supplier must complete a Level 1 assessment as soon as practical after any trigger in subsection (a)(1) of this Section. In the completed assessment form, the supplier must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The

assessment form may also note that no sanitary defects were identified. The supplier must submit the completed level 1 assessment form to the Agency within 30 days after the supplier learns that it has exceeded a trigger.

B) If the Agency reviews the completed Level 1 assessment and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the Agency must consult with the supplier. If the Agency, by a SEP issued pursuant to Section 611.110, requires revisions after consultation, the supplier must submit a revised assessment form to the Agency on an agreed-upon schedule not to exceed 30 days from the date of the consultation.

C) Upon completion and submission of the assessment form by the supplier, the Agency must determine if the supplier has identified a likely cause for the Level 1 trigger and, if so, establish that the supplier has corrected the problem, or has included a schedule acceptable to the Agency for correcting the problem.

4) Level 2 assessments. A supplier must ensure that a Level 2 assessment consistent with Agency requirements is conducted if the supplier exceeds one of the treatment technique triggers in subsection (a)(2) of this Section. The supplier must comply with any expedited actions or additional actions required by the Agency, by a SEP issued pursuant to Section 611.110, in the case of an E. coli MCL violation.

A) The supplier must ensure that a Level 2 assessment is completed by the Agency or by a party approved by the Agency as soon as practical after any trigger in subsection (a)(2) of this Section. The supplier must submit a completed level 2 assessment form to the Agency within 30 days after the supplier learns that it has exceeded a trigger. The assessment form must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The assessment form may also note that no sanitary defects were identified.

B) The supplier may conduct Level 2 assessments if the supplier has staff or management with the certification or qualifications specified by the Agency unless otherwise directed by the Agency, by a SEP issued pursuant to Section 611.110.

C) If the Agency reviews the completed Level 2 assessment and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the Agency must consult with the system. If the Agency requires revisions after consultation, the supplier must submit a revised assessment form to the Agency on an agreed-upon schedule not to exceed 30 days.

D) Upon completion and submission of the assessment form by the supplier, the Agency must determine if the system has identified a likely cause for the Level 2 trigger and determine whether the supplier has corrected the problem, or has included a schedule acceptable to the Agency for correcting the problem.

c) Corrective action. A supplier must correct sanitary defects found through either Level 1 or 2 assessments conducted under subsection (b) of this Section. For corrections not completed by the time of submission of the assessment form, the supplier must complete the corrective actions in compliance with a timetable approved by the Agency, by a SEP issued pursuant to Section 611.110, in consultation with the supplier. The supplier must notify the Agency when each scheduled corrective action is completed.

d) Consultation. At any time during the assessment or corrective action phase, either the water supplier or the Agency may request a consultation with the other party to determine the appropriate actions to be taken. The supplier may consult with the Agency on all relevant information that may impact on its ability to comply with a requirement of this Subpart AA, including the method of accomplishment, an appropriate timeframe, and other relevant information.

BOARD NOTE: Derived from 40 CFR 141.859 (2013).

(Source: Added at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.1060 Violations

a) E. coli MCL violations. A supplier is in violation of the MCL for E. coli when any of the conditions identified in subsections (a)(1) through (a)(4) of this Section occur.

1) The supplier has an E. coli-positive repeat sample following a total coliform-positive routine sample.

2) The supplier has a total coliform-positive repeat sample following an E. coli-positive routine sample.

3) The supplier fails to take all required repeat samples following an E. coli-positive routine sample.

4) The supplier fails to test for E. coli when any repeat sample tests positive for total coliform.

b) Treatment technique violation.

1) A treatment technique violation occurs when a supplier exceeds a treatment technique trigger specified in Section 611.1059(a) and then fails to conduct the required assessment or corrective actions within the timeframe specified in Section 611.1059(b) and (c).

2) A treatment technique violation occurs when a seasonal system supplier fails to complete an Agency-approved start-up procedure prior to serving water to the public.

c) Monitoring violations.

1) Failure to take every required routine or additional routine sample in a compliance period is a monitoring violation.

2) Failure to analyze for E. coli following a total coliform-positive routine sample is a monitoring violation.

d) Reporting violations.

1) Failure to submit a monitoring report or completed assessment form after a supplier properly conducts monitoring or assessment in a timely manner is a reporting violation.

2) Failure to notify the Agency following an E. coli-positive sample as required by Section 611.1058(b)(1) in a timely manner is a reporting violation.

3) Failure to submit certification of completion of Agency-approved start-up procedure by a seasonal system is a reporting violation.

BOARD NOTE: Derived from 40 CFR 141.860 (2013).

(Source: Added at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.1061 Reporting and Recordkeeping

a) Reporting.

1) E. coli.

A) A supplier must notify the Agency by the end of the day when the system learns of an E. coli MCL violation, unless the supplier learns of the violation after the Agency office is closed and the Agency does not have either an after-hours phone line or an alternative notification procedure, in which case the supplier must notify the Agency before the end of the next business day, and the supplier notifies the public in accordance with Subpart V of this Part.

B) A supplier must notify the Agency by the end of the day when the supplier is notified of an E. coli-positive routine sample, unless the supplier is notified of the result after the Agency office is closed and the Agency does not have either an after-hours phone line or an alternative notification procedure, in which case the supplier must notify the Agency before the end of the next business day.

2) A supplier that has violated the treatment technique for coliforms in Section 611.1059 must report the violation to the Agency no later than the

end of the next business day after it learns of the violation, and notify the public in accordance with Subpart V of this Part.

3) A supplier required to conduct an assessment under the provisions of Section 611.1059 must submit the assessment report within 30 days. The supplier must notify the Agency in accordance with Section 611.1059(c) when each scheduled corrective action is completed for corrections not completed by the time of submission of the assessment form.

4) A supplier that has failed to comply with a coliform monitoring requirement must report the monitoring violation to the Agency within 10 days after the supplier discovers the violation, and notify the public in accordance with Subpart V of this Part.

5) A seasonal system supplier must certify, prior to serving water to the public, that it has complied with the Agency-approved start-up procedure.

b) Recordkeeping.

1) The supplier must maintain any assessment form, regardless of who conducts the assessment, and documentation of corrective actions completed as a result of those assessments, or other available summary documentation of the sanitary defects and corrective actions taken under Section 611.1058 for Agency review. This record must be maintained by the supplier for a period not less than five years after completion of the assessment or corrective action.

2) The supplier must maintain a record of any repeat sample taken that meets Agency criteria for an extension of the 24-hour period for collecting repeat samples as provided for under Section 611.1058(a)(1).

BOARD NOTE: Derived from 40 CFR 141.861 (2013).

(Source: Added at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.APPENDIX A Regulated Contaminants

Microbiological contaminants.

Contaminant (units): Total Coliform Bacteria, until March 31, 2016
Traditional MCL in mg/ℓ: MCL: (a supplier that collects 40 or more samples/month) five percent or fewer of monthly samples are positive; (systems that collect fewer than 40 samples/month) one or fewer positive monthly samples.
To convert for CCR, multiply by: –
MCL in CCR units: MCL: (a supplier that collects 40 or more samples/month) five percent or fewer of monthly samples are positive; (a supplier that collects fewer than 40 samples/month) one or fewer positive monthly samples.
MCLG: 0
Major sources in drinking water: Naturally present in the environment.
Health effects language: Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present.Coliforms were found in more samples than allowed and this was a warning of potential problems.

Contaminant (units): Total Coliform Bacteria, beginning April 1, 2016
Traditional MCL in mg/ℓ: TT
To convert for CCR, multiply by: –
MCL in CCR units: TT
MCLG: N/A
Major sources in drinking water: Naturally present in the environment.
Health effects language: Use language found in Section 611.883(h)(7)(A)(i)

Contaminant (units): Fecal coliform and E. coli, until March 31, 2016
Traditional MCL in mg/ℓ: 0
To convert for CCR, multiply by: –
MCL in CCR units: 0
MCLG: 0
Major sources in drinking water: Human and animal fecal waste.
Health effects language: Fecal coliforms and E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely-compromised immune systems.

Contaminant (units): E. coli, beginning April 1, 2016
Traditional MCL in mg/ℓ: Routine and repeat samples are total coliform-positive and either is E. coli-positive or system fails to take repeat samples following E. coli-positive routine sample or system fails to analyze total coliform-positive repeat sample for E. coli.
To convert for CCR, multiply by: –
MCL in CCR units: Routine and repeat samples are total coliform-positive and either is E. coli-positive or system fails to take repeat samples following E. coli-positive routine sample or system fails to analyze total coliform-positive repeat sample for E. coli.
MCLG: 0
Major sources in drinking water: Human and animal fecal waste.
Health effects language: E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, the elderly, and people with severely-compromised immune systems.

Contaminant (units): Fecal Indicators (enterococci or coliphage).
Traditional MCL in mg/ℓ: TT.
To convert for CCR, multiply by: –
MCL in CCR units: TT.
MCLG: N/A
Major sources in drinking water: Human and animal fecal waste.
Health effects language: Fecal indicators are microbes whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

Contaminant (units): Total organic carbon (ppm)
Traditional MCL in mg/ℓ: TT
To convert for CCR, multiply by: –
MCL in CCR units: TT
MCLG: N/A
Major sources in drinking water: Naturally present in the environment.
Health effects language: Total organic carbon (TOC) has no health effects. However, total organic carbon provides a medium for the formation of disinfection byproducts. These byproducts include trihalomethanes (THMs) and haloacetic acids (HAAs). Drinking water containing these byproducts in excess of

the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.

Contaminant (units): Turbidity (NTU)
Traditional MCL in mg/ℓ: TT
To convert for CCR, multiply by: –
MCL in CCR units: TT
MCLG: N/A
Major sources in drinking water: Soil runoff.
Health effects language: Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

Radioactive contaminants.

Contaminant (units): Beta/photon emitters (mrem/yr)
Traditional MCL in mg/ℓ: 4 mrem/yr
To convert for CCR, multiply by: –
MCL in CCR units: 4
MCLG: 0
Major sources in drinking water: Decay of natural and man-made deposits.
Health effects language: Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta particle and photon radioactivity in excess of the MCL over many years may have an increased risk of getting cancer.

Contaminant (units): Alpha emitters (pCi/ℓ)
Traditional MCL in mg/ℓ: 15 pCi/ℓ
To convert for CCR, multiply by: –
MCL in CCR units: 15
MCLG: 0
Major sources in drinking water: Erosion of natural deposits.
Health effects language: Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.

Contaminant (units): Combined radium (pCi/ℓ)
Traditional MCL in mg/ℓ: 5 pCi/ℓ
To convert for CCR, multiply by: –
MCL in CCR units: 5
MCLG: 0
Major sources in drinking water: Erosion of natural deposits.
Health effects language: Some people who drink water containing radium-226 or -228 in excess of the MCL over many years may have an increased risk of getting cancer.

Contaminant (units): Uranium (µg/ℓ)
Traditional MCL in mg/ℓ: 30 µg/ℓ
To convert for CCR, multiply by: –
MCL in CCR units: 30
MCLG: 0
Major sources in drinking water: Erosion of natural deposits.
Health effects language: Some people who drink water containing uranium in excess of the MCL over many years may have an increased risk of getting cancer and kidney toxicity.

Inorganic contaminants.

Contaminant (units): Antimony (ppb)
Traditional MCL in mg/ℓ: 0.006
To convert for CCR, multiply by: 1000
MCL in CCR units: 6
MCLG: 6
Major sources in drinking water: Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder.
Health effects language: Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.

Contaminant (units): Arsenic (ppb)
Traditional MCL in mg/ℓ: 0.010

To convert for CCR, multiply by: 1000
MCL in CCR units: 50
MCLG: 0
Major sources in drinking water: Erosion of natural deposits; runoff from orchards;

runoff from glass and electronics production wastes.
Health effects language: Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.

Contaminant (units): Asbestos (MFL)
Traditional MCL in mg/ℓ: 7 MFL
To convert for CCR, multiply by: –
MCL in CCR units: 7
MCLG: 7
Major sources in drinking water: Decay of asbestos cement water mains; erosion of natural deposits.
Health effects language: Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.

Contaminant (units): Barium (ppm)
Traditional MCL in mg/ℓ: 2
To convert for CCR, multiply by: –
MCL in CCR units: 2
MCLG: 2
Major sources in drinking water: Discharge of drilling wastes; discharge from metal refineries; erosion of natural deposits.
Health effects language: Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.

Contaminant (units): Beryllium (ppb)
Traditional MCL in mg/ℓ: 0.004
To convert for CCR, multiply by: 1000
MCL in CCR units: 4
MCLG: 4
Major sources in drinking water: Discharge from metal refineries and coal-burning factories; discharge from electrical, aerospace, and defense industries.
Health effects language: Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.

Contaminant (units): Bromate (ppb)
Traditional MCL in mg/ℓ: 0.010
To convert for CCR, multiply by: 1000

MCL in CCR units: 10
MCLG: 0
Major sources in drinking water: By-product of drinking water disinfection.
Health effects language: Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.

Contaminant (units): Cadmium (ppb)
Traditional MCL in mg/ℓ: 0.005
To convert for CCR, multiply by: 1000
MCL in CCR units: 5
MCLG: 5
Major sources in drinking water: Corrosion of galvanized pipes; erosion of natural deposits; discharge from metal refineries; runoff from waste batteries and paints.
Health effects language: Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.

Contaminant (units): Chloramines (ppm)
Traditional MCL in mg/ℓ: MRDL=4
To convert for CCR, multiply by: –
MCL in CCR units: MRDL=4
MCLG: MRDLG=4
Major sources in drinking water: Water additive used to control microbes.
Health effects language: Some people who drink water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.

Contaminant (units): Chlorine (ppm)
Traditional MCL in mg/ℓ: MRDL=4
To convert for CCR, multiply by: –
MCL in CCR units: MRDL=4
MCLG: MRDLG=4
Major sources in drinking water: Water additive used to control microbes.
Health effects language: Some people who drink water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.

Contaminant (units): Chlorine dioxide (ppb)

Traditional MCL in mg/ℓ: MRDL=800
To convert for CCR, multiply by: 1000
MCL in CCR units: MRDL=800
MCLG: MRDLG=800
Major sources in drinking water: Water additive used to control microbes.
Health effects language: Some infants and young children who drink water containing chlorine dioxide well in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.

Contaminant (units): Chlorite (ppm)
Traditional MCL in mg/ℓ: MRDL=1
To convert for CCR, multiply by: –
MCL in CCR units: MRDL=1
MCLG: MRDLG=0.8
Major sources in drinking water: By-product of drinking water disinfection.
Health effects language: Some infants and young children who drink water containing chlorite well in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorite in excess of the MCL. Some people may experience anemia.

Contaminant (units): Chromium (ppb)
Traditional MCL in mg/ℓ: 0.1
To convert for CCR, multiply by: 1000
MCL in CCR units: 100
MCLG: 100
Major sources in drinking water: Discharge from steel and pulp mills; erosion of natural deposits.
Health effects language: Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.

Contaminant (units): Copper (ppm)
Traditional MCL in mg/ℓ: AL=1.3
To convert for CCR, multiply by: –
MCL in CCR units: AL=1.3
MCLG: 1.3
Major sources in drinking water: Corrosion of household plumbing systems; erosion of natural deposits.

Health effects language: Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor.

Contaminant (units): Cyanide (ppb)
Traditional MCL in mg/ℓ: 0.2
To convert for CCR, multiply by: 1000
MCL in CCR units: 200
MCLG: 200
Major sources in drinking water: Discharge from steel/metal factories; discharge from plastic and fertilizer factories.
Health effects language: Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.

Contaminant (units): Fluoride (ppm)
Traditional MCL in mg/ℓ: 4
To convert for CCR, multiply by: –
MCL in CCR units: 4
MCLG: 4
Major sources in drinking water: Erosion of natural deposits; water additive that promotes strong teeth; discharge from fertilizer and aluminum factories.
Health effects language: Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL or more may cause mottling of children's teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.

Contaminant (units): Lead (ppb)
Traditional MCL in mg/ℓ: AL=0.015
To convert for CCR, multiply by: 1000
MCL in CCR units: AL=15
MCLG: 0
Major sources in drinking water: Corrosion of household plumbing systems; erosion of natural deposits.
Health effects language: Infants and children who drink water containing lead in excess

of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.

Contaminant (units): Mercury (inorganic) (ppb)
Traditional MCL in mg/ℓ: 0.002
To convert for CCR, multiply by: 1000
MCL in CCR units: 2
MCLG: 2
Major sources in drinking water: Erosion of natural deposits; discharge from refineries and factories; runoff from landfills; runoff from cropland.
Health effects language: Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.

Contaminant (units): Nitrate (ppm)
Traditional MCL in mg/ℓ: 10
To convert for CCR, multiply by: –
MCL in CCR units: 10
MCLG: 10
Major sources in drinking water: Runoff from fertilizer use; leaching from septic tanks, sewage; erosion of natural deposits.
Health effects language: Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.

Contaminant (units): Nitrite (ppm)
Traditional MCL in mg/ℓ: 1
To convert for CCR, multiply by: –
MCL in CCR units: 1
MCLG: 1
Major sources in drinking water: Runoff from fertilizer use; leaching from septic tanks, sewage; erosion of natural deposits.
Health effects language: Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.

Contaminant (units): Selenium (ppb)
Traditional MCL in mg/ℓ: 0.05

To convert for CCR, multiply by: 1000
MCL in CCR units: 50
MCLG: 50
Major sources in drinking water: Discharge from petroleum and metal refineries; erosion of natural deposits; discharge from mines.
Health effects language: Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation.

Contaminant (units): Thallium (ppb)
Traditional MCL in mg/ℓ: 0.002
To convert for CCR, multiply by: 1000
MCL in CCR units: 2
MCLG: 0.5
Major sources in drinking water: Leaching from ore-processing sites; discharge from electronics, glass, and drug factories.
Health effects language: Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.

Synthetic organic contaminants including pesticides and herbicides.

Contaminant (units): 2,4-D (ppb)
Traditional MCL in mg/ℓ: 0.07
To convert for CCR, multiply by: 1000
MCL in CCR units: 70
MCLG: 70
Major sources in drinking water: Runoff from herbicide used on row crops.
Health effects language: Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.

Contaminant (units): 2,4,5-TP (silvex) (ppb)
Traditional MCL in mg/ℓ: 0.05
To convert for CCR, multiply by: 1000
MCL in CCR units: 50
MCLG: 50
Major sources in drinking water: Residue of banned herbicide.

Health effects language: Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems.

Contaminant (units): Acrylamide
Traditional MCL in mg/ℓ: TT
To convert for CCR, multiply by: –
MCL in CCR units: TT
MCLG: 0
Major sources in drinking water: Added to water during sewage/wastewater treatment.
Health effects language: Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.

Contaminant (units): Alachlor (ppb)
Traditional MCL in mg/ℓ: 0.002
To convert for CCR, multiply by: 1000
MCL in CCR units: 2
MCLG: 0
Major sources in drinking water: Runoff from herbicide used on row crops.
Health effects language: Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.

Contaminant (units): Atrazine (ppb)
Traditional MCL in mg/ℓ: 0.003
To convert for CCR, multiply by: 1000
MCL in CCR units: 3
MCLG: 3
Major sources in drinking water: Runoff from herbicide used on row crops.
Health effects language: Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties.

Contaminant (units): Benzo(a)pyrene (PAH) (nanograms/ℓ)
Traditional MCL in mg/ℓ: 0.0002
To convert for CCR, multiply by: 1,000,000
MCL in CCR units: 200
MCLG: 0
Major sources in drinking water: Leaching from linings of water storage tanks and

distribution lines.
Health effects language: Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.

Contaminant (units): Carbofuran (ppb)
Traditional MCL in mg/ℓ: 0.04
To convert for CCR, multiply by: 1000
MCL in CCR units: 40
MCLG: 40
Major sources in drinking water: Leaching of soil fumigant used on rice and alfalfa.
Health effects language: Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems.

Contaminant (units): Chlordane (ppb)
Traditional MCL in mg/ℓ: 0.002
To convert for CCR, multiply by: 1000
MCL in CCR units: 2
MCLG: 0
Major sources in drinking water: Residue of banned termiticide.
Health effects language: Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer.

Contaminant (units): Dalapon (ppb)
Traditional MCL in mg/ℓ: 0.2
To convert for CCR, multiply by: 1000
MCL in CCR units: 200
MCLG: 200
Major sources in drinking water: Runoff from herbicide used on rights of way.
Health effects language: Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.

Contaminant (units): Di(2-ethylhexyl)adipate (ppb)
Traditional MCL in mg/ℓ: 0.4
To convert for CCR, multiply by: 1000
MCL in CCR units: 400
MCLG: 400

Major sources in drinking water: Discharge from chemical factories.
Health effects language: Some people who drink water containing di(2-ethylhexyl)adipate well in excess of the MCL over many years could experience toxic effects, such as weight loss, liver enlargement, or possible reproductive difficulties.

Contaminant (units): Di(2-ethylhexyl)phthalate (ppb)
Traditional MCL in mg/ℓ: 0.006
To convert for CCR, multiply by: 1000
MCL in CCR units: 6
MCLG: 0
Major sources in drinking water: Discharge from rubber and chemical factories.
Health effects language: Some people who drink water containing di(2-ethylhexyl)phthalate well in excess of the MCL over many years may have problems with their liver or experience reproductive difficulties, and they may have an increased risk of getting cancer.

Contaminant (units): Dibromochloropropane (DBCP) (ppt)
Traditional MCL in mg/ℓ: 0.0002
To convert for CCR, multiply by: 1,000,000
MCL in CCR units: 200
MCLG: 0
Major sources in drinking water: Runoff/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards.
Health effects language: Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive problems and may have an increased risk of getting cancer.

Contaminant (units): Dinoseb (ppb)
Traditional MCL in mg/ℓ: 0.007
To convert for CCR, multiply by: 1000
MCL in CCR units: 7
MCLG: 7
Major sources in drinking water: Runoff from herbicide used on soybeans and vegetables.
Health effects language: Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.

Contaminant (units): Diquat (ppb)
Traditional MCL in mg/ℓ: 0.02

To convert for CCR, multiply by: 1000
MCL in CCR units: 20
MCLG: 20
Major sources in drinking water: Runoff from herbicide use.
Health effects language: Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.

Contaminant (units): Dioxin (2,3,7,8-TCDD) (ppq)
Traditional MCL in mg/ℓ: 0.00000003
To convert for CCR, multiply by: 1,000,000,000
MCL in CCR units: 30
MCLG: 0
Major sources in drinking water: Emissions from waste incineration and other combustion; discharge from chemical factories.
Health effects language: Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.

Contaminant (units): Endothall (ppb)
Traditional MCL in mg/ℓ: 0.1
To convert for CCR, multiply by: 1000
MCL in CCR units: 100
MCLG: 100
Major sources in drinking water: Runoff from herbicide use.
Health effects language: Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.

Contaminant (units): Endrin (ppb)
Traditional MCL in mg/ℓ: 0.002
To convert for CCR, multiply by: 1000
MCL in CCR units: 2
MCLG: 2
Major sources in drinking water: Residue of banned insecticide.
Health effects language: Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.

Contaminant (units): Epichlorohydrin
Traditional MCL in mg/ℓ: TT

To convert for CCR, multiply by: –
MCL in CCR units: TT
MCLG: 0
Major sources in drinking water: Discharge from industrial chemical factories; an impurity of some water treatment chemicals.
Health effects language: Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.

Contaminant (units): Ethylene dibromide (ppt)
Traditional MCL in mg/ℓ: 0.00005
To convert for CCR, multiply by: 1,000,000
MCL in CCR units: 50
MCLG: 0
Major sources in drinking water: Discharge from petroleum refineries.
Health effects language: Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer.

Contaminant (units): Glyphosate (ppb)
Traditional MCL in mg/ℓ: 0.7
To convert for CCR, multiply by: 1000
MCL in CCR units: 700
MCLG: 700
Major sources in drinking water: Runoff from herbicide use.
Health effects language: Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.

Contaminant (units): Heptachlor (ppt)
Traditional MCL in mg/ℓ: 0.0004
To convert for CCR, multiply by: 1,000,000
MCL in CCR units: 400
MCLG: 0
Major sources in drinking water: Residue of banned pesticide.
Health effects language: Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.

Contaminant (units): Heptachlor epoxide (ppt)
Traditional MCL in mg/ℓ: 0.0002
To convert for CCR, multiply by: 1,000,000
MCL in CCR units: 200
MCLG: 0
Major sources in drinking water: Breakdown of heptachlor.
Health effects language: Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer.

Contaminant (units): Hexachlorobenzene (ppb)
Traditional MCL in mg/ℓ: 0.001
To convert for CCR, multiply by: 1000
MCL in CCR units: 1
MCLG: 0
Major sources in drinking water: Discharge from metal refineries and agricultural chemical factories.
Health effects language: Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer.

Contaminant (units): Hexachlorocyclopentadiene (ppb)
Traditional MCL in mg/ℓ: 0.05
To convert for CCR, multiply by: 1000
MCL in CCR units: 50
MCLG: 50
Major sources in drinking water: Discharge from chemical factories.
Health effects language: Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach.

Contaminant (units): Lindane (ppt)
Traditional MCL in mg/ℓ: 0.0002
To convert for CCR, multiply by: 1,000,000
MCL in CCR units: 200
MCLG: 200
Major sources in drinking water: Runoff/leaching from insecticide used on cattle,

lumber, gardens.
Health effects language: Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.

Contaminant (units): Methoxychlor (ppb)
Traditional MCL in mg/ℓ: 0.04
To convert for CCR, multiply by: 1000
MCL in CCR units: 40
MCLG: 40
Major sources in drinking water: Runoff/leaching from insecticide used on fruits, vegetables, alfalfa, livestock.
Health effects language: Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.

Contaminant (units): Oxamyl (vydate) (ppb)
Traditional MCL in mg/ℓ: 0.2
To convert for CCR, multiply by: 1000
MCL in CCR units: 200
MCLG: 200
Major sources in drinking water: Runoff/leaching from insecticide used on apples, potatoes and tomatoes.
Health effects language: Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.

Contaminant (units): PCBs (polychlorinated biphenyls) (ppt)
Traditional MCL in mg/ℓ: 0.0005
To convert for CCR, multiply by: 1,000,000
MCL in CCR units: 500
MCLG: 0
Major sources in drinking water: Runoff from landfills; discharge of waste chemicals.
Health effects language: Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.

Contaminant (units): Pentachlorophenol (ppb)
Traditional MCL in mg/ℓ: 0.001
To convert for CCR, multiply by: 1000
MCL in CCR units: 1

MCLG: 0
Major sources in drinking water: Discharge from wood preserving factories.
Health effects language: Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer.

Contaminant (units): Picloram (ppb)
Traditional MCL in mg/ℓ: 0.5
To convert for CCR, multiply by: 1000
MCL in CCR units: 500
MCLG: 500
Major sources in drinking water: Herbicide runoff.
Health effects language: Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver.

Contaminant (units): Simazine (ppb)
Traditional MCL in mg/ℓ: 0.004
To convert for CCR, multiply by: 1000
MCL in CCR units: 4
MCLG: 4
Major sources in drinking water: Herbicide runoff.
Health effects language: Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.

Contaminant (units): Toxaphene (ppb)
Traditional MCL in mg/ℓ: 0.003
To convert for CCR, multiply by: 1000
MCL in CCR units: 3
MCLG: 0
Major sources in drinking water: Runoff/leaching from insecticide used on cotton and cattle.
Health effects language: Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer.

Volatile organic contaminants.

Contaminant (units): Benzene (ppb)
Traditional MCL in mg/ℓ: 0.005

To convert for CCR, multiply by: 1000
MCL in CCR units: 5
MCLG: 0
Major sources in drinking water: Discharge from factories; leaching from gas storage tanks and landfills.
Health effects language: Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer.

Contaminant (units): Carbon tetrachloride (ppb)
Traditional MCL in mg/ℓ: 0.005
To convert for CCR, multiply by: 1000
MCL in CCR units: 5
MCLG: 0
Major sources in drinking water: Discharge from chemical plants and other industrial activities.
Health effects language: Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

Contaminant (units): Chlorobenzene (ppb)
Traditional MCL in mg/ℓ: 0.1
To convert for CCR, multiply by: 1000
MCL in CCR units: 100
MCLG: 100
Major sources in drinking water: Discharge from chemical and agricultural chemical factories.
Health effects language: Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys.

Contaminant (units): o-Dichlorobenzene (ppb)
Traditional MCL in mg/ℓ: 0.6
To convert for CCR, multiply by: 1000
MCL in CCR units: 600
MCLG: 600
Major sources in drinking water: Discharge from industrial chemical factories.
Health effects language: Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their

liver, kidneys, or circulatory systems.

Contaminant (units): p-Dichlorobenzene (ppb)
Traditional MCL in mg/ℓ: 0.075
To convert for CCR, multiply by: 1000
MCL in CCR units: 75
MCLG: 75
Major sources in drinking water: Discharge from industrial chemical factories.
Health effects language: Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia; damage to their liver, kidneys, or spleen; or changes in their blood.

Contaminant (units): 1,2-Dichloroethane (ppb)
Traditional MCL in mg/ℓ: 0.005
To convert for CCR, multiply by: 1000
MCL in CCR units: 5
MCLG: 0
Major sources in drinking water: Discharge from industrial chemical factories.
Health effects language: Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.

Contaminant (units): 1,1-Dichloroethylene (ppb)
Traditional MCL in mg/ℓ: 0.007
To convert for CCR, multiply by: 1000
MCL in CCR units: 7
MCLG: 7
Major sources in drinking water: Discharge from industrial chemical factories.
Health effects language: Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

Contaminant (units): cis-1,2-Dichloroethylene (ppb)
Traditional MCL in mg/ℓ: 0.07
To convert for CCR, multiply by: 1000
MCL in CCR units: 70
MCLG: 70
Major sources in drinking water: Discharge from industrial chemical factories.
Health effects language: Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

Contaminant (units): trans-1,2-Dichloroethylene (ppb)
Traditional MCL in mg/ℓ: 0.1
To convert for CCR, multiply by: 1000
MCL in CCR units: 100
MCLG: 100
Major sources in drinking water: Discharge from industrial chemical factories.
Health effects language: Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.

Contaminant (units): Dichloromethane (ppb)
Traditional MCL in mg/ℓ: 0.005
To convert for CCR, multiply by: 1000
MCL in CCR units: 5
MCLG: 0
Major sources in drinking water: Discharge from pharmaceutical and chemical factories.
Health effects language: Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.

Contaminant (units): 1,2-Dichloropropane (ppb)
Traditional MCL in mg/ℓ: 0.005
To convert for CCR, multiply by: 1000
MCL in CCR units: 5
MCLG: 0
Major sources in drinking water: Discharge from industrial chemical factories.
Health effects language: Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.

Contaminant (units): Ethylbenzene (ppb)
Traditional MCL in mg/ℓ: 0.7
To convert for CCR, multiply by: 1000
MCL in CCR units: 700
MCLG: 700
Major sources in drinking water: Discharge from petroleum refineries.
Health effects language: Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.

Contaminant (units): Haloacetic acids (HAA5) (ppb)
Traditional MCL in mg/ℓ: 0.060
To convert for CCR, multiply by: 1000
MCL in CCR units: 60
MCLG: N/A
Major sources in drinking water: Byproduct of drinking water disinfection.
Health effects language: Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.

Contaminant (units): Styrene (ppb)
Traditional MCL in mg/ℓ: 0.1
To convert for CCR, multiply by: 1000
MCL in CCR units: 100
MCLG: 100
Major sources in drinking water: Discharge from rubber and plastic factories; leaching from landfills.
Health effects language: Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.

Contaminant (units): Tetrachloroethylene (ppb)
Traditional MCL in mg/ℓ: 0.005
To convert for CCR, multiply by: 1000
MCL in CCR units: 5
MCLG: 0
Major sources in drinking water: Discharge from factories and dry cleaners.
Health effects language: Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer.

Contaminant (units): 1,2,4-Trichlorobenzene (ppb)
Traditional MCL in mg/ℓ: 0.07
To convert for CCR, multiply by: 1000
MCL in CCR units: 70
MCLG: 70
Major sources in drinking water: Discharge from textile-finishing factories.
Health effects language: Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal

glands.

Contaminant (units): 1,1,1-Trichloroethane (ppb)
Traditional MCL in mg/ℓ: 0.2
To convert for CCR, multiply by: 1000
MCL in CCR units: 200
MCLG: 200
Major sources in drinking water: Discharge from metal degreasing sites and other factories.
Health effects language: Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system.

Contaminant (units): 1,1,2-Trichloroethane (ppb)
Traditional MCL in mg/ℓ: 0.005
To convert for CCR, multiply by: 1000
MCL in CCR units: 5
MCLG: 3
Major sources in drinking water: Discharge from industrial chemical factories.
Health effects language: Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems.

Contaminant (units): Trichloroethylene (ppb)
Traditional MCL in mg/ℓ: 0.005
To convert for CCR, multiply by: 1000
MCL in CCR units: 5
MCLG: 0
Major sources in drinking water: Discharge from metal degreasing sites and other factories.
Health effects language: Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

Contaminant (units): TTHMs (total trihalomethanes) (ppb)
Traditional MCL in mg/ℓ: 0.10/0.080
To convert for CCR, multiply by: 1000
MCL in CCR units: 100/80
MCLG: N/A

Major sources in drinking water: Byproduct of drinking water disinfection.
Health effects language: Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous system, and may have an increased risk of getting cancer.

Contaminant (units): Toluene (ppm)
Traditional MCL in mg/ℓ: 1
To convert for CCR, multiply by: –
MCL in CCR units: 1
MCLG: 1
Major sources in drinking water: Discharge from petroleum factories.
Health effects language: Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.

Contaminant (units): Vinyl Chloride (ppb)
Traditional MCL in mg/ℓ: 0.002
To convert for CCR, multiply by: 1000
MCL in CCR units: 2
MCLG: 0
Major sources in drinking water: Leaching from PVC piping; discharge from plastics factories.
Health effects language: Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.

Contaminant (units): Xylenes (ppm)
Traditional MCL in mg/ℓ: 10
To convert for CCR, multiply by: –
MCL in CCR units: 10
MCLG: 10
Major sources in drinking water: Discharge from petroleum factories; discharge from chemical factories.
Health effects language: Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system.

Key.

Abbreviation	Meaning
AL	action level

MCL	maximum contaminant level
MCLG	maximum contaminant level goal
MFL	million fibers per liter
MRDL	maximum residual disinfectant level
MRDLG	maximum residual disinfectant level goal
mrem/year	millirems per year (a measure of radiation absorbed by the body)
N/A	not applicable
NTU	nephelometric turbidity units (a measure of water clarity)
pCi/ℓ	picocuries per liter (a measure of radioactivity)
ppm	parts per million, or milligrams per liter (mg/ℓ)
ppb	parts per billion, or micrograms per liter (µg/ℓ)
ppt	parts per trillion, or nanograms per liter
ppq	parts per quadrillion, or picograms per liter
TT	treatment technique

BOARD NOTE: Derived from appendix A to subpart O to 40 CFR 141 (2013)~~(2012)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.APPENDIX G NPDWR Violations and Situations Requiring Public Notice

See note 1 at the end of this Appendix G for an explanation of the Agency's authority to alter the magnitude of a violation from that set forth in the following table.

	MCL/MRDL/TT violations[2]		Monitoring & testing procedure violations	
Contaminant	Tier of public notice required	Citation	Tier of public notice required	Citation

I. Violations of National Primary Drinking Water Regulations (NPDWR):[3]

A. Microbiological Contaminants

1a. Total coliform bacteria, until March 31, 2016	2	611.325(a)	3	611.521-611.525
1b. Total coliform (Monitoring or TT violations resulting from failure to perform assessments or corrective actions), beginning April 1, 2016	2	141.860(b)	3	141.860(c)
1c. Seasonal system failure to follow State-approved start-up plan prior to serving water to the public, beginning April 1, 2016	2	141.860(b)(2)		
2a. Fecal coliform/E. coli, until March 31, 2016	1	611.325(b)	[4] 1, 3	611.525
2b. E. coli, beginning April 1, 2016	1	141.860(a)	3	141.860(c) 141.860(d)(2)
2c. E. coli (TT violations resulting from failure to perform Level 2 assessments or corrective action), beginning April 1, 2016	2	141.860(b)		
3. Turbidity MCL	2	611.320(a)	3	611.560

4. Turbidity MCL (average of two days' samples greater than 5 NTU)	[5] 2, 1	611.320(b)	3	611.560
5. Turbidity (for TT violations resulting from a single exceedence of maximum allowable turbidity level)	[6] 2, 1	611.231(b), 611.233(b)(1), 611.250(a)(2), 611.250(b)(2), 611.250(c)(2), 611.250(d), 611.743(a)(2), 611.743(b), 611.955(b)(2)	3	611.531(a), 611.532(b), 611.533(a), 611.744, 611.956(a)(1)-(a)(3), 611.956(b)
6. Surface Water Treatment Rule violations, other than violations resulting from single exceedence of max. allowable turbidity level (TT)	2	611.211, 611.213, 611.220, 611.230-611.233, 611.240-611.242, 611.250	3	611.531-611.533
7. Interim Enhanced Surface Water Treatment Rule violations, other than violations resulting from single exceedence of max. turbidity level (TT)	2	[7] 611.740-611.743, 611.950-611.955	3	611.742, 611.744, 611.953, 611.954, 611.956
8. Filter Backwash Recycling Rule violations	2	611.276(c)	3	611.276(b), (d)
9. Long Term 1 Enhanced Surface Water Treatment Rule violations	2	611.950-611.955	3	611.953, 611.954, 611.956
10. LT2ESWTR violations	2	611.1010-611.1020	[19] 2, 3	611.1001-611.1005 and 611.1008-611.1009
11. Groundwater Rule violations	2	611.804	3	611.802(h)

B. Inorganic Chemicals (IOCs)

1. Antimony	2	611.301(b)	3	611.600, 611.601, 611.603
2. Arsenic	2	611.301(b)	3	611.601, 611.603
3. Asbestos (fibers greater than 10 µm)	2	611.301(b)	3	611.600, 611.601, 611.602
4. Barium	2	611.301(b)	3	611.600, 611.601, 611.603
5. Beryllium	2	611.301(b)	3	611.600, 611.601, 611.603
6. Cadmium	2	611.301(b)	3	611.600, 611.601, 611.603
7. Chromium (total)	2	611.301(b)	3	611.600, 611.601, 611.603
8. Cyanide	2	611.301(b)	3	611.600, 611.601, 611.603
9. Fluoride	2	611.301(b)	3	611.600, 611.601, 611.603
10. Mercury (inorganic)	2	611.301(b)	3	611.600, 611.601, 611.603
11. Nitrate	1	611.301(b)	[8] 1, 3	611.600, 611.601, 611.604, 611.606
12. Nitrite	1	611.301(b)	[8] 1, 3	611.600, 611.601, 611.605, 611.606

13. Total Nitrate and Nitrite	1	611.301(b)	3	611.600, 611.601
14. Selenium	2	611.301(b)	3	611.600, 611.601, 611.603
15. Thallium	2	611.301(b)	3	611.600, 611.601, 611.603

C. Lead and Copper Rule (Action Level for lead is 0.015 mg/ℓ, for copper is 1.3 mg/ℓ)

1. Lead and Copper Rule (TT)	2	611.350-611.355	3	611.356-611.359

D. Synthetic Organic Chemicals (SOCs)

1. 2,4-D	2	611.310(c)	3	611.648
2. 2,4,5-TP (silvex)	2	611.310(c)	3	611.648
3. Alachlor	2	611.310(c)	3	611.648
4. Atrazine	2	611.310(c)	3	611.648
5. Benzo(a)pyrene (PAHs)	2	611.310(c)	3	611.648
6. Carbofuran	2	611.310(c)	3	611.648
7. Chlordane	2	611.310(c)	3	611.648
8. Dalapon	2	611.310(c)	3	611.648
9. Di(2-ethylhexyl)adipate	2	611.310(c)	3	611.648
10. Di(2-ethylhexyl)phthalate	2	611.310(c)	3	611.648
11. Dibromochloropropane (DBCP)	2	611.310(c)	3	611.648
12. Dinoseb	2	611.310(c)	3	611.648
13. Dioxin (2,3,7,8-TCDD)	2	611.310(c)	3	611.648
14. Diquat	2	611.310(c)	3	611.648
15. Endothall	2	611.310(c)	3	611.648
16. Endrin	2	611.310(c)	3	611.648
17. Ethylene dibromide	2	611.310(c)	3	611.648
18. Glyphosate	2	611.310(c)	3	611.648
19. Heptachlor	2	611.310(c)	3	611.648
20. Heptachlor epoxide	2	611.310(c)	3	611.648
21. Hexachlorobenzene	2	611.310(c)	3	611.648
22. Hexachlorocyclopentadiene	2	611.310(c)	3	611.648
23. Lindane	2	611.310(c)	3	611.648

24. Methoxychlor	2	611.310(c)	3	611.648
25. Oxamyl (Vydate)	2	611.310(c)	3	611.648
26. Pentachlorophenol	2	611.310(c)	3	611.648
27. Picloram	2	611.310(c)	3	611.648
28. Polychlorinated biphenyls (PCBs)	2	611.310(c)	3	611.648
29. Simazine	2	611.310(c)	3	611.648
30. Toxaphene	2	611.310(c)	3	611.648

E. Volatile Organic Chemicals (VOCs)

1. Benzene	2	611.310(a)	3	611.646
2. Carbon tetrachloride	2	611.310(a)	3	611.646
3. Chlorobenzene (monochlorobenzene)	2	611.310(a)	3	611.646
4. o-Dichlorobenzene	2	611.310(a)	3	611.646
5. p-Dichlorobenzene	2	611.310(a)	3	611.646
6. 1,2-Dichloroethane	2	611.310(a)	3	611.646
7. 1,1-Dichloroethylene	2	611.310(a)	3	611.646
8. cis-1,2-Dichloroethylene	2	611.310(a)	3	611.646
9. trans-1,2-Dichloroethylene	2	611.310(a)	3	611.646
10. Dichloromethane	2	611.310(a)	3	611.646
11. 1,2-Dichloropropane	2	611.310(a)	3	611.646
12. Ethylbenzene	2	611.310(a)	3	611.646
13. Styrene	2	611.310(a)	3	611.646
14. Tetrachloroethylene	2	611.310(a)	3	611.646
15. Toluene	2	611.310(a)	3	611.646
16. 1,2,4-Trichlorobenzene	2	611.310(a)	3	611.646
17. 1,1,1-Trichloroethane	2	611.310(a)	3	611.646
18. 1,1,2-Trichloroethane	2	611.310(a)	3	611.646
19. Trichloroethylene	2	611.310(a)	3	611.646
20. Vinyl chloride	2	611.310(a)	3	611.646
21. Xylenes (total)	2	611.310(a)	3	611.646

F. Radioactive Contaminants

1. Beta/photon emitters	2	611.330(d)	3	611.720(a), 611.732
2. Alpha emitters	2	611.330(c)	3	611.720(a), 611.731

3. Combined radium (226 & 228)	2	611.330(b)	3	611.720(a), 611.731
4. Uranium	2	611.330(e)	3	611.720(a), 611.731

G. Disinfection Byproducts (DBPs), Byproduct Precursors, Disinfectant Residuals. Where disinfection is used in the treatment of drinking water, disinfectants combine with organic and inorganic matter present in water to form chemicals called disinfection byproducts (DBPs). USEPA sets standards for controlling the levels of disinfectants and DBPs in drinking water, including trihalomethanes (THMs) and haloacetic acids (HAAs).[13]

1. Total trihalomethanes (TTHMs)	2	[11]611.312(b)	3	Subparts W and Y of this Part
2. Haloacetic Acids (HAA5)	2	611.312(b)	3	Subpart Y of this Part
3. Bromate	2	611.312(a)	3	611.382(a)-(b)
4. Chlorite	2	611.312(a)	3	611.382(a)-(b)
5. Chlorine (MRDL)	2	611.313(a)	3	611.382(a), (c)
6. Chloramine (MRDL)	2	611.313(a)	3	611.382(a), (c)
7. Chlorine dioxide (MRDL), where any two consecutive daily samples at entrance to distribution system only are above MRDL	2	611.313(a), 611.383(c)(3)	2[12], 3	611.382(a), (c), 611.383(c)(2)
8. Chlorine dioxide (MRDL), where samples in distribution system the next day are also above MRDL	[13]1	611.313(a), 611.383(c)(3)	1	611.382(a), (c), 611.383(c)(2)
9. Control of DBP precursors – TOC (TT)	2	611.385(a)-(b)	3	611.382(a), (d)
10. Benchmarking and disinfection profiling	N/A	N/A	3	611.742, 611.953, 611.954
11. Development of monitoring plan	N/A	N/A	3	611.382(f)

H. Other Treatment Techniques

1. Acrylamide (TT)	2	611.296	N/A	N/A

2. Epichlorohydrin (TT)	2	611.296	N/A	N/A

II. Unregulated Contaminant Monitoring: [14]

A. Unregulated contaminants	N/A	N/A	3	611.510
B. Nickel	N/A	N/A	3	611.603, 611.611

III. Public Notification for Relief Equivalent to a SDWA section 1415 Variance or a section 1416 Exemption.

A. Operation under relief equivalent to a SDWA section 1415 variance or a section 1416 exemption	3	[15] 1415, 1416	N/A	N/A
B. Violation of conditions of relief equivalent to a SDWA section 1415 variance or a section 1416 exemption	2	1415, 1416, [16] 611.111, 611.112	N/A	N/A

IV. Other Situations Requiring Public Notification.

A. Fluoride secondary maximum contaminant level (SMCL) exceedence	3	611.858	N/A	N/A
B. Exceedence of nitrate MCL for a non-CWS supplier, as allowed by the Agency	1	611.300(d)	N/A	N/A
C. Availability of unregulated contaminant monitoring data	3	611.510	N/A	N/A
D. Waterborne disease outbreak	1	611.101, 611.233(b)(2)	N/A	N/A
E. Other waterborne emergency [17]	1	N/A	N/A	N/A
F. Source water sample positive for Groundwater Rule fecal indicators: E. coli, enterococci, or coliphage	1	611.802(g)	N/A	N/A
G. Other situations as determined by the Agency by a SEP issued pursuant to Section 611.110	[18]1, 2, 3	N/A	N/A	N/A

Appendix G – Endnotes

1. Violations and other situations not listed in this table (e.g., failure to prepare Consumer Confidence Reports) do not require notice, unless otherwise determined by the Agency by a SEP issued pursuant to Section 611.110. The Agency may, by a SEP issued pursuant to Section 611.110, further require a more stringent public notice tier (e.g., Tier 1 instead of Tier 2 or Tier 2 instead of Tier 3) for specific violations and situations listed in this Appendix, as authorized under Sections 611.902(a) and 611.903(a).

2. Definition of the abbreviations used: "MCL" means maximum contaminant level, "MRDL" means maximum residual disinfectant level, and "TT" means treatment technique.

3. The term "violations of National Primary Drinking Water Regulations (NPDWR)" is used here to include violations of MCL, MRDL, treatment technique, monitoring, and testing procedure requirements.

4. Failure to test for fecal coliform or E. coli is a Tier 1 violation if testing is not done after any repeat sample tests positive for coliform. All other total coliform monitoring and testing procedure violations are Tier 3 violations.

5. A supplier that violates the turbidity MCL of 5 NTU based on an average of measurements over two consecutive days must consult with the Agency within 24 hours after learning of the violation. Based on this consultation, the Agency may subsequently decide to issue a SEP pursuant to Section 611.110 that elevates the violation to a Tier 1 violation. If a supplier is unable to make contact with the Agency in the 24-hour period, the violation is automatically elevated to a Tier 1 violation.

6. A supplier with a treatment technique violation involving a single exceedence of a maximum turbidity limit under the Surface Water Treatment Rule (SWTR), the Interim Enhanced Surface Water Treatment Rule (IESWTR), or the Long Term 1 Enhanced Surface Water Treatment Rule are required to consult with the Agency within 24 hours after learning of the violation. Based on this consultation, the Agency may subsequently decide to issue a SEP pursuant to Section 611.110 that elevates the violation to a Tier 1 violation. If a supplier is unable to make contact with the Agency in the 24-hour period, the violation is automatically elevated to a Tier 1 violation.

7. The Surface Water Treatment Rule (SWTR) remains in effect for a supplier that serves at

least 10,000 persons ; the Interim Enhanced Surface Water Treatment Rule adds additional requirements and does not in many cases supercede the SWTR.

8. Failure to take a confirmation sample within 24 hours for nitrate or nitrite after an initial sample exceeds the MCL is a Tier 1 violation. Other monitoring violations for nitrate are Tier 3.

9. Failure to take a confirmation sample within 24 hours for nitrate or nitrite after an initial sample exceeds the MCL is a Tier 1 violation. Other monitoring violations for nitrate are Tier 3.

10. A Subpart B community or non-transient non-community system supplier must comply with new DBP MCLs, disinfectant MRDLs, and related monitoring requirements. A Subpart B transient non-community system supplier that serves 10,000 or more persons that uses chlorine dioxide as a disinfectant or oxidant or a Subpart B transient non-community system supplier that serves fewer than 10,000 persons, which uses only groundwater not under the direct influence of surface water, and which uses chlorine dioxide as a disinfectant or oxidant must comply with the chlorine dioxide MRDL.

11. Sections 611.312(b)(1) and 611.382(a) and (b) apply until Subpart Y of this Part takes effect under the schedule set forth in Section 611.970(c).

12. Failure to monitor for chlorine dioxide at the entrance to the distribution system the day after exceeding the MRDL at the entrance to the distribution system is a Tier 2 violation.

13. If any daily sample taken at the entrance to the distribution system exceeds the MRDL for chlorine dioxide and one or more samples taken in the distribution system the next day exceed the MRDL, Tier 1 notification is required. A failure to take the required samples in the distribution system after the MRDL is exceeded at the entry point also triggers Tier 1 notification.

14. Some water suppliers must monitor for certain unregulated contaminants listed in Section 611.510.

15. This citation refers to sections 1415 and 1416 of the federal Safe Drinking Water Act. sections 1415 and 1416 require that "a schedule prescribed...for a public water system granted relief equivalent to a SDWA section 1415 variance or a section 1416 exemption

must require compliance by the system...."

16. In addition to sections 1415 and 1416 of the federal Safe Drinking Water Act, 40 CFR 142.307 specifies the items and schedule milestones that must be included in relief equivalent to a SDWA section 1415 small system variance. In granting any form of relief from an NPDWR, the Board will consider all applicable federal requirements for and limitations on the State's ability to grant relief consistent with federal law.

17. Other waterborne emergencies require a Tier 1 public notice under Section 611.902(a) for situations that do not meet the definition of a waterborne disease outbreak given in Section 611.101, but which still have the potential to have serious adverse effects on health as a result of short-term exposure. These could include outbreaks not related to treatment deficiencies, as well as situations that have the potential to cause outbreaks, such as failures or significant interruption in water treatment processes, natural disasters that disrupt the water supply or distribution system, chemical spills, or unexpected loading of possible pathogens into the source water.

18. The Agency may place any other situation in any tier it deems appropriate in writing, based on the prospective threat which it determines that the situation poses to public health, and subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

19. A failure to collect three or more samples for Cryptosporidium analysis is a Tier 2 violation requiring special notice, as specified in Section 611.911. All other monitoring and testing procedure violations are Tier 3.

BOARD NOTE: Derived from Appendix A to Subpart Q to 40 CFR 141 (2013)~~(2012)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.APPENDIX H Standard Health Effects Language for Public Notification

Contaminant	MCLG [1] mg/ℓ	MCL [2] mg/ℓ	Standard health effects language for public notification
National Primary Drinking Water Regulations (NPDWR):			
A. Microbiological Contaminants			
1a. Total coliform, until March 31, 2016	Zero	See footnote 3	Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.
1b. Fecal coliform/E. coli, until March 31, 2016	Zero	Zero	Fecal coliforms and E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.
1c. Fecal indicators (GWR): i. E. coli ii. enterococci iii. coliphage	 Zero None None	 TT TT TT	Fecal indicators are microbes whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

1d. Groundwater Rule TT violations	None	TT	Inadequately treated or inadequately protected water may contain disease-causing organisms. These organisms can cause symptoms such as diarrhea, nausea, cramps, and associated headaches.
1e. Subpart Y Coliform Assessment and/or Corrective Action Violations, beginning April 1, 2016	N/A	TT	Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessments to identify problems and to correct any problems that are found. (The system must use the following applicable sentences:) We failed to conduct the required assessment. We failed to correct all identified sanitary defects that were found during the assessment(s).

1f. Subpart Y E. coli Assessment and/or Corrective Action Violations, beginning April 1, 2016	N/A	TT	E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems. We violated the standard for E. coli, indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct a detailed assessment to identify problems and to correct any problems that are found. (The system must use the following applicable sentences:) We failed to conduct the required assessment. We failed to correct all identified sanitary defects that were found during the assessment that we conducted.
1g. E. coli, beginning April 1, 2016	Zero	See footnote 22	E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems.

1h. Subpart Y Seasonal System TT Violations, beginning April 1, 2016	N/A	TT	When this violation includes the failure to monitor for total coliforms or E. coli prior to serving water to the public, the mandatory language found at Section 611.905(d)(2) must be used. When this violation includes failure to complete other actions, the appropriate elements found in Section 611.905(a) to describe the violation must be used.
2a. Turbidity (MCL) [4]	None	1 NTU [5]/5 NTU	Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
2b. Turbidity (SWTR TT)	None	TT [7]	Turbidity has no health effects. However,[6] turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

2c. Turbidity (IESWTR TT and LT1ESWTR TT)	None	TT	Turbidity has no health effects. However,[8] turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
B. Surface Water Treatment Rule (SWTR), Interim Enhanced Surface Water Treatment Rule (IESWTR), Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR), and Filter Backwash Recycling Rule (FBRR) violations:			
3. Giardia lamblia (SWTR/IESWTR/ LT1ESWTR)	Zero	TT [10]	Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
4. Viruses (SWTR/IESWTR/ LT1ESWTR)			Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
5. Heterotrophic plate count (HPC) bacteria[9] (SWTR/IESWTR/ LT1ESWTR)			Inadequately treated water may contain disease-causing organisms.These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
6. Legionella (SWTR/IESWTR/ LT1ESWTR)			Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

7. Cryptosporidium (IESWTR/FBRR/ LT1ESWTR)			Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
C. Inorganic Chemicals (IOCs)			
8. Antimony	0.006	0.006	Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.
9. Arsenic [11]	0	0.010	Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.
10. Asbestos (10 µm)	7 MFL[11]	7 MFL	Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.
11. Barium	2	2	Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.
12. Beryllium	0.004	0.004	Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.
13. Cadmium	0.005	0.005	Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.

14. Chromium (total)	0.1	0.1	Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.
15. Cyanide	0.2	0.2	Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.
16. Fluoride	4.0	4.0	Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL or more may cause mottling of children's teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.
17. Mercury (inorganic)	0.002	0.002	Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.
18. Nitrate	10	10	Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.

19. Nitrite	1	1	Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.
20. Total Nitrate and Nitrite	10	10	Infants below the age of six months who drink water containing nitrate and nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.
21. Selenium	0.05	0.05	Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation.
22. Thallium	0.0005	0.002	Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.
D. Lead and Copper Rule			
23. Lead	Zero	TT [12]	Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.

24. Copper	1.3	TT [13]	Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor.
E. Synthetic Organic Chemicals (SOCs)			
25. 2,4-D	0.07	0.07	Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.
26. 2,4,5-TP (silvex)	0.05	0.05	Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems.
27. Alachlor	Zero	0.002	Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.
28. Atrazine	0.003	0.003	Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties.

29. Benzo(a)pyrene (PAHs).	Zero	0.0002	Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.
30. Carbofuran	0.04	0.04	Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems.
31. Chlordane	Zero	0.002	Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer.
32. Dalapon	0.2	0.2	Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.
33. Di(2-ethylhexyl)adipate	0.4	0.4	Some people who drink water containing di(2-ethylhexyl)adipate well in excess of the MCL over many years could experience toxic effects, such as weight loss, liver enlargement, or possible reproductive difficulties.
34. Di(2-ethylhexyl) phthalate	Zero	0.006	Some people who drink water containing di(2-ethylhexyl) phthalate well in excess of the MCL over many years may have problems with their liver or experience reproductive difficulties, and they may have an increased risk of getting cancer.

35. Dibromochloropropane (DBCP)	Zero	0.0002	Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.
36. Dinoseb	0.007	0.007	Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.
37. Dioxin (2,3,7,8-TCDD)	Zero	3×10^{-8}	Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.
38. Diquat	0.02	0.02	Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.
39. Endothall	0.1	0.1	Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.
40. Endrin	0.002	0.002	Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.
41. Ethylene dibromide	Zero	0.00005	Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer.

42. Glyphosate	0.7	0.7	Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.
43. Heptachlor	Zero	0.0004	Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.
44. Heptachlor epoxide	Zero	0.0002	Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer.
45. Hexachlorobenzene	Zero	0.001	Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer.
46. Hexachlorocyclo-pentadiene	0.05	0.05	Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach.
47. Lindane	0.0002	0.0002	Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.

48. Methoxychlor	0.04	0.04	Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.
49. Oxamyl (Vydate)	0.2	0.2	Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.
50. Pentachlorophenol	Zero	0.001	Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer.
51. Picloram	0.5	0.5	Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver.
52. Polychlorinated biphenyls (PCBs)	Zero	0.0005	Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.
53. Simazine	0.004	0.004	Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.

54. Toxaphene	Zero	0.003	Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer.
F. Volatile Organic Chemicals (VOCs)			
55. Benzene	Zero	0.005	Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer.
56. Carbon tetrachloride	Zero	0.005	Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.
57. Chlorobenzene (monochlorobenzene)	0.1	0.1	Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys.
58. o-Dichlorobenzene	0.6	0.6	Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems.
59. p-Dichlorobenzene	0.075	0.075	Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.

60. 1,2-Dichloroethane	Zero	0.005	Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.
61. 1,1-Dichloroethylene	0.007	0.007	Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.
62. cis-1,2-Dichloroethylene	0.07	0.07	Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.
63. trans-1,2-Dichloroethylene	0.1	0.1	Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.
64. Dichloromethane	Zero	0.005	Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.
65. 1,2-Dichloropropane	Zero	0.005	Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.
66. Ethylbenzene	0.7	0.7	Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.

67. Styrene	0.1	0.1	Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.
68. Tetrachloroethylene	Zero	0.005	Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer.
69. Toluene	1	1	Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.
70. 1,2,4-Trichlorobenzene	0.07	0.07	Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.
71. 1,1,1-Trichloroethane	0.2	0.2	Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system.
72. 1,1,2-Trichloroethane	0.003	0.005	Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems.
73. Trichloroethylene	Zero	0.005	Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

74. Vinyl chloride	Zero	0.002	Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.
75. Xylenes (total)	10	10	Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system.
G. Radioactive Contaminants			
76. Beta/photon emitters	Zero	4 mrem/yr [14]	Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer.
77. Alpha emitters	Zero	15 pCi/ℓ [15]	Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.
78. Combined radium (226 & 228)	Zero	5 pCi/ℓ	Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.
79. Uranium	Zero	30 µg/ℓ	Some people who drink water containing uranium in excess of the MCL over many years may have an increased risk of getting cancer and kidney toxicity.

H. Disinfection Byproducts (DBPs), Byproduct Precursors, and Disinfectant Residuals: Where disinfection is used in the treatment of drinking water, disinfectants combine with organic and inorganic matter present in water to form chemicals called disinfection byproducts (DBPs). USEPA sets standards for controlling the levels of disinfectants and DBPs in drinking water, including trihalomethanes (THMs) and haloacetic acids (HAA5) [16]			
80. Total trihalomethanes (TTHMs)	N/A	0.080[17,18]	Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous system, and may have an increased risk of getting cancer.
81. Haloacetic Acids (HAA5)	N/A	0.060[19]	Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.
82. Bromate	Zero	0.010	Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.
83. Chlorite	0.08	1.0	Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorite in excess of the MCL. Some people may experience anemia.

84. Chlorine	4 (MRDLG)[20]	4.0 (MRDL)[21]	Some people who use water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.
85. Chloramines	4 (MRDLG)	4.0 (MRDL)	Some people who use water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.

85a. Chlorine dioxide, where any two consecutive daily samples taken at the entrance to the distribution system are above the MRDL	0.8 (MRDLG)	0.8 (MRDL)	Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia. Add for public notification only: The chlorine dioxide violations reported today are the result of exceedences at the treatment facility only, not within the distribution system that delivers water to consumers. Continued compliance with chlorine dioxide levels within the distribution system minimizes the potential risk of these violations to consumers.

86a. Chlorine dioxide, where one or more distribution system samples are above the MRDL	0.8 (MRDLG)	0.8 (MRDL)	Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia. Add for public notification only: The chlorine dioxide violations reported today include exceedences of the USEPA standard within the distribution system that delivers water to consumers. Violations of the chlorine dioxide standard within the distribution system may harm human health based on short-term exposures. Certain groups, including fetuses, infants, and young children, may be especially susceptible to nervous system effects from excessive chlorine dioxide exposure.

87. Control of DBP precursors (TOC)	None	TT	Total organic carbon (TOC) has no health effects. However, total organic carbon provides a medium for the formation of disinfection byproducts. These byproducts include trihalomethanes (THMs) and haloacetic acids (HAAs). Drinking water containing these byproducts in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.
I. Other Treatment Techniques:			
88. Acrylamide	Zero	TT	Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.
89. Epichlorohydrin	Zero	TT	Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.

Appendix H – Endnotes

1. "MCLG" means maximum contaminant level goal.

2. "MCL" means maximum contaminant level.

3. For a water supplier analyzing at least 40 samples per month, no more than 5.0 percent of the monthly samples may be positive for total coliforms. For a supplier analyzing fewer

than 40 samples per month, no more than one sample per month may be positive for total coliforms.

4. There are various regulations that set turbidity standards for different types of systems, including Section 611.320, the 1989 Surface Water Treatment Rule (SWTR), the 1998 Interim Enhanced Surface Water Treatment Rule (IESWTR), and the 2002 Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR). The MCL for the monthly turbidity average is 1 NTU; the MCL for the 2-day average is 5 NTU for a supplier that is required to filter but has not yet installed filtration (Section 611.320).

5. "NTU" means nephelometric turbidity unit.

6. There are various regulations that set turbidity standards for different types of systems, including Section 611.320, the 1989 SWTR, the 1998 IESWTR, and the 2002 LT1ESWTR. A supplier subject to the SWTR (both filtered and unfiltered) may not exceed 5 NTU. In addition, in filtered systems, 95 percent of samples each month must not exceed 0.5 NTU in systems using conventional or direct filtration and must not exceed 1 NTU in systems using slow sand or diatomaceous earth filtration or other filtration technologies approved by the Agency.

7. "TT" means treatment technique.

8. There are various regulations that set turbidity standards for different types of systems, including Section 611.320, the 1989 SWTR, the 1998 IESWTR, and the 2002 LT1ESWTR. For a supplier subject to the IESWTR (a supplier that serves at least 10,000 people, using surface water or groundwater under the direct influence of surface water), that use conventional filtration or direct filtration, the turbidity level of a system's combined filter effluent may not exceed 0.3 NTU in at least 95 percent of monthly measurements, and the turbidity level of a system's combined filter effluent must not exceed 1 NTU at any time. A supplier subject to the IESWTR using technologies other than conventional, direct, slow sand, or diatomaceous earth filtration must meet turbidity limits set by the Agency. For a supplier subject to the LT1ESWTR (a supplier that serves fewer than 10,000 people, using surface water or groundwater under the direct influence of surface water) that uses conventional filtration or direct filtration, after January 1, 2005, the turbidity level of the supplier's combined filter effluent may not exceed 0.3 NTU in at least 95 percent of monthly measurements, and the turbidity level of the supplier's combined filter effluent must not exceed 1 NTU at any time. A supplier subject to the LT1ESWTR using technologies other than conventional, direct, slow sand, or diatomaceous earth filtration must meet turbidity limits set by the Agency.

9. The bacteria detected by heterotrophic plate count (HPC) are not necessarily harmful. HPC is simply an alternative method of determining disinfectant residual levels. The number of such bacteria is an indicator of whether there is enough disinfectant in the distribution system.

10. SWTR, IESWTR, and LT1ESWTR treatment technique violations that involve turbidity exceedences may use the health effects language for turbidity instead.

11. Millions of fibers per liter.

12. Action Level = 0.015 mg/ℓ.

13. Action Level = 1.3 mg/ℓ.

14. Millirems per year.

15. Picocuries per liter.

16. A surface water system supplier or a groundwater system supplier under the direct influence of surface water is regulated under Subpart B of this Part. A Supbart B community water system supplier or a non-transient non-community system supplier must comply with Subpart I DBP MCLs and disinfectant maximum residual disinfectant levels (MRDLs). A Subpart B transient non-community system supplier that uses chlorine dioxide as a disinfectant or oxidant must comply with the chlorine dioxide MRDL.

17. Community and non-transient non-community systems must comply with Subpart Y TTHM and HAA5 MCLs of 0.080 mg/ℓ and 0.060 mg/ℓ, respectively (with compliance calculated as a locational running annual average) on the schedule in Section 611.970.

18. The MCL for total trihalomethanes is the sum of the concentrations of the individual trihalomethanes.

19. The MCL for haloacetic acids is the sum of the concentrations of the individual haloacetic acids.

20. "MRDLG" means maximum residual disinfectant level goal.

21. "MRDL" means maximum residual disinfectant level.

22. The supplier is in compliance unless one of the following conditions occurs: (1) the supplier's system has an E. coli-positive repeat sample following a total coliform-positive routine sample; (2) the supplier's system has a total coliform-positive repeat sample following an E. coli-positive routine sample; (3) the supplier fails to take all required repeat samples following an E. colipositive routine sample; or (4) the supplier fails to test for E. coli when any repeat sample tests positive for total coliform.

BOARD NOTE: Derived from appendix B to subpart Q to 40 CFR 141 (2013)~~(2012)~~.

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

Section 611.TABLE Z Federal Effective Dates

The following are the effective dates of the various federal NPDWRs:

Fluoride (40 CFR 141.62(b)(1)) (corresponding with Section 611.301(b))	October 2, 1987
Phase I VOCs (40 CFR 141.61(a) through (a)(8)) (corresponding with Section 611.311(a)) (benzene, carbon tetrachloride, p-dichlorobenzene, 1,2-dichloroethane, 1,1-dichloroethylene, 1,1,1-trichloroethane, trichloroethylene, and vinyl chloride)	January 9, 1989
Total Coliforms Rule (40 CFR 141.21 & 141.63) (corresponding with Sections 611.521-611.527 & 611.325) (total coliforms, fecal coliforms, and E. coli)	December 31, 1990
Surface Water Treatment Rule (40 CFR 141, subpart H) (corresponding with Subpart B of this Part) (filtration, disinfection, and turbidity)	Effective: December 31, 1990 Compliance: December 31, 1991
Lead and Copper (40 CFR141, subpart I) (corresponding with Subpart G of this Part) (lead and copper monitoring, reporting, and recordkeeping requirements of 40 CFR 141.86 through 141.91)	July 7, 1991
Phase II IOCs (40 CFR 141.62(b)(2) and (b)(4) through (b)(10)) (corresponding with Section 611.301(b)) (asbestos, cadmium, chromium, mercury, nitrate, nitrite, and selenium)	July 30, 1992
Phase II VOCs (40 CFR 141.61(a)(9) through (a)(18)) (o-dichlorobenzene, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene, 1,2-dichloropropane, ethylbenzene, monochlorobenzene, styrene, tetrachloroethylene, toluene, and xylenes (total))	July 30, 1992

Phase II SOCs (40 CFR 141.61(c)(1) through (c)(18)) (alachlor, atrazine, carbofuran, chlordane, dibromochloropropane, ethylene dibromide, heptachlor, heptachlor epoxide, lindane, methoxychlor, polychlorinated biphenyls, toxaphene, 2,4-D, and 2,4,5-TP (silvex))	July 30, 1992
Phase V SOC (40 CFR 141.61(c)(3)) (corresponding with Section 611.311(c)) (endrin)	August 17, 1992
Lead and Copper (40 CFR141, subpart I) (corresponding with Subpart G of this Part) (lead and copper corrosion control, water treatment, public education, and lead service line replacement requirements of 40 CFR 141.81 through 141.85)	December 7, 1992
Phase IIB IOC (40 CFR 141.62(b)(3)) (corresponding with Section 611.301(b)) (barium)	January 1, 1993
Phase IIB SOCs (40 CFR 141.61(a)(9) through (a)(18)) (corresponding with Section 611.311(c)) (aldicarb, aldicarb sulfone, aldicarb sulfoxide, and pentachlorophenol. See the Board note appended to Section 611.311(c) for information relating to implementation of requirements relating to aldicarb, aldicarb sulfone, and aldicarb sulfoxide.)	January 1, 1993
Phase V IOCs (40 CFR 141.62(b)(11) through (b)(15)) (corresponding with Section 611.301(b)) (antimony, beryllium, cyanide, nickel, and thallium)	January 17, 1994
Phase V VOCs (40 CFR 141.61(b)(19) through (b)(21)) (corresponding with Section 611.311(a)) (dichloromethane, 1,2,4-trichlorobenzene, and 1,1,2-trichloroethane)	January 17, 1994
Phase V SOCs (40 CFR 141.61(c)(19) through (c)(25)) (corresponding with Section 611.311(c)) (benzo(a)pyrene, dalapon, di(2-ethylhexyl)adipate, di(2-ethylhexyl)phthalate dinoseb, diquat, endothall, endrin, glyphosate, hexachlorobenzene, hexachlorocyclopentadiene, oxamyl, picloram, simazine, and 2,3,7,8-TCDD)	January 17, 1994

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Consumer Confidence Report Rule (40 CFR 141, subpart Q) (corresponding with Subpart O of this Part) (notification to public of drinking water quality)	September 18, 1998
Interim Enhanced Surface Water Treatment Rule (40 CFR 141, subpart P) (corresponding with Subpart R of this Part) (applicable to suppliers providing water to fewer than 10,000 persons) (Giardia lamblia, viruses, heterotrophic plate count bacteria, Legionella, Cryptosporidium, and turbidity)	February 16, 1999
Public Notification Rule (40 CFR 141, subpart Q) (corresponding with Subpart V of this Part) (notification to public of NPDWR violations, variances or exemptions, or other situations that could bear on public health)	June 5, 2000
Filter Backwash Rule (40 CFR 141.76) (corresponding with Section 611.276) (reuse of spent filter backwash water, thickener supernatant, or liquids from dewatering processes)	August 7, 2001
Disinfection/Disinfectant Byproducts Rule (40 CFR 141.64, 141.65 & 141, subpart L)	
Smaller Systems (serving 10,000 or fewer persons)	December 16, 2001
Larger Systems (serving more than 10,000 persons)	December 16, 2003
(corresponding with Sections 611.312 & 611.313) (total trihalomethanes, haloacetic acids (five), bromate, chlorite, chlorine, chloramines, and chlorine dioxide)	
Long Term 1 Enhanced Surface Water Treatment Rule (40 CFR 141, Subpart T) (corresponding with Subpart X of this Part) (applicable to suppliers providing water to 10,000 or more persons) (Giardia lamblia, viruses, heterotrophic plate count bacteria, Legionella, Cryptosporidium, and turbidity)	February 13, 2002

Radionuclides (40 CFR 141.66)	December 8, 2003
(corresponding with Section 611.330)	
(combined radium (Ra-226 + Ra-228), gross alpha particle activity, beta particle and photon activity, and uranium)	
Arsenic (40 CFR 141.62(b)(16))	January 23, 2006
(corresponding with Section 611.301(b))	
(arsenic)	
Stage 2 Disinfection/Disinfectant Byproducts Rule (40 CFR 141, subparts U & V)	
Systems that serve fewer than 10,000 persons	
Submit plan	April 1, 2008
Complete monitoring or study	March 31, 2010
Submit IDSE report	July 1, 2010
Compliance with monitoring requirements	
If no Cryptosporidium monitoring is required	October 1, 2013
If Cryptosporidium monitoring is required	October 1, 2014
Systems that serve 10,000 to 49,999 persons	
Submit plan	October 1, 2007
Complete monitoring or study	September 30, 2009
Submit IDSE report	January 1, 2010
Compliance with monitoring requirements	October 1, 2013
Systems that serve 50,000 to 99,999 persons	
Submit plan	April 1, 2007
Complete monitoring or study	March 31, 2009
Submit IDSE report	July 1, 2009
Compliance with monitoring requirements	October 1, 2012
Systems that serve 100,000 or more persons	
Submit plan	October 1, 2006
Complete monitoring or study	September 30, 2008
Submit IDSE report	January 1, 2009
Compliance with monitoring requirements	April 1, 2012
(corresponding with Subparts W & Y of this Part)	
(total trihalomethanes and haloacetic acids (five))	
Long Term 2 Enhanced Surface Water Treatment Rule (40 CFR 141, subpart W)	
Systems that serve fewer than 10,000 persons	
And which monitor for E. coli	
Begin first round of monitoring	October 1, 2008

Begin treatment for Cryptosporidium	October 1, 2014
Begin second round of monitoring	October 1, 2017
And which monitor for cryptosporidium	
Begin first round of monitoring	April 1, 2010
Begin treatment for Cryptosporidium	October 1, 2014
Begin second round of monitoring	April 1, 2019
Systems that serve 10,000 to 49,999 persons	
Begin first round of monitoring	April 1, 2008
Begin treatment for Cryptosporidium	October 1, 2013
Begin second round of monitoring	October 1, 2016
Systems that serve 50,000 to 99,999 persons	
Begin first round of monitoring	April 1, 2007
Begin treatment for Cryptosporidium	October 1, 2012
Begin second round of monitoring	October 1, 2015
Systems that serve 100,000 or more persons	
Begin first round of monitoring	October 1, 2006
Begin treatment for Cryptosporidium	April 1, 2012
Begin second round of monitoring	April 1, 2015
(corresponding with Subpart Z of this Part)	
(E. coli, Cryptosporidium, Giardia lamblia, viruses, and turbidity)	
Groundwater Rule (40 CFR 141, subpart S)	December 1, 2009
(corresponding with Subpart S of this Part)	
(E. coli, enterococci, and coliphage)	
Revised Total Coliforms Rule (40 CFR 141, Subpart Y)	Effective: April 15, 2013
(corresponding with subpart AA of this Part)	Compliance: April 1, 2016
(total coliforms (indicator), E. coli)	

(Source: Amended at 38 Ill. Reg. 3608, effective January 27, 2014)

STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: The Administration and Operation of the State Employees' Retirement System of Illinois

2) Code Citation: 80 Ill. Adm. Code 1540

3) Section Number: 1540.270 Adopted Action: Amend

4) Statutory Authority: 40 ILCS 5/14-135.03

5) Effective Date of Rule: January 24, 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 rulemaking, inlcuding any material incorporated by reference, is on file in the Agency's principal office is available for public inspection. Copies are available upon request from the Division of Field Services.

9) Notice of Proposed published in the *Illinois Register*: October 25, 2013; 37 Ill. Reg. 16901

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: There are minor word and/or grammar changes throughout at JCAR's suggestion.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace any emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Information and questions regarding this adopted rule shall be directed to:

Tim Blair
Executive Secretary

STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

2101 South Veterans Parkway
P. O. Box 19255
Springfield, IL 62794-9276

217/785-7016
fax: 217/557-3943

16) Does this rulemaking require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE D: RETIREMENT SYSTEMS
CHAPTER I: STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

PART 1540
THE ADMINISTRATION AND OPERATION OF THE
STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

Section

1540.5 Introduction
1540.10 Appointment of Retirement System Coordinator
1540.20 Member's Contribution and Service Credit
1540.30 Determination of Rate of Compensation
1540.40 Prior Service Credit
1540.50 Credit for Service for Which Contributions are Permitted
1540.60 Severance of Employment – A Condition to the Payment of a Refund or Retirement Annuity
1540.70 Death Benefits
1540.80 Disability Claims
1540.90 Benefit Offset
1540.100 Birth Date Verification
1540.110 Marriage Verification
1540.120 Level Income Option
1540.130 Pension Credit for Unused Sick Leave
1540.140 Removal of Children from Care of Surviving Spouse
1540.150 Proof of Dependency
1540.160 Investigations of Benefit Recipients
1540.170 Interest on Member Contributions
1540.180 Date of Application – Retirement Annuity, Occupational and Nonoccupational and Temporary Disability Benefits, and Resignation Refund Payments
1540.190 Lump Sum Salary Payments
1540.200 Removal from the Payroll
1540.210 Latest Date of Membership
1540.220 Period for Payment and Amount of Payment of Contributions
1540.230 Contributions by the State (Repealed)
1540.240 Actuarially Funded Basis (Repealed)
1540.250 Payments to Establish Credit for Service for Which Contributions are Permitted
1540.255 Pick-up Option for Optional Service Contributions
1540.260 Contributions and Service Credit During Nonwork Periods

STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

1540.270 Written Appeals and Hearings
1540.280 Availability for Public Inspection (Recodified)
1540.290 Procedure for Submission, Consideration and Disposition of Petitions Seeking the Promulgation, Amendment or Repeal of these Rules and Regulations (Recodified)
1540.300 Organization of the State Employees' Retirement System (Recodified)
1540.310 Amendments
1540.320 Optional Forms of Benefits – Basis of Computation
1540.330 Board Elections
1540.340 Excess Benefit Arrangement
1540.350 Qualified Illinois Domestic Relations Orders (QILDRO)
1540.360 Election to be an Employee under Section 14-103.05(b)(3) of the Illinois Pension Code
1540.370 Americans With Disabilities Act
1540.APPENDIX A Grievance Form
1540.TABLE A Optional Forms of Benefits – Basis of Computation

AUTHORITY: Implementing and authorized by Article 14 of the Illinois Pension Code [40 ILCS 5/Art. 14].

SOURCE: Filed December 20, 1977, effective December 31, 1977; filed and effective February 28, 1978; emergency rule at 4 Ill. Reg. 2, page 246, effective January 1, 1980; amended at 4 Ill. Reg. 12, pages 530, 532, 534, effective March 11, 1980; emergency rule at 4 Ill. Reg. 46, page 1300, effective November 1, 1980; amended at 5 Ill. Reg. 3454, effective March 19, 1981; amended at 5 Ill. Reg. 7225, effective July 1, 1981; amended at 5 Ill. Reg. 12846, effective October 30, 1981; amended at 6 Ill. Reg. 2114, effective January 29, 1982; amended at 6 Ill. Reg. 5505, effective April 16, 1982; codified at 6 Ill. Reg. 10935; emergency amendment at 6 Ill. Reg. 11084, effective August 31, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 677, effective December 30, 1982; amended at 7 Ill. Reg. 8831, effective July 15, 1983; emergency amendment at 8 Ill. Reg. 359, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4144, effective March 26, 1984; Sections 1540.280, 1540.290 and 1540.300 recodified to 2 Ill. Adm. Code 2375 at 8 Ill. Reg. 15902; amended at 9 Ill. Reg. 12375, effective July 30, 1985; emergency amendment at 9 Ill. Reg. 19752, effective December 5, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 8889, effective May 14, 1986; amended at 11 Ill. Reg. 11155, effective June 15, 1987; amended at 14 Ill. Reg. 10498, effective June 19, 1990; amended at 15 Ill. Reg. 7379, effective April 26, 1991; amended at 16 Ill. Reg. 14407, effective September 4, 1992; amended at 20 Ill. Reg. 8033, effective June 15, 1996; emergency amendment at 21 Ill. Reg. 476, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4992, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 13187, effective September 15, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 967, effective

December 22, 1997; amended at 22 Ill. Reg. 15363, effective August 10, 1998; amended at 23 Ill. Reg. 3824, effective March 9, 1999; amended at 23 Ill. Reg. 11313, effective September 1, 1999; amended at 24 Ill. Reg. 6975, effective April 20, 2000; amended at 24 Ill. Reg. 18090, effective December 1, 2000; amended at 25 Ill. Reg. 5632, effective April 4, 2001; emergency amendment at 26 Ill. Reg. 11133, effective June 28, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16575, effective October 22, 2002; emergency amendment at 28 Ill. Reg. 8775, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15628, effective November 18, 2004; amended at 29 Ill. Reg. 15554, effective October 1, 2005; amended at 30 Ill. Reg. 12303, effective July 1, 2006; amended at 31 Ill. Reg. 211, effective December 21, 2006; amended at 32 Ill. Reg. 17779, effective October 29, 2008; emergency amendment at 33 Ill. Reg. 9449, effective June 19, 2009, for a maximum of 150 days; emergency expired November 15, 2009; amended at 34 Ill. Reg. 285, effective December 15, 2009; amended at 34 Ill. Reg. 8313, effective June 10, 2010; amended at 38 Ill. Reg. 4023, effective January 24, 2014.

Section 1540.270 Written Appeals and Hearings

~~a) Purpose of Rule~~
~~All claims for benefits payable by the System, all claims for service credits granted by the System and all denials of benefits by the System shall be reviewed by the Executive Committee, which shall make recommendations for the initial disposition of the claim to the Board of Trustees who shall make the final decision. An individual may have the initial disposition of a claim reconsidered either at a hearing before the Executive Committee or by filing a Written Appeal with the Executive Committee.~~

a~~b~~) Definition of Terms

"Authorized Representative" – a person representing a Petitioner in a written appeal or hearing.

~~"Examiner" – the Chairman of the Executive Committee or other officer of the State Employees' Retirement System or person designated by the Board of Trustees to conduct administrative hearings.~~

"Executive Committee" – a committee consisting of one member of the Board of Trustees, the designee of the Chairperson of the Board and the Executive Secretary of SERS, which shall meet periodically for the purpose of hearing all administrative contested matters and making recommendations to the Board of Trustees who shall make the final

decision.

"Executive Secretary" – the person designated as the official custodian of all papers and documents filed in proceedings before the Executive Committee.

"Hearing" – the reconsideration by the Executive Committee of the initial disposition of a claim, at which the Petitioner appears in person or by an Authorized Representative, either at the hearing or by video or audio conference.

"Hearing Officer" − a member of the Executive Committee or an attorney retained by the Executive Committee for the purpose of conducting hearings and communicating the Executive Committee's findings of fact, conclusions of law, and recommendation to the Board of Trustees.

"Legal Action" − any action, following the final denial by the Board of Trustees, in which a member is seeking relief in State or Federal Court for a disputed claim.

"Petition" – a written request made by a Petitioner or Authorized Representative for a hearing, a written appeal, a rehearing, or a written reappeal before the Executive Committee.

"Petitioner" – an individual who requests by Petition:

a hearing or a written appeal before the Executive Committee for reconsideration of the initial disposition of a claim; or

a rehearing or written reappeal before the Executive Committee for reconsideration of the disposition of a hearing or written appeal.

"Rehearing" – the reconsideration by the Executive Committee of the disposition of a hearing or written appeal, at which the Petitioner appears in person or by an Authorized Representative, either at the hearing or by video or audio conference.

"System" – the State Employees' Retirement System of Illinois.

STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

"Video or Audio Conference" − hearing or rehearing before the Executive Committee for which the Petitioner or Authorized Representative is not physically present and the proceeding before the Executive Committee is conducted through Polycom VSX™ 7000s video and audio technology.

"Written Appeal" – the reconsideration by the Executive Committee, based upon written evidence, of the initial disposition of a Petitioner's claim, at which the Petitioner does not appear either in person or by an Authorized Representative.

"Written Reappeal" – the reconsideration by the Executive Committee, based upon written evidence, of the disposition of a hearing or written appeal, at which the Petitioner does not appear either in person or by an Authorized Representative.

b) Administrative Determination
The administrative staff of the System shall be responsible for the daily functioning of the System, including the processing of all claims for benefits payable by the System, all claims for service credits granted by the System, and all claims against or relating to the System.

c) Right of Appeal
Any member, annuitant or beneficiary adversely affected by the initial disposition of a claim by the System's staff may have the disposition of the claim reconsidered either at a hearing before the Executive Committee or by filing a Written Appeal with the Executive Committee.

d~~e~~) Written Appeals to Executive Committee

1) Communication to Executive Committee
All Petitions for Written Appeal shall be directed to the Executive Secretary of the System at its Springfield Office and must be received within 30 days following the notification of the initial disposition of the claim.

2) Form of Written Appeal
A Petition for a Written Appeal shall set forth the name and address of the Petitioner, the name and address of his Authorized Representative if applicable, a brief statement of the facts forming the basis of the written

appeal, which must include any new or additional evidence, and the relief sought.

3) Disposition of Written Appeal

A) The Executive Committee shall consider written appeals at the next regular meeting of the Executive Committee more than 15 days after the receipt of the Petition.

B) Following the written appeal and the receipt of all supplemental material requested, the recommendation of the Executive Committee shall be communicated in writing to the Petitioner and Authorized Representative, if applicable, and the appropriate action shall be implemented by the Executive Committee subject to the approval of the Board of Trustees.

4) Continuances and Extensions of Time
Continuances and extensions of time shall be granted by the Executive Committee or the Examiner when it is demonstrated that obtaining and presenting additional evidence is necessary to render a fair and equitable decision on the written appeal before the Committee.

5) Minutes and Records of Written Appeals

A) Minutes of every meeting of the Executive Committee and a record of all written appeals before the Executive Committee shall be kept by the Executive Secretary of the System at its Springfield Office.

B) The Executive Secretary of the System shall be the official custodian of all papers and documents filed in proceedings before the Executive Committee.

e~~d~~) Hearings Before the Executive Committee

1) Communication to the Executive Committee
All Petitions for Hearings shall be made to the Executive Secretary of the System at its Springfield Office and must be received within 30 days following the notification of the initial disposition of the claim.

STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

2) Appearance
Any Petitioner or Authorized Representative may appear at a hearing before the Executive Committee, either in person or by video or audio conference.

3) Form of Petition
Petitions may be informal or formal and shall be presented by letter or other writing. A petition shall set forth the name and address of the Petitioner, the name and address of the Authorized Representative, if applicable, a brief statement of the facts forming the basis of the petition, which must include any new or additional evidence and the relief sought.

4) Notice of Hearing
Upon scheduling of a hearing before the Executive Committee, a Petitioner shall be provided with written notice of: the date, time and place of the hearing; the subject matter of the hearing; and relevant procedural and substantive statutory and regulatory provisions. Notice of the hearing shall also inform the Petitioner that he or she will be afforded the opportunity to provide a statement of his or her position, present oral evidence, and conduct examination and cross-examination of witnesses as necessary for full and true disclosure of the facts. In the absence of the Petitioner, the Executive Committee will consider the Petitioner's Petition and such other matters as may be properly brought before it at the hearing.

54) Prehearing Conferences

A) Upon written request by the Executive Committee or a Petitioner or Authorized Representative, a conference shall be conducted for the purpose of formulating issues and considering:

i) The simplification of issues;

ii) The amendment of pleadings;

iii) The making of admissions of facts or stipulations for the purpose of avoiding the unnecessary introduction of evidence;

iv) The procedure at the hearing;

v) The limitation of the number of witnesses; and

vi) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

B) The persons attending the prehearing conference may enter into a written stipulation as to matters decided in the prehearing conference.

C) No minutes shall be kept of the prehearing conference. Facts disclosed in the course of the prehearing conferences are privileged and, except by agreement, shall not be used against the Petitioner or any other party attending the prehearing conference either before the Executive Committee or elsewhere unless fully substantiated by other evidence.

6~~5~~) Conduct of Hearings

A) Hearings shall be conducted before the Executive Committee by the Hearing Officer~~by the Examiner~~ and shall be of an informal nature.

B) The Hearing Officer~~Examiner~~ shall direct all parties to enter their appearances on the record. The Hearing Officer shall conduct a full and fair hearing, receive testimony of the claimant and admit exhibits into evidence, avoid delay, maintain order and make a sufficient record for a full and true disclosure of the facts and issues. To accomplish these ends, the Hearing Officer shall make all procedural and evidentiary rulings necessary for the conduct of the hearing.

C) Parties may, by written stipulation, agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding.

D) Irrelevant material or unduly repetitious evidence shall be excluded.

STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

7~~6~~) Documentary Evidence
Whenever possible, documents and exhibits shall be introduced by stipulation of the parties. Originals of documents shall be introduced into evidence with leave of the Hearing Officer~~Examiner~~ to substitute the originals with copies. Whenever possible, the parties shall interchange copies of exhibits or other pertinent material before the hearing at which they are to be offered.

8~~7~~) Briefs and Oral Arguments
Written briefs and oral arguments shall be allowed at the request of the Petitioner. The time limitations upon the oral argument shall be determined by the Hearing Officer~~Examiner~~ having regard to the magnitude and complexity of the issues involved and the other business of the Executive Committee. All testimony shall be taken under oath before an officer authorized to administer oaths by the laws of this State or of the United States or of the place where the testimony is to be given.

9~~8~~) Disposition of Hearing
Following the hearing and receipt of all supplemental material requested, the Executive Committee, following its next scheduled meeting, shall communicate its recommendation in writing to the Petitioner and Authorized Representative, if applicable. The recommendation shall contain a sufficient statement of the facts, all necessary findings of fact and conclusions of law, and a suggested decision or decisions of the Board of Trustees. The appropriate action shall be implemented by the Executive Committee subject to the approval of the Board of Trustees.

10~~9~~) Continuances and Extensions of Time
Continuances and extensions of time shall be granted by the Executive Committee or the Hearing Officer~~Examiner~~ when it is demonstrated that obtaining and presenting additional evidence or witnesses is necessary to render a fair and equitable decision on the hearing before the Executive Committee.

11~~10~~) Minutes and Record of Hearing

A) Minutes of every meeting of the Executive Committee and a record of all hearings before the Executive Committee shall be kept by the Executive Secretary of the System at its Springfield Office.

B) Two records of proceedings shall be kept that shall be in the form of a non-verbatim bystander's record of the proceedings and either a stenographic transcription or a tape recording.~~A bystander's record of all hearings shall be prepared by the Executive Committee and shall include the substantive matters of the hearing, but shall not purport to be a verbatim transcript of the proceedings.~~ The record shall be available to the Petitioner or Authorized Representative prior to the Executive Committee making its recommendations.

C) The Executive Secretary of the System shall be the official custodian of all papers and documents filed in proceedings before the Executive Committee.

12) Disqualification; Ex Parte Communications

A) Disqualification

i) A Hearing Officer or other member of the Executive Committee may be disqualified on grounds of bias or conflict of interest. A motion to disqualify a Hearing Officer or other member of the Executive Committee for bias or conflict of interest should be made to the Hearing Officer by any party to the hearing at least one week prior to the commencement of the hearing. The motion shall be heard, considered and ruled upon by the Hearing Officer at or prior to the commencement of the hearing. The movant shall have the burden of proof with respect to the motion to disqualify. Either an adverse ruling or the fact that a Hearing Officer or other member of the Executive Committee is an employee of the System or has a contract with the System, standing alone, shall not constitute bias or conflict of interest.

ii) The Executive Director may not be called as a witness unless it is demonstrated that the Executive Director has relevant noncumulative personal knowledge of facts bearing upon the claim. The Executive Director may not be

disqualified as a member of the Executive Committee on the basis that the Executive Director is responsible for the overall administration of the System.

iii) In the event that the Executive Committee is reduced to fewer than two members, the Board President may appoint another person to the Executive Committee.

B) *Ex Parte Communications Prohibited. Except in the disposition of matters that the System is authorized by law to entertain or dispose of on an ex parte basis, the members of the Executive Committee shall not, after receiving notice of a hearing in a contested matter, communicate, directly or indirectly, in connection with any issue of fact, with any party, or in connection with any other issue with any party, or the representative of any party, except upon notice and opportunity for all parties to participate. However, an employee of the System may communicate with other employees of the System and an employee of the System or member of the Executive Committee may have the aid and advice of one or more assistants. An ex parte communication received by any member of the Executive Committee shall be made a part of the record of the pending matter, including all written communications, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received. Communications regarding matters of procedure and practice, such as the format of pleadings, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications.* [5 ILCS 100/10-60]

f~~e~~) Rehearings and Written Reappeals

1) Purpose of Rehearing and Written Reappeal
Any member of the~~The~~ Executive Committee may~~shall~~ grant a rehearing or written reappeal only for the purpose of considering new or additional evidence not previously available.

2) Procedures for Rehearing
The procedures set forth in subsection (e~~d~~) (Hearings Before the Executive

Committee) shall apply to rehearings, except that a Petition for a Rehearing must be received within 90 days following the notification of the final decision of the Board of Trustees with respect to the recommendation of the Executive Committee.

3) Procedures for Written Reappeal
The procedures set forth in subsection (d~~e~~) (Written Appeals to Executive Committee) shall apply to written reappeals, except that a Petition for a Written Reappeal must be received within 90 days following the notification of the final decision of the Board of Trustees with respect to the recommendation of the Executive Committee.

g~~f~~) Decisions of Board of Trustees

1) Decisions of the Board of Trustees shall be final administrative decisions subject to the provisions of the Administrative Review Law [735 ILCS 5/Art. III].

2) Communication to Petitioner
The decision of the Board of Trustees shall be communicated in writing to the Petitioner and Authorized Representative, if applicable.

h~~g~~) A request for a retirement annuity or a refund of contributions shall be granted when legal action is pending on a disputed disability claim. Should the member receive a favorable decision on the legal action against the System and request additional disability benefits with regard to the disputed claim for a period beyond the effective date the retirement annuity or refund of contributions, the member must repay all retirement benefits or refund of contributions within 30 days after notification by the System of the amount due.

(Source: Amended at 38 Ill. Reg. 4023, effective January 24, 2014)

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: State Toll Highway Rules

2) Code Citation: 92 Ill.Adm.Code 2520

3) Section Number: 2520.750 — Adopted Action: Amended

4) Statutory Authority: 605 ILCS 10/10.

5) Effective Date of Rule: January 27, 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 rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 37 Ill.Reg. 16915; October 25, 2013

10) Has JCAR issued a Statement of Objection to this rulemkaing? No

11) Differences between Proposal and Final Version: None

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Does not apply.

13) Will this rulemaking replace any emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? Yes, there is an emergency rule and proposed rule increasing the speedlimit on portions of toll highways to 70mph.

Section Numbers:	Proposed Action:	*Illinois Register* Citation:
2520.410	Amend	37 Ill. Reg. 20620; December 27, 2013
2520.420	Amend	37 Ill. Reg. 20630; December 27, 2013
2520.410	Amend	38 Ill. Reg. 2433; January 17, 2013
2520.420	Amend	38 Ill. Reg. 2433; January 17, 2014

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENT

15) Summary and Purpose of Rulemaking: The rulemaking extends the time in which a toll violator may pay the initial fine from 14 to 30 days following the final order of liability. It also allows the Tollway's Board of Directors to institute a pilot program where it may temporarily suspend the application of the $50 escalation penalty.

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

Robert T. Lane
Senior Assistant Attorney General
2700 Ogden Avenue
Downers Grove IL 60515

630/241-6800 x1530
fax: 630/271-7559

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

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER IV: ILLINOIS STATE TOLL HIGHWAY AUTHORITY

PART 2520
STATE TOLL HIGHWAY RULES

SUBPART A: AUTHORITY AND DEFINITIONS

Section
2520.100 Authority
2520.110 Authority Rulemaking
2520.120 Related Statutes
2520.130 Definitions

SUBPART B: GENERAL TRAFFIC RULES AND REGULATIONS

Section
2520.200 Illinois Vehicle Code
2520.203 Use of Tollway Prohibited or Restricted
2520.206 Vehicles Excepted from Provisions of Section 2520.203
2520.209 Transportation of Hazardous Materials
2520.212 Special Usage Toll
2520.215 Loading or Unloading of Vehicles
2520.218 Full Stop at All Toll Plazas
2520.221 Entering and Leaving the Tollway
2520.224 "U" Turns, Etc.
2520.227 Backing Up of Vehicles
2520.230 Parking, Standing or Stopping
2520.233 Relocating of Vehicles
2520.236 Pushing or Towing of Vehicles
2520.239 Stopping or Halting Vehicles by the Authority
2520.242 Destruction of Authority Property
2520.245 Picnics
2520.248 Aircraft
2520.251 Sale of Goods and Services
2520.254 Solicitation of Rides
2520.257 Loitering or Interfering with Traffic
2520.260 Approaching/Departing a Toll Plaza
2520.263 Compliance with Orders or Directions of State Troopers, Etc.

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENT

2520.266 Duty Upon Striking Fixtures, Structures or Other Property on Tollway
2520.269 Payment of Tolls
2520.272 I-Pass Registration
2520.275 Prohibited and Restricted Lanes
2520.278 Traffic Control Devices
2520.281 Penalty for Violation

SUBPART C: TRESPASS

Section
2520.300 Authority
2520.310 Restriction of Vehicles Using the Tollway
2520.320 Restriction on Nature of Use of Tollway
2520.340 Persons and Vehicles Excepted from the Requirements of Subpart C
2520.350 Penalties

SUBPART D: SPEED RESTRICTIONS

Section
2520.410 Maximum Speed Limits for Passenger Cars
2520.420 Maximum Speed Limits for Trucks, Buses, Passenger Cars Towing Trailers, House Trailers and Campers
2520.430 Maximum Speed Limits for Designated I-Pass Lanes, Service Areas, Parking Areas, Access Roads and Ramps, and Barrier Toll Plaza Approaches
2520.440 Road Hazards and Construction Zones
2520.450 Special Road Conditions
2520.460 Minimum Speed Limits

SUBPART E: FINES AND PENALTIES

Section
2520.510 Violations
2520.520 Littering – Penalty
2520.530 Spurious or Counterfeit Tickets, Coupons or Tokens – Penalty
2520.540 Toll Collection Devices – Penalty for Breaking
2520.550 I-PASS Customer − Penalties

SUBPART F: TOLL VIOLATIONS – ADMINISTRATIVE ADJUDICATION SYSTEM

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENT

Section
2520.700 Authority
2520.705 Notice of Violation to Respondent
2520.710 Effective Date of Notices
2520.715 Establishment of the Toll-Free Telephone Number
2520.720 Timely Request for Hearing
2520.725 Hearing Officers – Appointment, Disqualification, Powers and Duties
2520.730 Discovery
2520.735 Continuance
2520.740 Hearings Format
2520.745 Failure to Respond to Notice of Violation − Default
2520.750 Penalties
2520.755 Liability of Lessor
2520.760 Liability of Registered Owner
2520.765 Enforcement of Final Order
2520.770 Judicial Review

SUBPART G: EMPLOYMENT

2520.800 Tollway Employees

2520.APPENDIX A Rules and Regulations for Overweight and Overdimension Vehicles and Loads

AUTHORITY: Implementing and authorized by the Toll Highway Act [605 ILCS 10].

SOURCE: Filed January 3, 1973; effective February 1, 1973; codified at 8 Ill. Reg. 19884; Part repealed, new Part adopted at 17 Ill. Reg. 8539, effective May 27, 1993; amended at 20 Ill. Reg. 10200, effective July 12, 1996; emergency amendment at 24 Ill. Reg. 2737, effective February 4, 2000, for a maximum of 150 days; emergency expired July 2, 2000; emergency amendment at 24 Ill. Reg. 4234, effective February 29, 2000, for a maximum of 150 days; emergency expired July 27, 2000; amended at 24 Ill. Reg. 16078, effective October 11, 2000; emergency amendment at 26 Ill. Reg. 16325, effective October 31, 2002, for a maximum of 150 days ; amended at 27 Ill. Reg. 6325, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 18238, effective November 6, 2003, for a maximum of 150 days; emergency expired April 5, 2004; emergency amendment at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 6911, effective April 23, 2004; emergency amendment at 28 Ill. Reg. 7688, effective May 24, 2004, for a maximum of 150 days; emergency expired October 20, 2004; amended at 28 Ill. Reg. 14530, effective October 25, 2004; old Part repealed at 30 Ill. Reg.

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED AMENDMENT

11261 and new Part adopted at 30 Ill. Reg. 11264, effective June 9, 2006; amended at 35 Ill. Reg. 535, effective December 27, 2010; emergency rulemaking at 38 Ill. Reg. 2433, effective January 7, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4037, effective January 27, 2014.

SUBPART F: TOLL VIOLATIONS – ADMINISTRATIVE ADJUDICATION SYSTEM

Section 2520.750 Penalties

The Authority shall assess the registered owner of any vehicle driven through a toll plaza without the payment of the proper toll the following penalties:

a) Upon a finding of liability, the registered owner of the vehicle shall be liable for the outstanding toll, a $20 fine per violation and applicable fees.

b) Additional Fine

1) Upon the failure of the registered owner to pay the toll, fine and/or fee to the Authority within 30~~14~~ days after notice of a final order of liability, the Authority shall assess the registered owner an additional fine of $50 for each violation without further notice or order.

2) Pilot Program
Notwithstanding the requirement of subsection (a), the Authority Board may establish by Resolution a temporary program under which the $50 additional fine for any or all classes of vehicles is suspended for the time period specified in the Resolution. After that period, the Board will determine whether the additional fine policy will be discontinued, modified or continued and this Section will be amended to reflect that decision.

c) Upon failure of a registered owner of a vehicle to satisfy any toll, fine or fee resulting from a final order or orders of liability relating to 5 or more toll violations, the Authority shall notify the Secretary of State to suspend the registered owner's vehicle registration and/or driver's license.

1) A prerequisite to the suspension of vehicle registration and/or driver's license by the Secretary of State, under 625 ILCS 5/3-704.2 or 6-306.7,

shall be the submission to the Secretary of State, by the Authority, of a Certified Report containing the following information:

A) The name, last known address as recorded with the Secretary of State or, for a lessee of a cited vehicle, at the last address known to the lessor of the cited vehicle at the time of the lease, and the driver's license number of the person who failed to satisfy the final order of liability and the registration number of any vehicle known to be registered in this State to the person.

B) A statement that the Authority sent a notice of impending suspension of the person's driver's license, vehicle registration, or both, to the person named in the report at the address recorded with the Secretary of State, the date on which the notice was sent, and the address to which the notice was sent.

2) The person to whom the notice of impending suspension was sent may challenge the accuracy of the information contained in the Certified Report by submitting his/her challenges, within 21 days after the date of the notice, in writing, to:

The Illinois State Toll Highway Authority
ATTN: Violation Administration Center
2700 Ogden Avenue
Downers Grove, Illinois 60515

Challenges to the accuracy of the information contained in the Certified Report shall be limited to the following:

A) The person who received the notice was not the registered owner of the vehicle in question at the time of the alleged violations.

B) The person who received the notice has already paid the fine and any fees.

3) The Authority shall notify the Secretary of State whenever a person named in the Certified Report has satisfied the previously reported fines or penalties or whenever the Authority determines that the original report

was in error. Upon receipt of the Authority's notification, the Secretary of State shall terminate the suspension. (See 625 ILCS 5/6-306.7.)

4) In addition to any tolls, fines or fees assessed by the Authority for toll violations, the registered owner of the vehicle involved in the toll violations at issue shall be required to reimburse the Authority for all fees paid to the Illinois Secretary of State for the enforcement of this Section.

d) Upon failure of a registered owner of a vehicle to satisfy any toll, fine or fee resulting from a final order issued by the Authority relating directly or indirectly to 5 or more toll violations, any and all vehicles registered to the registered owner shall be subject to immobilization, towing and/or impoundment.

1) If the vehicle was immobilized, a sticker shall be affixed to the vehicle in a conspicuous space. The sticker shall state:

A) that the vehicle has been immobilized pursuant to Section 10(a-5) of the Toll Highway Act for non-payment of 5 or more toll violations;

B) that all immobilized vehicles are subject to immediate tow and impoundment;

C) the procedures for making payment to obtain release of the immobilization;

D) the procedures for contesting the immobilization; and

E) that any unauthorized attempt to remove the immobilizing device shall constitute a petty offense.

2) If the vehicle was towed and/or impounded, the Tollway shall notify the registered owner of the vehicle by First Class Mail or other means provided by law at the registered owner's address of record as recorded with the Secretary of State's vehicle registration records. The notification shall state:

A) that the vehicle has been towed and/or impounded pursuant to Section 10(a-5) of the Toll Highway Act for non-payment of 5 or more toll violations;

B) the entity that is currently storing the vehicle;

C) the procedures for making payment to obtain release of the towed and/or impounded vehicle;

D) the procedures for contesting the tow and/or impoundment; and

E) that the vehicle may be sold or otherwise disposed of in accordance with Section 4-208 of the Vehicle Code if the vehicle is not retrieved within 30 days after the date of the notification.

3) The registered owner may challenge the immobilization, tow and/or impoundment within 21 days after the date of the notification specified in subsection (d)(1) or (d)(2), in writing, to:

The Illinois State Toll Highway Authority
ATTN: Violation Administration Center
2700 Ogden Avenue
Downers Grove, Illinois 60515

4) Challenges to the immobilization, tow and/or impoundment of a vehicle shall follow the procedures set forth in this Subpart F.

5) If a hearing officer determines that the registered owner was not the registered owner of the vehicle in question at the time of the alleged violations or the registered owner has already paid the outstanding fines and fees, the hearing officer shall order the Authority to release the vehicle without any costs to the registered owner.

6) If a hearing officer determines that the registered owner was not the registered owner of the vehicle in question at the time of the alleged violations or the registered owner has not already paid the fines and any fees, the hearing officer may order the Authority to release the vehicle only upon payment in full to the Authority of any and all outstanding final order judgment totals plus all fees paid by the Authority relating to the

immobilization, tow, impoundment and/or storage of the registered owner's vehicle.

7) The Authority may contract with other public or private entities to carry out the provisions of this subsection (d). If the immobilization is performed by the State Police utilizing an Authority-owned immobilization device, an additional immobilization administrative release fee of $50 shall be applied. If the immobilization, tow and/or impoundment is performed by another public or private entity, the additional administrative release, tow and/or storage fees shall be set by contract between the Authority and the public or private entity.

8) Judicial review of all final orders of the Authority with respect to immobilized, towed or impounded vehicles shall be conducted in accordance with the Administrative Review Law.

(Source: Amended at 38 Ill. Reg. 4037, effective January 27, 2014)

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY 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 Emergency Action: Amend

4) Statutory Authority: 55 ILCS 5/5-1006

5) Effective Date of Emergency Rulemaking: January 22, 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 emergency amendment does not expire before the end of the 150 day period.

7) Date filed with the Index Department: January 22, 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: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130, invalidated Department rules that retailers had long relied upon to determine which locally-imposed sales taxes they were required to pay. In Illinois, retailers are subject to a variety of local occupation taxes imposed by municipalities, counties and special districts (e.g., transportation or business districts). Retailers incur taxes for sales made at the location where they are "engaged in the business of selling tangible personal property". Retailers generally collect reimbursement for their liability on these sales from their customers. These emergency rules fill the void left by the *Hartney* decision. They provide critical guidance so that retailers can determine where they are "engaged in the business of selling". The delay caused by the use of general rulemaking procedures puts retailers at risk of underpaying taxes and incurring large liabilities that they are not able to later recoup from their customers. Use of emergency rulemaking procedures minimizes this risk.

10) A Complete Description of the Subjects and Issues Involved: This emergency regulation 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130. The

emergency rule contains three basic parts. In subsection (b), the rule sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (c) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (d) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection". The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

11) Are there any proposed rulemakings pending on this Part? No

12) Statement of Statewide Policy Objective: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.

13) Information and questions regarding this emergency rulemaking 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 (ph)
312/814-4344 (fax)

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

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF 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
EMERGENCY
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.

Section 220.115 Jurisdictional Questions
EMERGENCY

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) Retailer's Selling Activities Determine Taxing Jurisdiction

1) 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"). 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, 381 Ill. 194, 199 (1942).

2) Illinois Supreme Court – Fact-specific Inquiry. The Illinois Supreme Court has held that 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) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(2) of this Section, 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.

c) Guidance on the Application of the Composite of Selling Activities Test to Common Selling Operations

1) In General. For most retailers, the jurisdiction in which they are engaged in the business of selling is not open to reasonable dispute because it is obvious where the most significant selling activities take place. Retailers engaged in common selling operations, with a clear location of predominant selling activities, constitute the vast majority of retailers in the State. Subsections (c)(2) through (c)(8) of this Section provide guidance on applying the fact-specific "composite of selling activities" test to common and longstanding selling operations.

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 jurisdiction 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 a 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) Long Term or Blanket Contracts

A) Under a long term blanket or master contract that is definite as to price and quantity, but must be implemented by the purchaser placing specific orders when goods are wanted, the location of the seller's place of business where subsequent specific orders are placed will determine where the seller is engaged in business for those orders.

B) The seller's place of engaging in the business of selling for long term blanket or master contracts that do not require the purchaser to place specific orders when goods are due shall be determined in accordance with subsections (d)(2) through (d)(4) of this Section.

5) 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.

6) 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.

7) 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.

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 Section.

8) Order Acceptance Not Doing Business in the County

A) Except as otherwise provided in subsections (c)(2) through (c)(7), acceptance of purchase orders for the sale of tangible personal property in a jurisdiction does not constitute engaging in the business of selling in the jurisdiction in which orders are accepted if the following conditions are met:

i) the seller has no other selling activity in the jurisdiction except receipt and acceptance of purchase orders;

ii) all orders for the purchase of tangible personal property are submitted to the seller in the jurisdiction by means of telephone or Internet; and

iii) the seller's employees or agents who accept purchase orders record information relayed by the customer (such as purchaser's name and address; price, type and quantity of items; and method of payment and delivery), but do not negotiate or exercise discretion on behalf of the seller.

B) The place of engaging in the business of selling for retailers who accept purchase orders in a jurisdiction and who meet the criteria set forth in subsection (c)(8)(A), shall be determined based on the composite of selling activities engaged in outside the jurisdiction in which purchase orders are accepted, in accordance with subsections (d)(2) through (d)(4).

d) Application of Composite of Selling Activities Test to Multi-Jurisdictional Intrastate Retailers

1) In General. Some sellers are engaged in retail operations with selling activities in multiple jurisdictions in Illinois that do not fall within any of the categories identified in subsection (c) of this Section. 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. The location of the selling activities most important to each retailer's business of selling dictates the jurisdiction where it is engaged in the business of selling.

2) Primary Factors. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions should consider the following selling activities to determine where they are engaged in the business of selling and, therefore, the correct taxing jurisdiction:

A) Location of officers, executives and employees with discretion to negotiate on behalf of, and to bind, the seller, Automatic Voting Machs. v. Daley, 409 Ill. 438, 440 (1951); Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); 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 62;

B) Location where offers are prepared and made, Automatic Voting Machs. v. Daley, 409 Ill. 438, 441, 452 (1951);

C) Location where purchase orders are accepted or other contracting actions that bind the seller to the sale are completed, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); and

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, Int'l-

Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 401, 406 (1st Dist. 1976); Chemed Corp., Inc. v. State, 186 Ill. App. 3d 402, 421-22 (4th Dist. 1989).

3) Secondary Factors. If, after consideration of the factors listed in subsection (d)(2) of this Section, the jurisdiction in which the seller is engaged in the business of selling is unclear, the following additional factors should be considered to resolve the issue:

A) Location where marketing and solicitation occur, Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62;

B) 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;

C) Location of the delivery of the property to the purchaser, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 323 (1943);

D) Location where title passes, Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); and

E) Location of the retailer's ordering, billing, accounts receivable and other administrative functions, Federal Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 68 (1968); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62.

4) Principles Underlying Determination of Seller's Location

A) When a retailer's selling activities are spread through multiple Illinois jurisdictions, and where the retailer is engaged in the business of selling presents a close question, the Department will evaluate the factors in subsections (d)(2) and (d)(3) of this Section in keeping with the principle that the retailer incurs local retailers' occupation tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection." Hartney Fuel Oil Co. v. Hamer, 2013 IL

115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)).

B) 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 identified in subsections (d)(2) and (d)(3).

~~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.~~

~~e) 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 by emergency rulemaking at 38 Ill. Reg. 4047, effective January 22, 2014, for a maximum of 150 days)

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY 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 — Emergency Action: Amend

4) Statutory Authority: 65 ILCS 5/8-11-1

5) Effective Date of Emergency Rulemaking: January 22, 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 emergency amendment will not expire before the end of the 150 day period.

7) Date filed with the Index Department: January 22, 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: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130, invalidated Department rules that retailers had long relied upon to determine which locally-imposed sales taxes they were required to pay. In Illinois, retailers are subject to a variety of local occupation taxes imposed by municipalities, counties and special districts (e.g., transportation or business districts). Retailers incur taxes for sales made at the location where they are "engaged in the business of selling tangible personal property." Retailers generally collect reimbursement for their liability on these sales from their customers. These emergency rules fill the void left by the *Hartney* decision. They provide critical guidance so that retailers can determine where they are "engaged in the business of selling." The delay caused by the use of general rulemaking procedures puts retailers at risk of underpaying taxes and incurring large liabilities that they are not able to later recoup from their customers. Use of emergency rulemaking procedures minimizes this risk.

10) A Complete Description of the Subjects and Issues Involved: This emergency regulation 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130. The

emergency rulemaking contains three basic parts. In subsection (a), the rule sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (b) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (c) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection". The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

11) Are there any proposed rulemakings pending on this Part? No

12) Statement of Statewide Policy Objective: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.

13) Information and questions regarding this emergency rulemaking 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 (ph)
312/814-4344 (fax)

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

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF 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
EMERGENCY
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.

Section 270.115 Jurisdictional Questions
EMERGENCY

a) Retailer's Selling Activities Determine Taxing Jurisdiction

1) The Home Rule Municipal Retailers' Occupation Tax Act [65 ILCS 5/8-11-0] 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 location where the local retailers' occupation tax is owed. Rather, it is the location 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"). By allowing the municipality 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 Singing Club v. McKibbin, 381 Ill. 194, 199 (1942).

2) Illinois Supreme Court – Fact-specific Inquiry. The Illinois Supreme Court has held that 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) Determination of Taxing Jurisdiction. Applying the provisions in subsections (a)(1) and (a)(2) of this Section, a seller incurs Home Rule Municipal Retailer's 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.

b) Guidance on the Application of the Composite of Selling Activities Test to Common Selling Operations

1) In General. For most retailers, the jurisdiction in which they are engaged in the business of selling is not open to reasonable dispute because it is obvious where the most significant selling activities take place. Retailers engaged in common selling operations, with a clear location of predominant selling activities, constitute the vast majority of retailers in the State. Subsections (b)(2) through (b)(8) of this Section provide guidance on applying the fact-specific "composite of selling activities" test to common and longstanding selling operations.

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 jurisdiction 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 a 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) Long Term or Blanket Contracts

A) Under a long term blanket or master contract that is definite as to price and quantity, but must be implemented by the purchaser placing specific orders when goods are wanted, the location of the seller's place of business where subsequent specific orders are placed will determine where the seller is engaged in business for those orders.

B) The seller's place of engaging in the business of selling for long term blanket or master contracts that do not require the purchaser to place specific orders when goods are due shall be determined in accordance with subsections (c)(2) through (c)(4) of this Section.

5) 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.

6) 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.

7) 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.

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 Section.

8) Order Acceptance Not Doing Business in the Municipality

A) Except as otherwise provided in subsections (b)(2) through (b)(7), acceptance of purchase orders for the sale of tangible personal property in a jurisdiction does not constitute engaging in the business of selling in the jurisdiction in which orders are accepted if the following conditions are met:

i) the seller has no other selling activity in the jurisdiction except receipt and acceptance of purchase orders;

ii) all orders for the purchase of tangible personal property are submitted to the seller in the jurisdiction by means of telephone or Internet; and

iii) the seller's employees or agents who accept purchase orders record information relayed by the customer (such as purchaser's name and address; price, type and quantity of items; and method of payment and delivery), but do not negotiate or exercise discretion on behalf of the seller.

B) The place of engaging in the business of selling for retailers who accept purchase orders in a jurisdiction and who meet the criteria set forth in subsection (b)(8)(A) shall be determined based on the composite of selling activities engaged in outside the jurisdiction in which purchase orders are accepted, in accordance with subsections (c)(2) through (c)(4).

c) Application of Composite of Selling Activities Test to Multi-Jurisdictional Intrastate Retailers

1) In General. Some sellers are engaged in retail operations with selling activities in multiple jurisdictions in Illinois that do not fall within any of the categories identified in subsection (b) of this Section. 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 municipality] to constitute it an occupation conducted in [that municipality]. . . . [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. The location of the selling activities most important to each retailer's business of selling dictates the jurisdiction where it is engaged in the business of selling.

2) Primary Factors. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions should consider the following selling activities to determine where they are engaged in the business of selling and, therefore, the correct taxing jurisdiction:

A) Location of officers, executives and employees with discretion to negotiate on behalf of, and to bind, the seller, Automatic Voting Machs. v. Daley, 409 Ill. 438, 440 (1951); Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); 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 62;

B) Location where offers are prepared and made, Automatic Voting Machs. v. Daley, 409 Ill. 438, 441, 452 (1951);

C) Location where purchase orders are accepted or other contracting actions that bind the seller to the sale are completed, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); and

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, Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 401, 406 (1st Dist. 1976); Chemed Corp., Inc. v. State, 186 Ill. App. 3d 402, 421-22 (4th Dist. 1989).

3) Secondary Factors. If, after consideration of the factors listed in subsection (d)(2) of this Section, the jurisdiction in which the seller is engaged in the business of selling is unclear, the following additional factors should be considered to resolve the issue:

A) Location where marketing and solicitation occur, Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62;

B) 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;

C) Location of the delivery of the property to the purchaser, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 323 (1943);

D) Location where title passes, Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); and

E) Location of the retailer's ordering, billing, accounts receivable and other administrative functions, Federal Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 68 (1968); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62.

4) Principles Underlying Determination of Seller's Location

A) When a retailer's selling activities are spread through multiple jurisdictions, and where the retailer is engaged in the business of selling presents a close question, the Department will evaluate the factors in subsections (c)(2) and (c)(3) of this Section in keeping with the principle that the retailer incurs local retailers' occupation tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection." Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)).

B) 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 identified in subsections (c)(2) and (c)(3).

~~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 vs. 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 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 by emergency rulemaking at 38 Ill. Reg. 4060, effective January 22, 2014, for a maximum of 150 days)

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY 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 — Emergency Action: Amendment

4) Statutory Authority: 70 ILCS 3615/4.03

5) Effective Date of Emergency Amendment: January 22, 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 emergency rulemaking will not expire before the end of the 150 day period.

7) Date filed with the Index Department: January 22, 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: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130, invalidated Department rules that retailers had long relied upon to determine which locally-imposed sales taxes they were required to pay. In Illinois, retailers are subject to a variety of local occupation taxes imposed by municipalities, counties and special districts (e.g., transportation or business districts). Retailers incur taxes for sales made at the location where they are "engaged in the business of selling tangible personal property". Retailers generally collect reimbursement for their liability on these sales from their customers. These emergency rules fill the void left by the *Hartney* decision. They provide critical guidance so that retailers can determine where they are "engaged in the business of selling". The delay caused by the use of general rulemaking procedures puts retailers at risk of underpaying taxes and incurring large liabilities that they are not able to later recoup from their customers. Use of emergency rulemaking procedures minimizes this risk.

10) A Complete Description of the Subjects and Issues Involved: 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130. The

emergency rule contains three basic parts. In subsection (a), the rule sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (b) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (c) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection". The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

11) Are there any proposed amendments to this Part pending? No

12) Statement of Statewide Policy Objectives: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.

13) Information and questions regarding this emergency rulemaking 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 (ph)
312/814-4344 (fax)

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

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF 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
EMERGENCY
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, effective July 26, 2010; emergency amendment at 38 Ill. Reg. 4073, effective January 22, 2014, for a maximum of 150 days.

Section 320.115 Jurisdictional Questions
EMERGENCY

a) Retailer's Selling Activities Determine Taxing Jurisdiction

1) 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"). By allowing the Authority to impose tax on retailers who conduct business in the metropolitan 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).

2) Illinois Supreme Court – Fact-specific Inquiry. The Illinois Supreme Court has held that 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) Determination of Taxing Jurisdiction. Applying the provisions in subsections (a)(1) and (a)(2) of this Section, a seller incurs Regional Transportation Authority Retailers' Occupation Tax in the metropolitan region if its predominant and most important selling activities take place in the metropolitan region. 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.

b) Guidance on the Application of the Composite of Selling Activities Test to Common Selling Operations

1) In General. For most retailers, the jurisdiction in which they are engaged in the business of selling is not open to reasonable dispute because it is obvious where the most significant selling activities take place. Retailers engaged in common selling operations, with a clear location of predominant selling activities, constitute the vast majority of retailers in the State. Subsections (b)(2) through (b) (8) of this Section provide guidance on applying the fact-specific "composite of selling activities" test to common and longstanding selling operations.

2) Over-the-counter Sales. When a person makes an over-the-counter sale of tangible personal property within 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 jurisdiction 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 a 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) Long Term or Blanket Contracts

A) Under a long term blanket or master contract that is definite as to price and quantity, but must be implemented by the purchaser placing specific orders when goods are wanted, the location of the seller's place of business where subsequent specific orders are placed will determine where the seller is engaged in business for those orders.

B) The seller's place of engaging in the business of selling for long term blanket or master contracts that do not require the purchaser to place specific orders when goods are due shall be determined in accordance with subsections (c)(2) through (c)(4) of this Section.

5) 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.

6) 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.

7) 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 within 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.

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 within 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 Section.

8) Order Acceptance Not Doing Business in the Jurisdiction of the Authority

A) Except as otherwise provided in subsections (b)(2) through (b)(7), acceptance of purchase orders for the sale of tangible personal property in a jurisdiction does not constitute engaging in the business of selling in the jurisdiction in which orders are accepted if the following conditions are met:

i) the seller has no other selling activity within the jurisdiction except receipt and acceptance of purchase orders;

ii) all orders for the purchase of tangible personal property are submitted to the seller within the jurisdiction by means of telephone or Internet; and

iii) the seller's employees or agents who accept purchase orders record information relayed by the customer (such as purchaser's name and address; price, type and quantity of items; and method of payment and delivery), but do not negotiate or exercise discretion on behalf of the seller.

B) The place of engaging in the business of selling for retailers who accept purchase orders within a jurisdiction and who meet the criteria set forth in subsection (b)(8)(A), shall be determined based on the composite of selling activities engaged in outside the jurisdiction in which purchase orders are accepted, in accordance with subsections (c)(2) through (c)(4).

c) Application of Composite of Selling Activities Test to Multi-Jurisdictional Intrastate Retailers

1) In General. Some sellers are engaged in retail operations with selling activities in multiple jurisdictions in Illinois that do not fall within any of the categories identified in subsection (b) of this Section. 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. The location of the selling activities most important to each retailer's business of selling dictates the jurisdiction where it is engaged in the business of selling.

2) Primary Factors. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions should consider the following selling activities to determine where they are engaged in the business of selling and, therefore, the correct taxing jurisdiction:

A) Location of officers, executives and employees with discretion to negotiate on behalf of, and to bind, the seller, Automatic Voting Machs. v. Daley, 409 Ill. 438, 440 (1951); Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); 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 62;

B) Location where offers are prepared and made, Automatic Voting Machs. v. Daley, 409 Ill. 438, 441, 452 (1951);

C) Location where purchase orders are accepted or other contracting actions that bind the seller to the sale are completed, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); and

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, Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 401, 406 (1st Dist. 1976); Chemed Corp., Inc. v. State, 186 Ill. App. 3d 402, 421-22 (4th Dist. 1989).

3) Secondary Factors. If, after consideration of the factors listed in subsection (c)(2) of this Section, the jurisdiction in which the seller is engaged in the business of selling is unclear, the following additional factors should be considered to resolve the issue:

A) Location where marketing and solicitation occur, Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62;

B) 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;

C) Location of the delivery of the property to the purchaser, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 323 (1943);

D) Location where title passes, Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); and

E) Location of the retailer's ordering, billing, accounts receivable and other administrative functions, Federal Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 68 (1968); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62.

4) Principles Underlying Determination of Seller's Location

A) When a retailer's selling activities are spread through multiple Illinois jurisdictions, and where the retailer is engaged in the business of selling presents a close question, the Department will evaluate the factors in subsections (c)(2) and (c)(3) of this Section in keeping with the principle that the retailer incurs local retailers' occupation taxes in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection." Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)).

B) 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 identified in subsections (c)(2) and (c)(3).

~~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 vs. 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 by emergency rulemaking at 38 Ill. Reg. 4073, effective January 22, 2014, for a maximum of 150 days)

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY 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 — Emergency Action: Amend

4) Statutory Authority: 70 ILCS 3610/5.01

5) Effective Date of Emergency Rulemaking: January 22, 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 emergency rulemaking does not expire before the end of the 150 day period.

7) Date filed with the Index Department: January 22, 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: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130, invalidated Department rules that retailers had long relied upon to determine which locally-imposed sales taxes they were required to pay. In Illinois, retailers are subject to a variety of local occupation taxes imposed by municipalities, counties and special districts (e.g., transportation or business districts). Retailers incur taxes for sales made at the location where they are "engaged in the business of selling tangible personal property". Retailers generally collect reimbursement for their liability on these sales from their customers. These emergency rules fill the void left by the *Hartney* decision. They provide critical guidance so that retailers can determine where they are "engaged in the business of selling". The delay caused by the use of general rulemaking procedures puts retailers at risk of underpaying taxes and incurring large liabilities that they are not able to later recoup from their customers. Use of emergency rulemaking procedures minimizes this risk.

10) A Complete Description of the Subjects and Issues Involved: This emergency regulation 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130. The

emergency rule contains three basic parts. In subsection (a), the rule sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (b) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (c) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection." The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

11) Are there any proposed rulemakings to this Part pending? No

12) Statement of Statewide Policy Objective: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.

14) Information and questions regarding this emergency rulemaking 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 (ph)
312/814-4344 (fax)

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

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF 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
EMERGENCY
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.

Section 370.115 Jurisdictional Questions
EMERGENCY

a) Retailer's Selling Activities Determine Taxing Jurisdiction

1) 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 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"). By allowing the District to impose tax on retailers who conduct business in the 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).

2) Illinois Supreme Court – Fact-specific Inquiry. The Illinois Supreme Court has held that 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) Determination of Taxing Jurisdiction. Applying the provisions in subsections (a)(1) and (a)(2) of this Section, 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.

b) Guidance on the Application of the Composite of Selling Activities Test to Common Selling Operations

1) In General. For most retailers, the jurisdiction in which they are engaged in the business of selling is not open to reasonable dispute because it is

obvious where the most significant selling activities take place. Retailers engaged in common selling operations, with a clear location of predominant selling activities, constitute the vast majority of retailers in the State. Subsections (b)(2) through (b)(8) of this Section provide guidance on applying the fact-specific "composite of selling activities" test to common and longstanding selling operations.

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) Long Term or Blanket Contracts

A) Under a long term blanket or master contract that is definite as to price and quantity, but must be implemented by the purchaser placing specific orders when goods are wanted, the location of the seller's place of business where subsequent specific orders are placed will determine where the seller is engaged in business for those orders.

B) The seller's place of engaging in the business of selling for long term blanket or master contracts that do not require the purchaser to place specific orders when goods are due shall be determined in accordance with subsections (c)(2) through (c)(4) of this Section.

5) 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.

6) 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.

7) 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.

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 Section.

8) Order Acceptance Not Doing Business in the District

A) Except as otherwise provided in subsections (b)(2) through (b)(7), acceptance of purchase orders for the sale of tangible personal property in a jurisdiction does not constitute engaging in the business of selling in the jurisdiction in which orders are accepted if the following conditions are met:

i) the seller has no other selling activity in the jurisdiction except receipt and acceptance of purchase orders;

ii) all orders for the purchase of tangible personal property are submitted to the seller in the jurisdiction by means of telephone or Internet; and

iii) the seller's employees or agents who accept purchase orders record information relayed by the customer (such as purchaser's name and address; price, type and quantity of items; and method of payment and delivery), but do not negotiate or exercise discretion on behalf of the seller.

B) The place of engaging in the business of selling for retailers who accept purchase orders in a jurisdiction and who meet the criteria set forth in subsection (c)(8)(A), shall be determined based on the composite of selling activities engaged in outside the jurisdiction in which purchase orders are accepted, in accordance with subsections (c)(2) through (c)(4).

c) Application of Composite of Selling Activities Test to Multi-Jurisdictional Intrastate Retailers

1) In General. Some sellers are engaged in retail operations with selling activities in multiple jurisdictions in Illinois that do not fall within any of the categories identified in subsection (b) of this Section. 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. The location of the selling activities most important to each retailer's business of selling dictates the jurisdiction where it is engaged in the business of selling.

2) Primary Factors. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions should consider the following selling activities to determine where they are engaged in the business of selling and, therefore, the correct taxing jurisdiction:

A) Location of officers, executives and employees with discretion to negotiate on behalf of, and to bind, the seller, Automatic Voting Machs. v. Daley, 409 Ill. 438, 440 (1951); Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); 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 62;

B) Location where offers are prepared and made, Automatic Voting Machs. v. Daley, 409 Ill. 438, 441, 452 (1951);

C) Location where purchase orders are accepted or other contracting actions that bind the seller to the sale are completed, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); and

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, Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 401, 406 (1st Dist. 1976); Chemed Corp., Inc. v. State, 186 Ill. App. 3d 402, 421-22 (4th Dist. 1989).

3) Secondary Factors. If, after consideration of the factors listed in subsection (d)(2) of this Section, the jurisdiction in which the seller is

engaged in the business of selling is unclear, the following additional factors should be considered to resolve the issue:

A) Location where marketing and solicitation occur, Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62;

B) 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;

C) Location of the delivery of the property to the purchaser, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 323 (1943);

D) Location where title passes, Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); and

E) Location of the retailer's ordering, billing, accounts receivable and other administrative functions, Federal Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 68 (1968); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62.

4) Principles Underlying Determination of Seller's Location

A) When a retailer's selling activities are spread through multiple Illinois jurisdictions, and where the retailer is engaged in the business of selling presents a close question, the Department will evaluate the factors in subsections (c)(2) and (c)(3) of this Section in keeping with the principle that the retailer incurs local retailers' occupation tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection." Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)).

B) 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 identified in subsections (c)(2) and (c)(3).

~~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.~~

~~e)~~ ~~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 vs. 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 by emergency rulemaking at 38 Ill. Reg. 4086, effective January 22, 2014, for a maximum of 150 days)

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Metro-East Park and Recreation District Retailer's Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 395

3) Section Number: 395.115 — Emergency Action: Amend

4) Statutory Authority: 70 ILCS 1605/15

5) Effective Date of Emergency Rulemaking: January 22, 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 emergency amendment will not expire before the end of the 150 day period.

7) Date filed with the Index Department: January 22, 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: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130, invalidated Department rules that retailers had long relied upon to determine which locally-imposed sales taxes they were required to pay. In Illinois, retailers are subject to a variety of local occupation taxes imposed by municipalities, counties and special districts (e.g., transportation or business districts). Retailers incur taxes for sales made at the location where they are "engaged in the business of selling tangible personal property". Retailers generally collect reimbursement for their liability on these sales from their customers. These emergency rules fill the void left by the *Hartney* decision. They provide critical guidance so that retailers can determine where they are "engaged in the business of selling". The delay caused by the use of general rulemaking procedures puts retailers at risk of underpaying taxes and incurring large liabilities that they are not able to later recoup from their customers. Use of emergency rulemaking procedures minimizes this risk.

10) A Complete Description of the Subjects and Issues Involved: 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130. The

emergency rulemaking contains three basic parts. In subsection (b), the rulemaking sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (c) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (d) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection." The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

11) Are there any proposed rulemakings pending on this Part? No

12) Statement of Statewide Policy Objective: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.

13 Information and questions regarding this emergency rulemaking 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 (ph)
312/814-4344 (fax)

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

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF 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
EMERGENCY
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.

Section 395.115 Jurisdictional Questions
EMERGENCY

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 [70 ILCS 1605/15].

b) Retailer's Selling Activities Determine Taxing Jurisdiction

1) The Metro-East Park and Recreation District Act authorizes the board of directors of the 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 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"). By allowing the District to impose tax on retailers who conduct business in the 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).

2) Illinois Supreme Court – Fact-specific Inquiry. The Illinois Supreme Court has held that 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) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(2) of this Section, a seller incurs Metro-East Park and Recreation District Retailers' Occupation Tax in the District 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.

c) Guidance on the Application of the Composite of Selling Activities Test to Common Selling Operations

1) In General. For most retailers, the jurisdiction in which they are engaged in the business of selling is not open to reasonable dispute because it is obvious where the most significant selling activities take place. Retailers engaged in common selling operations, with a clear location of predominant selling activities, constitute the vast majority of retailers in the State. Subsections (c)(2) through (c)(8) of this Section provide guidance on applying the fact-specific "composite of selling activities" test to common and longstanding selling operations.

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 jurisdiction 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 a 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) Long Term or Blanket Contracts

A) Under a long term blanket or master contract that is definite as to price and quantity, but must be implemented by the purchaser placing specific orders when goods are wanted, the location of the seller's place of business where subsequent specific orders are placed will determine where the seller is engaged in business for those orders.

B) The seller's place of engaging in the business of selling for long term blanket or master contracts that do not require the purchaser to place specific orders when goods are due shall be determined in accordance with subsections (d)(2) through (d)(4) of this Section.

5) 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.

6) 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.

7) 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.

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 Section.

8) Order Acceptance Not Doing Business in the District

A) Except as otherwise provided in subsections (c)(2) through (c)(7), acceptance of purchase orders for the sale of tangible personal property in a jurisdiction does not constitute engaging in the business of selling in the jurisdiction in which orders are accepted if the following conditions are met:

i) the seller has no other selling activity in the jurisdiction except receipt and acceptance of purchase orders;

ii) all orders for the purchase of tangible personal property are submitted to the seller in the jurisdiction by means of telephone or Internet; and

iii) the seller's employees or agents who accept purchase orders record information relayed by the customer (such as purchaser's name and address; price, type and quantity of items; and method of payment and delivery), but do not negotiate or exercise discretion on behalf of the seller.

B) The place of engaging in the business of selling for retailers who accept purchase orders in a jurisdiction and who meet the criteria set forth in subsection (c)(8)(A), shall be determined based on the composite of selling activities engaged in outside the jurisdiction in which purchase orders are accepted, in accordance with subsections (d)(2) through (d)(4).

d) Application of Composite of Selling Activities Test to Multi-Jurisdictional Intrastate Retailers

1) In General. Some sellers are engaged in retail operations with selling activities in multiple jurisdictions in Illinois that do not fall within any of the categories identified in subsection (c) of this Section. 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. The location of the selling activities most important to each retailer's business of selling dictates the jurisdiction where it is engaged in the business of selling.

2) Primary Factors. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions should consider the following selling activities to determine where they are engaged in the business of selling and, therefore, the correct taxing jurisdiction:

A) Location of officers, executives and employees with discretion to negotiate on behalf of, and to bind, the seller, Automatic Voting Machs. v. Daley, 409 Ill. 438, 440 (1951); Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); 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 62;

B) Location where offers are prepared and made, Automatic Voting Machs. v. Daley, 409 Ill. 438, 441, 452 (1951);

C) Location where purchase orders are accepted or other contracting actions that bind the seller to the sale are completed, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); and

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, Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 401, 406 (1st Dist. 1976); Chemed Corp., Inc. v. State, 186 Ill. App. 3d 402, 421-22 (4th Dist. 1989).

3) Secondary Factors. If, after consideration of the factors listed in subsection (d)(2) of this Section, the jurisdiction in which the seller is engaged in the business of selling is unclear, the following additional factors should be considered to resolve the issue:

A) Location where marketing and solicitation occur, Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62;

B) 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;

C) Location of the delivery of the property to the purchaser, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 323 (1943);

D) Location where title passes, Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); and

E) Location of the retailer's ordering, billing, accounts receivable and other administrative functions, Federal Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 68 (1968); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62.

4) Principles Underlying Determination of Seller's Location

A) When a retailer's selling activities are spread through multiple Illinois jurisdictions, and where the retailer is engaged in the business of selling presents a close question, the Department will evaluate the factors in subsections (d)(2) and (d)(3) of this Section in keeping with the principle that the retailer incurs local retailers' occupation tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection." Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)).

B) 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 identified in subsections (d)(2) and (d)(3).

~~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 by emergency rulemaking at 38 Ill. Reg. 4099, effective January 22, 2014, for a maximum of 150 days)

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY 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 Emergency Action: Amend

4) Statutory Authority: 70 ILCS 3720/4

5) Effective Date of Emergency Rulemaking: January 22, 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 emergency amendment will not expire before the end of the 150 day period.

7) Date filed with the Index Department: January 22, 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: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130, invalidated Department rules that retailers had long relied upon to determine which locally-imposed sales taxes they were required to pay. In Illinois, retailers are subject to a variety of local occupation taxes imposed by municipalities, counties and special districts (e.g., transportation or business districts). Retailers incur taxes for sales made at the location where they are "engaged in the business of selling tangible personal property". Retailers generally collect reimbursement for their liability on these sales from their customers. These emergency rules fill the void left by the *Hartney* decision. They provide critical guidance so that retailers can determine where they are "engaged in the business of selling". The delay caused by the use of general rulemaking procedures puts retailers at risk of underpaying taxes and incurring large liabilities that they are not able to later recoup from their customers. Use of emergency rulemaking procedures minimizes this risk.

10) A Complete Description of the Subjects and Issues Involved: This emergency regulation 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130. The

emergency rulemaking contains three basic parts. In subsection (a), the rule sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (b) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (c) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection". The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

11) Are there any proposed rulemakings pending on this Part? No

12) Statement of Statewide Policy Objective: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.

13) Information and questions regarding this emergency amendment shall be directed to:

Paul Berks
Deputy General Counsel
Illinois Department of Revenue
100 W. Randolph St. 7th Floor
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312/814-4680 (ph)
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The full text of the Emergency Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF 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
EMERGENCY
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.

Section 630.120 Jurisdictional Questions
EMERGENCY

a) Retailer's Selling Activities Determine Taxing Jurisdiction

1) 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"). By allowing the county water commission to impose tax on retailers who conduct business in the territory of the 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).

2) Illinois Supreme Court – Fact-specific Inquiry. The Illinois Supreme Court has held that 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) Determination of Taxing Jurisdiction. Applying the provisions in subsections (a)(1) and (a)(2) of this Section, 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.

b) Guidance on the Application of the Composite of Selling Activities Test to Common Selling Operations

1) In General. For most retailers, the jurisdiction in which they are engaged in the business of selling is not open to reasonable dispute because it is

obvious where the most significant selling activities take place. Retailers engaged in common selling operations, with a clear location of predominant selling activities, constitute the vast majority of retailers in the State. Subsections (b)(2) through (b)(8) of this Section provide guidance on applying the fact-specific "composite of selling activities" test to common and longstanding selling operations.

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 jurisdiction 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 a 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) Long Term or Blanket Contracts

A) Under a long term blanket or master contract that is definite as to price and quantity, but must be implemented by the purchaser placing specific orders when goods are wanted, the location of the seller's place of business where subsequent specific orders are placed will determine where the seller is engaged in business for those orders.

B) The seller's place of engaging in the business of selling for long term blanket or master contracts that do not require the purchaser to place specific orders when goods are due shall be determined in accordance with subsections (c)(2) through (c)(4) of this Section.

5) 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.

6) 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.

7) 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.

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 set forth in this Section.

8) Order Acceptance Not Doing Business in the Territory of a County Water Commission

A) Except as otherwise provided in subsections (b)(2) through (b)(7), acceptance of purchase orders for the sale of tangible personal property in a jurisdiction does not constitute engaging in the business of selling in the jurisdiction in which orders are accepted if the following conditions are met:

i) the seller has no other selling activity in the jurisdiction except receipt and acceptance of purchase orders;

ii) all orders for the purchase of tangible personal property are submitted to the seller in the jurisdiction by means of telephone or Internet; and

iii) the seller's employees or agents who accept purchase orders record information relayed by the customer (such as purchaser's name and address; price, type and quantity of items; and method of payment and delivery), but do not negotiate or exercise discretion on behalf of the seller.

B) The place of engaging in the business of selling for retailers who accept purchase orders in a jurisdiction and who meet the criteria set forth in subsection (b)(8)(A), shall be determined based on the composite of selling activities engaged in outside the jurisdiction in which purchase orders are accepted, in accordance with subsections (c)(2) through (c)(4).

c) Application of Composite of Selling Activities Test to Multi-Jurisdictional Intrastate Retailers

1) In General. Some sellers are engaged in retail operations with selling activities in multiple jurisdictions in Illinois that do not fall within any of the categories identified in subsection (b) of this Section. 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. The location of the selling activities most important to each retailer's business of selling dictates the jurisdiction where it is engaged in the business of selling.

2) Primary Factors. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions should consider the following selling activities to determine where they are engaged in the business of selling and, therefore, the correct taxing jurisdiction:

A) Location of officers, executives and employees with discretion to negotiate on behalf of, and to bind, the seller, Automatic Voting Machs. v. Daley, 409 Ill. 438, 440 (1951); Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); 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 62;

B) Location where offers are prepared and made, Automatic Voting Machs. v. Daley, 409 Ill. 438, 441, 452 (1951);

C) Location where purchase orders are accepted or other contracting actions that bind the seller to the sale are completed, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); and

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, Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 401, 406 (1st Dist. 1976); Chemed Corp., Inc. v. State, 186 Ill. App. 3d 402, 421-22 (4th Dist. 1989).

3) Secondary Factors. If, after consideration of the factors listed in subsection (c)(2) of this Section, the jurisdiction in which the seller is

engaged in the business of selling is unclear, the following additional factors should be considered to resolve the issue:

A) Location where marketing and solicitation occur, Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62;

B) 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;

C) Location of the delivery of the property to the purchaser, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 323 (1943);

D) Location where title passes, Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); and

E) Location of the retailer's ordering, billing, accounts receivable and other administrative functions, Federal Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 68 (1968); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62.

4) Principles Underlying Determination of Seller's Location

A) When a retailer's selling activities are spread through multiple Illinois jurisdictions, and where the retailer is engaged in the business of selling presents a close question, the Department will evaluate the factors in subsections (c)(2) and (c)(3) of this Section in keeping with the principle that the retailer incurs local retailers' occupation tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection." Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)).

B) 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 identified in subsections (c)(2) and (c)(3).

~~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.~~

~~e)~~ ~~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 Retailers' 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 by emergency rulemaking at 38 Ill. Reg. 4112, effective January 22, 2014, for a maximum of 150 days)

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY 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 Emergency Action: Amend

4) Statutory Authority: 55 ILCS 5/5-1006.5

5) Effective Date of Emergency Rulemaking: January 22, 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 emergency amendment will not expire before the end of the 150 day period.

7) Date filed with the Index Department: January 22, 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: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130, invalidated Department rules that retailers had long relied upon to determine which locally-imposed sales taxes they were required to pay. In Illinois, retailers are subject to a variety of local occupation taxes imposed by municipalities, counties and special districts (e.g., transportation or business districts). Retailers incur taxes for sales made at the location where they are "engaged in the business of selling tangible personal property". Retailers generally collect reimbursement for their liability on these sales from their customers. These emergency rules fill the void left by the *Hartney* decision. They provide critical guidance so that retailers can determine where they are "engaged in the business of selling". The delay caused by the use of general rulemaking procedures puts retailers at risk of underpaying taxes and incurring large liabilities that they are not able to later recoup from their customers. Use of emergency rulemaking procedures minimizes this risk.

10) A Complete Description of the Subjects and Issues Involved: This emergency 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL

115130. The emergency rulemaking contains three basic parts. In subsection (b), the rule sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (c) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (d) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection". The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

11) Are there any proposed rulemakings pending on this Part? No

12) Statement of Statewide Policy Objective: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.

13) Information and questions regarding this emergency rulemaking 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 (ph)
312/814-4344 (fax)

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

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF 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
EMERGENCY
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 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.

Section 670.115 Jurisdictional Questions
EMERGENCY

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) Retailer's Selling Activities Determine Taxing Jurisdiction

1) The Special County 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"). By allowing the county to impose tax on retailers who conduct business in the county, the Special County 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).

2) Illinois Supreme Court – Fact-specific Inquiry. The Illinois Supreme Court has held that 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) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(2) 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.

c) Guidance on the Application of the Composite of Selling Activities Test to Common Selling Operations

1) In General. For most retailers, the jurisdiction in which they are engaged in the business of selling is not open to reasonable dispute because it is obvious where the most significant selling activities take place. Retailers engaged in common selling operations, with a clear location of predominant selling activities, constitute the vast majority of retailers in the State. Subsections (c)(2) through (c)(8) of this Section provide guidance on applying the fact-specific "composite of selling activities" test to common and longstanding selling operations.

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 jurisdiction 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 a 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) Long Term or Blanket Contracts

A) Under a long term blanket or master contract that is definite as to price and quantity, but must be implemented by the purchaser placing specific orders when goods are wanted, the location of the seller's place of business where subsequent specific orders are placed will determine where the seller is engaged in business for those orders.

B) The seller's place of engaging in the business of selling for long term blanket or master contracts that do not require the purchaser to place specific orders when goods are due shall be determined in accordance with subsections (d)(2) through (d)(4) of this Section.

5) 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.

6) 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.

7) 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.

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 Section.

8) Order Acceptance Not Doing Business in the County

A) Except as otherwise provided in subsections (c)(2) through (c)(7), acceptance of purchase orders for the sale of tangible personal property in a jurisdiction does not constitute engaging in the business of selling in the jurisdiction in which orders are accepted if the following conditions are met:

i) the seller has no other selling activity in the jurisdiction except receipt and acceptance of purchase orders;

ii) all orders for the purchase of tangible personal property are submitted to the seller in the jurisdiction by means of telephone or Internet; and

iii) the seller's employees or agents who accept purchase orders record information relayed by the customer (such as purchaser's name and address; price, type and quantity of items; and method of payment and delivery), but do not negotiate or exercise discretion on behalf of the seller.

B) The place of engaging in the business of selling for retailers who accept purchase orders in a jurisdiction and who meet the criteria set forth in subsection (c)(8)(A), shall be determined based on the composite of selling activities engaged in outside the jurisdiction in which purchase orders are accepted, in accordance with subsections (d)(2) through (d)(4).

d) Application of Composite of Selling Activities Test to Multi-Jurisdictional Intrastate Retailers

1) In General. Some sellers are engaged in retail operations with selling activities in multiple jurisdictions in Illinois that do not fall within any of the categories identified in subsection (c) of this Section. 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. The location of the selling activities most important to each retailer's business of selling dictates the jurisdiction where it is engaged in the business of selling.

2) Primary Factors. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions should consider the following selling activities to determine where they are engaged in the business of selling and, therefore, the correct taxing jurisdiction:

A) Location of officers, executives and employees with discretion to negotiate on behalf of, and to bind, the seller, Automatic Voting Machs. v. Daley, 409 Ill. 438, 440 (1951); Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); 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 62;

B) Location where offers are prepared and made, Automatic Voting Machs. v. Daley, 409 Ill. 438, 441, 452 (1951);

C) Location where purchase orders are accepted or other contracting actions that bind the seller to the sale are completed, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); and

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, Int'l-

Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 401, 406 (1st Dist. 1976); Chemed Corp., Inc. v. State, 186 Ill. App. 3d 402, 421-22 (4th Dist. 1989).

3) Secondary Factors. If, after consideration of the factors listed in subsection (d)(2) of this Section, the jurisdiction in which the seller is engaged in the business of selling is unclear, the following additional factors should be considered to resolve the issue:

A) Location where marketing and solicitation occur, Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62;

B) 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;

C) Location of the delivery of the property to the purchaser, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 323 (1943);

D) Location where title passes, Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); and

E) Location of the retailer's ordering, billing, accounts receivable and other administrative functions, Federal Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 68 (1968); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62.

4) Principles Underlying Determination of Seller's Location

A) When a retailer's selling activities are spread through multiple Illinois jurisdictions, and where the retailer is engaged in the business of selling presents a close question, the Department will evaluate the factors in subsections (d)(2) and (d)(3) of this Section in keeping with the principle that the retailer incurs local retailers' occupation tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection." Hartney Fuel Oil Co. v. Hamer, 2013 IL

115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)).

B) 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 identified in subsections (d)(2) and (d)(3).

~~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.~~

~~e) 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 by emergency rulemaking at 38 Ill. Reg. 4125, effective January 22, 2014, for a maximum of 150 days)

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY 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 — Emergency Action: Amend

4) Statutory Authority: 70 ILCS 200/245-12

5) Effective Date of Emergency Rulemaking: January 22, 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 emergency amendment will not expire before the end of the 150 day period.

7) Date filed with the Index Department: January 22, 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: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130, invalidated Department rules that retailers had long relied upon to determine which locally-imposed sales taxes they were required to pay. In Illinois, retailers are subject to a variety of local occupation taxes imposed by municipalities, counties and special districts (e.g., transportation or business districts). Retailers incur taxes for sales made at the location where they are "engaged in the business of selling tangible personal property". Retailers generally collect reimbursement for their liability on these sales from their customers. These emergency rules fill the void left by the *Hartney* decision. They provide critical guidance so that retailers can determine where they are "engaged in the business of selling". The delay caused by the use of general rulemaking procedures puts retailers at risk of underpaying taxes and incurring large liabilities that they are not able to later recoup from their customers. Use of emergency rulemaking procedures minimizes this risk.

10) A Complete Description of the Subjects and Issues Involved: This emergency regulation 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130. The

emergency rule contains three basic parts. In subsection (b), the rule sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (c) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (d) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection". The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

11) Are there any other proposed rulemakings to this Part pending? No

12) Statement of Statewide Policy Objective: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.

15) Information and questions regarding this emergency rulemaking 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 Emergency Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY 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
EMERGENCY
690.120 Incorporation of Retailers' Occupation Tax Regulations by Reference
690.125 Penalties, Interest and Procedures
690.130 Effective Date

AUTHORITY: Implementing Section 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.

Section 690.115 Jurisdictional Questions
EMERGENCY

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) Retailer's Selling Activities Determine Taxing Jurisdiction

1) The Special Salem Civic Center Use and Occupation Tax Law [70 ILCS 200/Art. 245] 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"). By allowing the Authority to impose tax on retailers who conduct business in the metropolitan area, the Salem Civic Center Use and Occupation 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).

2) Illinois Supreme Court – Fact-specific Inquiry. The Illinois Supreme Court has held that 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) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(2) of this Section, a seller incurs Salem Civic Center Retailers' Occupation Tax if its predominant and most important selling activities take place in the metropolitan area. 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.

c) Guidance on the Application of the Composite of Selling Activities Test to Common Selling Operations

1) In General. For most retailers, the jurisdiction in which they are engaged in the business of selling is not open to reasonable dispute because it is obvious where the most significant selling activities take place. Retailers engaged in common selling operations, with a clear location of predominant selling activities, constitute the vast majority of retailers in the State. Subsections (c)(2) through (c)(8) of this Section provide guidance on applying the fact-specific "composite of selling activities" test to common and longstanding selling operations.

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 jurisdiction 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 a 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) Long Term or Blanket Contracts

A) Under a long term blanket or master contract that is definite as to price and quantity, but must be implemented by the purchaser placing specific orders when goods are wanted, the location of the seller's place of business where subsequent specific orders are placed will determine where the seller is engaged in business for those orders.

B) The seller's place of engaging in the business of selling for long term blanket or master contracts that do not require the purchaser to place specific orders when goods are due shall be determined in accordance with subsections (d)(2) through (d)(4) of this Section.

5) 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.

6) 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.

7) 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.

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 Section.

8) Order Acceptance Not Doing Business in the Metropolitan Area

A) Except as otherwise provided in subsections (c)(2) through (c)(7), acceptance of purchase orders for the sale of tangible personal property in a jurisdiction does not constitute engaging in the business of selling in the jurisdiction in which orders are accepted if the following conditions are met:

i) the seller has no other selling activity in the jurisdiction except receipt and acceptance of purchase orders;

ii) all orders for the purchase of tangible personal property are submitted to the seller in the jurisdiction by means of telephone or Internet; and

iii) the seller's employees or agents who accept purchase orders record information relayed by the customer (such as purchaser's name and address; price, type and quantity of items; and method of payment and delivery), but do not negotiate or exercise discretion on behalf of the seller.

B) The place of engaging in the business of selling for retailers who accept purchase orders in a jurisdiction and who meet the criteria set forth in subsection (c)(8)(A), shall be determined based on the composite of selling activities engaged in outside the jurisdiction in which purchase orders are accepted, in accordance with subsections (d)(2) through (d)(4).

d) Application of Composite of Selling Activities Test to Multi-Jurisdictional Intrastate Retailers

1) In General. Some sellers are engaged in retail operations with selling activities in multiple jurisdictions in Illinois that do not fall within any of the categories identified in subsection (c) of this Section. 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. The location of the selling activities most important to each retailer's business of selling dictates the jurisdiction where it is engaged in the business of selling.

2) Primary Factors. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions should consider the following selling activities to determine where they are engaged in the business of selling and, therefore, the correct taxing jurisdiction:

A) Location of officers, executives and employees with discretion to negotiate on behalf of, and to bind, the seller, Automatic Voting Machs. v. Daley, 409 Ill. 438, 440 (1951); Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); 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 62;

B) Location where offers are prepared and made, Automatic Voting Machs. v. Daley, 409 Ill. 438, 441, 452 (1951);

C) Location where purchase orders are accepted or other contracting actions that bind the seller to the sale are completed, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); and

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, Int'l-

Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 401, 406 (1st Dist. 1976); Chemed Corp., Inc. v. State, 186 Ill. App. 3d 402, 421-22 (4th Dist. 1989).

3) Secondary Factors. If, after consideration of the factors listed in subsection (d)(2) of this Section, the jurisdiction in which the seller is engaged in the business of selling is unclear, the following additional factors should be considered to resolve the issue:

A) Location where marketing and solicitation occur, Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62;

B) 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;

C) Location of the delivery of the property to the purchaser, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 323 (1943);

D) Location where title passes, Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); and

E) Location of the retailer's ordering, billing, accounts receivable and other administrative functions, Federal Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 68 (1968); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62.

4) Principles Underlying Determination of Seller's Location

A) When a retailer's selling activities are spread through multiple Illinois jurisdictions, and where the retailer is engaged in the business of selling presents a close question, the Department will evaluate the factors in subsections (d)(2) and (d)(3) of this Section in keeping with the principle that the retailer incurs local retailers' occupation tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection." Hartney Fuel Oil Co. v. Hamer, 2013 IL

115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)).

B) 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 identified in subsections (d)(2) and (d)(3).

~~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). 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 by emergency rulemaking at 38 Ill. Reg. 4138, effective January 22, 2014, for a maximum of 150 days)

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY 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 — Emergency Action: Amend

4) Statutory Authority: 65 ILCS 5/8-11-1.3

5) Effective Date of Emergency Rulemaking: January 22, 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 emergency amendment will not expire before the end of the 150 day period.

7) Date filed with the Index Department: January 22, 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: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130, invalidated Department rules that retailers had long relied upon to determine which locally-imposed sales taxes they were required to pay. In Illinois, retailers are subject to a variety of local occupation taxes imposed by municipalities, counties and special districts (e.g., transportation or business districts). Retailers incur taxes for sales made at the location where they are "engaged in the business of selling tangible personal property." Retailers generally collect reimbursement for their liability on these sales from their customers. This rulemaking fills the void left by the *Hartney* decision and provides critical guidance so that retailers can determine where they are "engaged in the business of selling". The delay caused by the use of general rulemaking procedures puts retailers at risk of underpaying taxes and incurring large liabilities that they are not able to later recoup from their customers. Use of emergency rulemaking procedures minimizes this risk.

10) A Complete Description of the Subjects and Issues Involved: 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130. The

emergency rulemaking contains three basic parts. In subsection (b), it sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (c) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (d) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rulemaking provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection". The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

11) Are there any proposed rulemakings pending on this Part? No

12) Statement of Statewide Policy Objective: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.

13) Information and questions regarding this emergency rulemaking 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 (ph)
312/814-4344 (fax)

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

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF 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
EMERGENCY
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.

Section 693.115 Jurisdictional Questions
EMERGENCY

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) Retailer's Selling Activities Determine Taxing Jurisdiction

1) The Non-Home Rule Municipal Retailers' Occupation Tax Act [65 ILCS 5] 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"). 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).

2) Illinois Supreme Court – Fact-specific Inquiry. The Illinois Supreme Court has held that 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) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(2) of this Section, 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.

c) Guidance on the Application of the Composite of Selling Activities Test to Common Selling Operations

1) In General. For most retailers, the jurisdiction in which they are engaged in the business of selling is not open to reasonable dispute because it is obvious where the most significant selling activities take place. Retailers engaged in common selling operations, with a clear location of predominant selling activities, constitute the vast majority of retailers in the State. Subsections (c)(2) through (c)(8) of this Section provide guidance on applying the fact-specific "composite of selling activities" test to common and longstanding selling operations.

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 jurisdiction 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 a 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) Long Term or Blanket Contracts

A) Under a long term blanket or master contract that is definite as to price and quantity, but must be implemented by the purchaser placing specific orders when goods are wanted, the location of the seller's place of business where subsequent specific orders are placed will determine where the seller is engaged in business for those orders.

B) The seller's place of engaging in the business of selling for long term blanket or master contracts that do not require the purchaser to place specific orders when goods are due shall be determined in accordance with subsections (d)(2) through (d)(4) of this Section.

5) 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.

6) 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.

7) 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.

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 the 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 Section.

8) Order Acceptance Not Doing Business in the Municipality

A) Except as otherwise provided in subsections (c)(2) through (c)(7), acceptance of purchase orders for the sale of tangible personal property in a jurisdiction does not constitute engaging in the business of selling in the jurisdiction in which orders are accepted if the following conditions are met:

i) the seller has no other selling activity in the jurisdiction except receipt and acceptance of purchase orders;

ii) all orders for the purchase of tangible personal property are submitted to the seller in the jurisdiction by means of telephone or Internet; and

iii) the seller's employees or agents who accept purchase orders record information relayed by the customer (such as purchaser's name and address; price, type and quantity of items; and method of payment and delivery), but do not negotiate or exercise discretion on behalf of the seller.

B) The place of engaging in the business of selling for retailers who accept purchase orders in a jurisdiction and who meet the criteria set forth in subsection (c)(8)(A), shall be determined based on the composite of selling activities engaged in outside the jurisdiction in which purchase orders are accepted, in accordance with subsections (d)(2) through (d)(4).

d) Application of Composite of Selling Activities Test to Multi-Jurisdictional Intrastate Retailers

1) In General. Some sellers are engaged in retail operations with selling activities in multiple jurisdictions in Illinois that do not fall within any of the categories identified in subsection (c) of this Section. 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. The location of the selling activities most important to each retailer's business of selling dictates the jurisdiction where it is engaged in the business of selling.

2) Primary Factors. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions should consider the following selling activities to determine where they are engaged in the business of selling and, therefore, the correct taxing jurisdiction:

A) Location of officers, executives and employees with discretion to negotiate on behalf of, and to bind, the seller, Automatic Voting Machs. v. Daley, 409 Ill. 438, 440 (1951); Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); 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 62;

B) Location where offers are prepared and made, Automatic Voting Machs. v. Daley, 409 Ill. 438, 441, 452 (1951);

C) Location where purchase orders are accepted or other contracting actions that bind the seller to the sale are completed, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); and

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, Int'l-

Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 401, 406 (1st Dist. 1976); Chemed Corp., Inc. v. State, 186 Ill. App. 3d 402, 421-22 (4th Dist. 1989).

3) Secondary Factors. If, after consideration of the factors listed in subsection (d)(2) of this Section, the jurisdiction in which the seller is engaged in the business of selling is unclear, the following additional factors should be considered to resolve the issue:

A) Location where marketing and solicitation occur, Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62;

B) 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;

C) Location of the delivery of the property to the purchaser, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 323 (1943);

D) Location where title passes, Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); and

E) Location of the retailer's ordering, billing, accounts receivable and other administrative functions, Federal Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 68 (1968); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62.

4) Principles Underlying Determination of Seller's Location

A) When a retailer's selling activities are spread through multiple Illinois jurisdictions, and where the retailer is engaged in the business of selling presents a close question, the Department will evaluate the factors in subsections (d)(2) and (d)(3) of this Section in keeping with the principle that the retailer incurs local retailers' occupation tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection." Hartney Fuel Oil Co. v. Hamer, 2013 IL

115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)).

B) 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 identified in subsections (d)(2) and (d)(3).

~~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) 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 by emergency rulemaking at 38 Ill. Reg. 4151, effective January 22, 2014, for a maximum of 150 days)

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: County Motor Fuel Tax

2) Code Citation: 86 Ill. Adm. Code 695

3) Section Number: 695.115 Emergency Action: Amend

4) Statutory Authority: 55 ILCS 5/5-1035.1

5) Effective Date of Emergency Rulemaking: January 22, 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 emergency amendment will not expire before the end of the 150 day period.

7) Date filed with the Index Department: January 22, 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: On November 21, 2013, the Illinois Supreme Court, in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130, invalidated Department rules that retailers had long relied upon to determine which locally-imposed sales taxes they were required to pay. In Illinois, retailers are subject to a variety of local occupation taxes imposed by municipalities, counties and special districts (e.g., transportation or business districts). Retailers incur taxes for sales made at the location where they are "engaged in the business of selling tangible personal property". Retailers generally collect reimbursement for their liability on these sales from their customers. These emergency rules fill the void left by the *Hartney* decision. They provide critical guidance so that retailers can determine where they are "engaged in the business of selling". The delay caused by the use of general rulemaking procedures puts retailers at risk of underpaying taxes and incurring large liabilities that they are not able to later recoup from their customers. Use of emergency rulemaking procedures minimizes this risk.

10) A Complete Description of the Subjects and Issues Involved: This emergency regulation 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 current regulation governing local jurisdictional issues was invalidated by the Illinois Supreme Court in *Hartney Fuel Oil Co. v. Hamer,* 2013 IL 115130. The

emergency rule contains three basic parts. In subsection (b), the rule sets out three core principles underlying determinations for local occupation tax sourcing. As the court in *Hartney* emphasized, a fact-intensive inquiry into the composite of activities that comprise a retailer's business must be analyzed. Subsection (c) applies these principles to commonly occurring types of retail transactions, thereby providing guidance to the vast majority of retailers operating in Illinois. Subsection (d) then applies these principles to retailers that engage in selling activities in multiple jurisdictions. This subsection establishes several primary factors to be used in determining local occupation tax sourcing, as well as several secondary factors to be used when the primary factors, alone, are not dispositive. It also sets out guidance to be used when a determination is very close, due to the fact that a retailer's activities are spread throughout so many jurisdictions. In this case, the rule provides that the Department will evaluate all the factors in keeping with the principle articulated in *Hartney* that a retailer incurs tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection". The regulation reiterates *Hartney's* emphasis on the Department's ability to look through the form of a putatively multijurisdictional transaction to its substance in determining where enough of the business of selling takes place to subject it to local occupation taxes.

11) Are there any proposed rulemakings pending on this Part? No

12) Statement of Statewide Policy Objective: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.

13) Information and questions regarding this emergency rulemaking 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 Emergency Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY 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
EMERGENCY
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.

Section 695.115 Jurisdictional Questions
EMERGENCY

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) Retailer's Selling Activities Determine Taxing Jurisdiction

1) The County Motor Fuel Tax Law authorizes the county board of the counties of DuPage, Kane and McHenry counties 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 local 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"). By allowing the county 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).

2) Illinois Supreme Court – Fact-specific Inquiry. The Illinois Supreme Court has held that 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) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(2) of this Section, 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.

c) Guidance on the Application of the Composite of Selling Activities Test to Common Selling Operations

1) In General. For most retailers, the jurisdiction in which they are engaged in the business of selling is not open to reasonable dispute because it is obvious where the most significant selling activities take place. Retailers engaged in common selling operations, with a clear location of predominant selling activities, constitute the vast majority of retailers in the State. Subsections (c)(2) through (c)(8) of this Section provide guidance on applying the fact-specific "composite of selling activities" test to common and longstanding selling operations.

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 jurisdiction 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 a 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) Long Term or Blanket Contracts

A) Under a long term blanket or master contract that is definite as to price and quantity, but must be implemented by the purchaser placing specific orders when goods are wanted, the location of the seller's place of business where subsequent specific orders are placed will determine where the seller is engaged in business for those orders.

B) The seller's place of engaging in the business of selling for long term blanket or master contracts that do not require the purchaser to place specific orders when goods are due shall be determined in accordance with subsections (d)(2) through (d)(4) of this Section.

5) 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.

6) 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.

7) 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.

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 set forth in this Section.

8) Order Acceptance Not Doing Business in the County

A) Except as otherwise provided in subsections (c)(2) through (c)(7), acceptance of purchase orders for the sale of tangible personal property in a jurisdiction does not constitute engaging in the business of selling in the jurisdiction in which orders are accepted if the following conditions are met:

i) the seller has no other selling activity in the jurisdiction except receipt and acceptance of purchase orders;

ii) all orders for the purchase of tangible personal property are submitted to the seller in the jurisdiction by means of telephone or Internet; and

iii) the seller's employees or agents who accept purchase orders record information relayed by the customer (such as purchaser's name and address; price, type and quantity of items; and method of payment and delivery), but do not negotiate or exercise discretion on behalf of the seller.

B) The place of engaging in the business of selling for retailers who accept purchase orders in a jurisdiction and who meet the criteria set forth in subsection (c)(8)(A), shall be determined based on the composite of selling activities engaged in outside the jurisdiction in which purchase orders are accepted, in accordance with subsections (d)(2) through (d)(4).

d) Application of Composite of Selling Activities Test to Multi-Jurisdictional Intrastate Retailers

1) In General. Some sellers are engaged in retail operations with selling activities in multiple jurisdictions in Illinois that do not fall within any of the categories identified in subsection (c) of this Section. 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. The location of the selling activities most important to each retailer's business of selling dictates the jurisdiction where it is engaged in the business of selling.

2) Primary Factors. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions should consider the following selling activities to determine where they are engaged in the business of selling and, therefore, the correct taxing jurisdiction:

A) Location of officers, executives and employees with discretion to negotiate on behalf of, and to bind, the seller, Automatic Voting Machs. v. Daley, 409 Ill. 438, 440 (1951); Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); 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 62;

B) Location where offers are prepared and made, Automatic Voting Machs. v. Daley, 409 Ill. 438, 441, 452 (1951);

C) Location where purchase orders are accepted or other contracting actions that bind the seller to the sale are completed, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); and

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, Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 401, 406 (1st Dist. 1976); Chemed Corp., Inc. v. State, 186 Ill. App. 3d 402, 421-22 (4th Dist. 1989).

3) Secondary Factors. If, after consideration of the factors listed in subsection (d)(2) of this Section, the jurisdiction in which the seller is engaged in the business of selling is unclear, the following additional factors should be considered to resolve the issue:

A) Location where marketing and solicitation occur, Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62;

B) 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;

C) Location of the delivery of the property to the purchaser, Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 323 (1943);

D) Location where title passes, Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); and

E) Location of the retailer's ordering, billing, accounts receivable and other administrative functions, Federal Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 68 (1968); Automatic Voting Machs. v. Daley, 409 Ill. 438, 452 (1951); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 62.

4) Principles Underlying Determination of Seller's Location

A) When a retailer's selling activities are spread through multiple Illinois jurisdictions, and where the retailer is engaged in the business of selling presents a close question, the Department will evaluate the factors in subsections (d)(2) and (d)(3) of this Section in keeping with the principle that the retailer incurs local retailers' occupation tax in the jurisdiction where it "enjoyed the greater part of governmental protection [and] benefitted by being conducted under that protection." Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)).

B) 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 identified in subsections (d)(2) and (d)(3).

~~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 by emergency rulemaking at 38 Ill. Reg. 4164, effective January 22, 2014, for a maximum of 150 days)

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

1) Heading of the Part: Meat and Poultry Inspection Act

2) Code Citation: 8 Ill. Adm. Code 125

3)

Section Numbers:	Proposed Action:
125.100	Amend
125.142	Amend
125.144	Amend
125.149	New
125.260	Amend
125.270	Amend
125.380	Amend

4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute that Requires this Peremptory Rulemaking: The Meat and Poultry Inspection Act [225 ILCS 650]; the federal Meat Inspection Act (21 USCA 661); the federal Poultry Products Inspection Act (21 USCA 454); and 78 FR 66826 (2013).

5) Statutory Authority: The Meat and Poultry Inspection Act [225 ILCS 650]

6) Effective Date: February 1, 2014

7) A Complete Description of the Subjects and Issues Involved: In order to maintain an "equal to" status with the federal meat and poultry products inspection program as required by the federal Meat Inspection Act and the federal Poultry Products Inspection Act and as required by Section 16 of the Meat and Poultry Inspection Act, the Department is adopting this rulemaking.

The Food Safety and Inspection Service (FSIS) is amending the meat and poultry products inspection regulations to expand the circumstances in which FSIS will generically approve the labels of meat and poultry products. The Agency also is consolidating the regulations that provide for the approval of labels for meat products and poultry products into a new Code of Federal Regulations (CFR) part.

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

9) Date Filed with the Index Department: January 24, 2014

10) A copy of the peremptory amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

11) These peremptory amendments are in compliance with Section 5-150 of the Illinois Administrative Procedure Act.

12) Are there any other proposed rulemakings pending to this Part? No

13) Statement of Statewide Policy Objective: These peremptory amendments do not affect units of local government.

14) Information and questions regarding this peremptory rulemaking shall be directed to:

Linda Rhodes
Illinois Department of Agriculture
State Fairgrounds, P. O. Box 19281
Springfield IL 62794-9281

217/785-5713
217/785-4505 (fax)

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

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER c: MEAT AND POULTRY INSPECTION ACT

PART 125
MEAT AND POULTRY INSPECTION ACT

SUBPART A: GENERAL PROVISIONS FOR BOTH
MEAT AND/OR POULTRY INSPECTION

Section
125.10 Definitions
125.20 Incorporation by Reference of Federal Rules
125.30 Application for License; Approval
125.40 Official Number
125.50 Inspections; Suspension or Revocation of License
125.60 Administrative Hearings; Appeals (Repealed)
125.70 Assignment and Authority of Program Employees
125.80 Schedule of Operations; Overtime
125.90 Official Marks of Inspection, Devices and Certificates
125.100 Records and Reports
125.110 Exemptions
125.120 Disposal of Dead Animals and Poultry
125.130 Reportable Animal and Poultry Diseases
125.140 Detention; Seizure; Condemnation
125.141 Sanitation Standard Operating Procedures (SOP's)
125.142 Hazard Analysis and Critical Control Point (HACCP) Systems
125.143 Imported Products
125.144 Preparation and Processing Operations
125.145 Control of Listeria Monocytogenes in Ready-to-Eat Meat and Poultry Products
125.146 Consumer Protection Standards: Raw Products
125.147 Rules of Practice
125.148 Quantity of Contents Labeling and Procedures and Requirements for Accurate Weights
125.149 Label Approval

SUBPART B: MEAT INSPECTION

Section
125.150 Livestock and Meat Products Entering Official Establishments

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

125.160 Equine and Equine Products
125.170 Facilities for Inspection
125.180 Sanitation (Repealed)
125.190 Ante-Mortem Inspection
125.200 Post-Mortem Inspection
125.210 Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
125.220 Humane Slaughter of Animals
125.230 Handling and Disposal of Condemned or Other Inedible Products at Official Establishment
125.240 Rendering or Other Disposal of Carcasses and Parts Passed for Cooking
125.250 Marking Products and Their Containers
125.260 Labeling, Marking and Containers
125.270 Entry into Official Establishment; Reinspection and Preparation of Product
125.280 Meat Definitions and Standards of Identity or Composition
125.290 Transportation
125.295 Imported Products (Repealed)
125.300 Special Services Relating to Meat and Other Products
125.305 Exotic Animal Inspection

SUBPART C: POULTRY INSPECTION

Section
125.310 Application of Inspection
125.320 Facilities for Inspection
125.330 Sanitation
125.340 Operating Procedures
125.350 Ante-Mortem Inspection
125.360 Post-Mortem Inspection; Disposition of Carcasses and Parts
125.370 Handling and Disposal of Condemned or Inedible Products at Official Establishments
125.380 Labeling and Containers
125.390 Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements
125.400 Definitions and Standards of Identity or Composition
125.410 Transportation; Sale of Poultry or Poultry Products

AUTHORITY: Implementing and authorized by the Meat and Poultry Inspection Act [225 ILCS 650] and Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

SOURCE: Adopted at 9 Ill. Reg. 1782, effective January 24, 1985; peremptory amendment at 9 Ill. Reg. 2337, effective January 28, 1985; peremptory amendment at 9 Ill. Reg. 2980, effective February 20, 1985; peremptory amendment at 9 Ill. Reg. 4856, effective April 1, 1985; peremptory amendment at 9 Ill. Reg. 9240, effective June 5, 1985; peremptory amendment at 9 Ill. Reg. 10102, effective June 13, 1985; peremptory amendment at 9 Ill. Reg. 11673, effective July 17, 1985; peremptory amendment at 9 Ill. Reg. 13748, effective August 23, 1985; peremptory amendment at 9 Ill. Reg. 15575, effective October 2, 1985; peremptory amendment at 9 Ill. Reg. 19759, effective December 5, 1985; peremptory amendment at 10 Ill. Reg. 447, effective December 23, 1985; peremptory amendment at 10 Ill. Reg. 1307, effective January 7, 1986; peremptory amendment at 10 Ill. Reg. 3318, effective January 24, 1986; peremptory amendment at 10 Ill. Reg. 3880, effective February 7, 1986; peremptory amendment at 10 Ill. Reg. 11478, effective June 25, 1986; peremptory amendment at 10 Ill. Reg. 14858, effective August 22, 1986; peremptory amendment at 10 Ill. Reg. 15305, effective September 10, 1986; peremptory amendment at 10 Ill. Reg. 16743, effective September 19, 1986; peremptory amendment at 10 Ill. Reg. 18203, effective October 15, 1986; peremptory amendment at 10 Ill. Reg. 19818, effective November 12, 1986; peremptory amendment at 11 Ill. Reg. 1696, effective January 5, 1987; peremptory amendment at 11 Ill. Reg. 2930, effective January 23, 1987; peremptory amendment at 11 Ill. Reg. 9645, effective April 29, 1987; peremptory amendment at 11 Ill. Reg. 10321, effective May 15, 1987; peremptory amendment at 11 Ill. Reg. 11184, effective June 5, 1987; peremptory amendment at 11 Ill. Reg. 14830, effective August 25, 1987; peremptory amendment at 11 Ill. Reg. 18799, effective November 3, 1987; peremptory amendment at 11 Ill. Reg. 19805, effective November 19, 1987; peremptory amendment at 12 Ill. Reg. 2154, effective January 6, 1988; amended at 12 Ill. Reg. 3417, effective January 22, 1988; peremptory amendment at 12 Ill. Reg. 4879, effective February 25, 1988; peremptory amendment at 12 Ill. Reg. 6313, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 6819, effective March 29, 1988; peremptory amendment at 12 Ill. Reg. 13621, effective August 8, 1988; peremptory amendment at 12 Ill. Reg. 19116, effective November 1, 1988; peremptory amendment at 12 Ill. Reg. 20894, effective December 21, 1988; peremptory amendment at 13 Ill. Reg. 228, effective January 11, 1989; peremptory amendment at 13 Ill. Reg. 2160, effective February 13, 1989; amended at 13 Ill. Reg. 3696, effective March 13, 1989; peremptory amendment at 13 Ill. Reg. 15853, effective October 5, 1989; peremptory amendment at 13 Ill. Reg. 16838, effective October 11, 1989; peremptory amendment at 13 Ill. Reg. 17495, effective January 18, 1990; amended at 14 Ill. Reg. 3424, effective February 26, 1990; peremptory amendment at 14 Ill. Reg. 4953, effective March 23, 1990; peremptory amendment at 14 Ill. Reg. 11401, effective July 6, 1990; peremptory amendment at 14 Ill. Reg. 13355, effective August 20, 1990; peremptory amendment at 14 Ill. Reg. 16064, effective September 24, 1990; peremptory amendment at 14 Ill. Reg. 21060, effective May 29, 1991; peremptory amendment at 15 Ill. Reg. 620, effective January 2, 1991; peremptory amendment withdrawn at 15 Ill. Reg. 1574, effective January 2, 1991; peremptory amendment at 15 Ill. Reg. 3117, effective September 3, 1991; peremptory amendment at 15 Ill. Reg. 8714, effective May 29,

1991; amended at 15 Ill. Reg. 8801, effective June 7, 1991; peremptory amendment at 15 Ill. Reg. 13976, effective September 20, 1991; peremptory amendment at 16 Ill. Reg. 1899, effective March 2, 1992; amended at 16 Ill. Reg. 8349, effective May 26, 1992; peremptory amendment at 16 Ill. Reg. 11687, effective July 10, 1992; peremptory amendment at 16 Ill. Reg. 11963, effective July 22, 1992; peremptory amendment at 16 Ill. Reg. 12234, effective July 24, 1992; peremptory amendment at 16 Ill. Reg. 16337, effective October 19, 1992; peremptory amendment at 16 Ill. Reg. 17165, effective October 21, 1992; peremptory amendment at 17 Ill. Reg. 2063, effective February 12, 1993; peremptory amendment at 17 Ill. Reg. 15725, effective September 7, 1993; peremptory amendment at 17 Ill. Reg. 16238, effective September 8, 1993; peremptory amendment at 17 Ill. Reg. 18215, effective October 5, 1993; peremptory amendment at 18 Ill. Reg. 304, effective December 23, 1993; peremptory amendment at 18 Ill. Reg. 2164, effective January 24, 1994; amended at 18 Ill. Reg. 4622, effective March 14, 1994; peremptory amendment at 18 Ill. Reg. 6442, effective April 18, 1994; peremptory amendment at 18 Ill. Reg. 8493, effective May 27, 1994; amended at 18 Ill. Reg. 11489, effective July 7, 1994; peremptory amendment at 18 Ill. Reg. 12546, effective July 29, 1994; peremptory amendment at 18 Ill. Reg. 14475, effective September 7, 1994; amended at 18 Ill. Reg. 14924, effective September 26, 1994; peremptory amendment at 18 Ill. Reg. 15452, effective September 27, 1994; peremptory amendment at 19 Ill. Reg. 1342, effective January 27, 1995; peremptory amendment at 19 Ill. Reg. 4765, effective March 13, 1995; peremptory amendment at 19 Ill. Reg. 7067, effective May 8, 1995; peremptory amendment at 19 Ill. Reg. 14896, effective October 6, 1995; peremptory amendment at 19 Ill. Reg. 15766, effective November 10, 1995; peremptory amendment at 19 Ill. Reg. 16866, effective December 22, 1995; peremptory amendment at 20 Ill. Reg. 5091, effective March 19, 1996; peremptory amendment at 20 Ill. Reg. 10403, effective July 17, 1996; amended at 20 Ill. Reg. 11928, effective September 1, 1996; peremptory amendment at 20 Ill. Reg. 12634, effective September 5, 1996; peremptory amendment at 20 Ill. Reg. 15371, effective November 13, 1996; peremptory amendment at 21 Ill. Reg. 1221, effective January 14, 1997; peremptory amendment at 21 Ill. Reg. 1719, effective January 28, 1997; peremptory amendment at 21 Ill. Reg. 6609, effective May 20, 1997; amended at 21 Ill. Reg. 11494, effective August 1, 1997; peremptory amendment at 21 Ill. Reg. 11788, effective August 8, 1997; peremptory amendment at 21 Ill. Reg. 12686, effective August 28, 1997; peremptory amendment at 21 Ill. Reg. 14575, effective October 22, 1997; peremptory amendment at 22 Ill. Reg. 3602, effective February 2, 1998; peremptory amendment at 22 Ill. Reg. 5740, effective March 5, 1998; peremptory amendment at 22 Ill. Reg. 9384, effective May 15, 1998; peremptory amendment at 22 Ill. Reg. 20645, effective November 16, 1998; amended at 23 Ill. Reg. 450, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 3851, effective March 11, 1999; peremptory amendment at 23 Ill. Reg. 10880, effective August 19, 1999; peremptory amendment at 24 Ill. Reg. 3933, effective February 22, 2000; peremptory amendment at 24 Ill. Reg. 5699, effective March 14, 2000; peremptory amendment at 24 Ill. Reg. 6734, effective April 14, 2000; amended at 24 Ill. Reg. 7197, effective April 27, 2000; peremptory amendment at 24 Ill. Reg. 14074, effective August 30, 2000; peremptory amendment at 24 Ill. Reg. 14451, effective September 15,

2000; peremptory amendment at 25 Ill. Reg. 7341, effective April 26, 2001; peremptory amendment at 25 Ill. Reg. 12434, effective September 13, 2001; peremptory amendment at 25 Ill. Reg. 15444, effective November 19, 2001; peremptory amendment at 26 Ill. Reg. 980, effective January 11, 2002; peremptory amendment at 26 Ill. Reg. 7750, effective May 10, 2002; amended at 27 Ill. Reg. 10205, effective July 1, 2003; peremptory amendment at 27 Ill. Reg. 13634, effective July 28, 2003; emergency amendment at 27 Ill. Reg. 14197, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; peremptory amendment at 27 Ill. Reg. 15172, effective September 15, 2003; peremptory amendment at 27 Ill. Reg. 17281, effective November 1, 2003; peremptory amendment at 27 Ill. Reg. 18270, effective November 14, 2003; amended at 28 Ill. Reg. 2131, effective February 1, 2004; peremptory amendment at 28 Ill. Reg. 3513, effective February 6, 2004; peremptory amendment at 28 Ill. Reg. 11934, effective August 5, 2004; peremptory amendment at 28 Ill. Reg. 15694, effective November 30, 2004; peremptory amendment at 28 Ill. Reg. 16368, effective December 6, 2004; peremptory amendment at 29 Ill. Reg. 2479, effective February 1, 2005; amended at 29 Ill. Reg. 5661, effective April 13, 2005; peremptory amendment at 29 Ill. Reg. 15645, effective October 7, 2005; amended at 29 Ill. Reg. 18432, effective October 28, 2005; peremptory amendment at 29 Ill. Reg. 20580, effective November 29, 2005; peremptory amendment at 29 Ill. Reg. 21058, effective December 21, 2005; peremptory amendment at 30 Ill. Reg. 2400, effective February 6, 2006; peremptory amendment at 30 Ill. Reg. 16081, effective September 25, 2006; peremptory amendment at 31 Ill. Reg. 5149, effective March 16, 2007; peremptory amendment at 31 Ill. Reg. 12624, effective August 20, 2007; peremptory amendment at 31 Ill. Reg. 16763, effective December 10, 2007; peremptory amendment at 32 Ill. Reg. 590, effective January 1, 2008; peremptory amendment at 32 Ill. Reg. 17831, effective October 30, 2008; peremptory amendment at 33 Ill. Reg. 1230, effective January 5, 2009; peremptory amendment at 33 Ill. Reg. 6338, effective April 17, 2009; peremptory amendment at 33 Ill. Reg. 12040, effective August 5, 2009; peremptory amendment at 35 Ill. Reg. 571, effective December 22, 2010; peremptory amendment at 35 Ill. Reg. 1802, effective January 14, 2011; peremptory amendment at 35 Ill. Reg. 19553, effective January 1, 2012; peremptory amendment at 36 Ill. Reg. 9264, effective June 6, 2012; amended at 36 Ill. Reg. 14664, effective October 1, 2012; peremptory amendment at 36 Ill. Reg. 17930, effective December 21, 2012; peremptory amendment at 37 Ill. Reg. 875, effective January 28, 2013; peremptory amendment at 37 Ill. Reg. 6870, effective May 6, 2013; peremptory amendment at 38 Ill. Reg. 4176, effective February 1, 2014.

SUBPART A: GENERAL PROVISIONS FOR BOTH
MEAT AND/OR POULTRY INSPECTION

Section 125.100 Records and Reports

a) The Department incorporates by reference 9 CFR 320.1(b), 320.6(a), 320.7,

381.175(b), 381.180(a) and 381.181 (2004; 69 FR 1874, effective January 12, 2004; 74 FR 31829, effective July 6, 2009; 77 FR 26929, effective May 8, 2012; 78 FR 66826, effective January 6, 2014).

b) Access to the establishment, its premises, records and inventories shall be provided to the Department in accordance with Section 14 of the Act and Section 125.70.

c) Each person who is required to be licensed in accordance with Section 3 of the Act shall keep records as stated in the incorporated language of 9 CFR 320.1(b) and 381.175(b), except that for custom slaughtering and custom processing transactions, the recordkeeping requirements shall be those set forth in Section 5(B)(2)(f) of the Act. Records shall be retained for 5 years after December 31 of the year in which the transaction to which the record relates has occurred. If a record must be retained for longer than 5 years because of an on-going investigation or litigation, the Department shall notify the licensee in writing as to which record is to be retained, the reasons for such retention and the retention period. The Department shall consider when determining the retention period the court date, if known, or the time needed to conclude the investigation (e.g., considering the type of disease being investigated, the number of animals involved, and laboratory testing procedures, if applicable).

d) The licensee of the official establishment shall maintain such records at the establishment. In the case of a broker, the records shall be maintained at the office listed on the application for license.

e) The Department shall request a licensee to submit an evaluation of the inspection program or of the inspector's performance when the Department is conducting a review of the effectiveness of the Meat and Poultry Inspection Program or when a complaint on the inspector's performance has been received.

(Source: Peremptory amendment at 38 Ill. Reg. 4176, effective February 1, 2014)

Section 125.142 Hazard Analysis and Critical Control Point (HACCP) Systems

The Department incorporates by reference 9 CFR 417 (2004; 77 FR 26929, effective May 8, 2012; 78 FR 66826, effective January 6, 2014). The HACCP regulations set forth in 9 CFR 417 and related provisions set forth in 9 CFR 304, 327, and 381 will be applicable as follows:

a) In large establishments, defined as all establishments with 500 or more

employees, on October 1, 1998;

b) In smaller establishments, defined as all establishments with 10 or more employees but fewer than 500, on January 25, 1999;

c) In very small establishments, defined as all establishments with fewer than 10 employees or annual sales of less than $2.5 million, on January 25, 2000.

(Source: Peremptory amendment at 38 Ill. Reg. 4176, effective February 1, 2014)

Section 125.144 Preparation and Processing Operations

The Department incorporates by reference 9 CFR 424 (2004; 76 FR 82077, effective December 30, 2011; 78 FR 14636, effective May 6, 2013; 78 FR 66826, effective January 6, 2014).

(Source: Peremptory amendment at 38 Ill. Reg. 4176, effective February 1, 2014)

Section 125.149 Label Approval

The Department incorporates by reference 9 CFR 412.

(Source: Added by peremptory amendment at 38 Ill. Reg. 4176, effective February 1, 2014)

SUBPART B: MEAT INSPECTION

Section 125.260 Labeling, Marking and Containers

a) The Department incorporates by reference 9 CFR 317.1 through 317.2(j)(10), 317.2(j)(12) through 317.4(f)(2), 317.5, 317.6, 317.8, 317.10 through 317.13, 317.17 through 317.24, 317.300, 317.302, 317.308, 317.309, 317.312, 317.313, 317.343, 317.344, 317.345, 317.354, 317.356, 317.360, 317.361, 317.362, 317.363, 317.369, 317.380, 317.400 (2010; 75 FR 82148, effective January 1, 2012; 77 FR 76824, effective December 31, 2012; 78 FR 66826, effective January 6, 2014).

b) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3) and (k)(3), (4), (5) and (9) of the Act.

c) Labeling and sketch labeling shall be approved by the Department if the label is in

compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield office of the Department for approval.

d) The Department shall approve temporary labeling as stated in 9 CFR 317.4(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the labels before the expiration of the temporary approval.

e) The quantity of contents as shown on the label shall be in compliance with the Weights and Measures Act [225 ILCS 470] and the rules adopted thereto (8 Ill. Adm. Code 600).

f) Any Type I establishment is authorized to use generically approved labeling for meat and poultry products as defined in subsection (h) of this Section without the labeling being submitted for approval to the Department, provided the labeling is in accordance with this Section and shows all mandatory features in a prominent manner as required in 9 CFR 317.2 and 381 and is not otherwise false or misleading.

g) The Department shall select samples of generically approved labeling from the records maintained by official establishments to determine compliance with labeling requirements. Any finding of false or misleading labeling shall institute the proceedings prescribed in 225 ILCS 650/13.

h) Generically approved labeling is labeling that complies with the following:

1) Labeling for a product that has a product standard as specified in 9 CFR 319 and 381 or the Standards and Labeling Policy Book and does not contain any special claims such as quality claims, nutrient content claims, health claims, negative claims, geographical origin claims or guarantees, or is not a domestic product labeled in a foreign language;

2) Labeling for single-ingredient products, such as beef steak or lamb chops, that does not contain any special claims such as quality claims, nutrient content claims, health claims, negative claims, geographical origin claims or guarantees or is not a domestic product labeled with a foreign language;

3) Labeling for containers of products sold under contract specifications to federal government agencies that the product is not offered for sale to the general public, provided that the contract specifications include specific requirements with respect to labeling and are made available to the inspector-in-charge;

4) Labeling for shipping containers that contain fully labeled immediate containers, provided that the labeling complies with 9 CFR 316.13 and 381.127;

5) Labeling for products not intended for human food, provided it complies with 9 CFR 325, 381.152(c) and 381.193;

6) Meat inspection legends;

7) Inserts, tags, liners, pasters and similar devices containing printed or graphic matter and for use or to be placed within containers and coverings of products, provided the devices contain no reference to product and bear no misleading feature;

8) Labeling for consumer test products not intended for sale;

9) Labeling that was previously approved by the Department as sketch labeling, and the final labeling was prepared without modification or with the following modifications:

A) All features of the labeling are proportionately enlarged or reduced provided that all minimum size requirements specified in applicable regulations are met and the labeling is legible;

B) The substitution of any unit of measurement with its abbreviation or the substitution of any abbreviation with its unit of measurement, e.g., "lb." for "pound" or "oz." for "ounce" or of the word "pound" for "lb." or "ounce" for "oz.";

C) A master or stock label has been approved where the name and address of the distributor are omitted and the name and address are applied before being used (in that case, the words "prepared for" or similar statement must be shown together with the blank space

reserved for the insertion of the name and address when the labels are offered for approval);

D) Wrappers or other covers bearing pictorial designs, emblematic designs or illustrations, e.g., floral arrangements, illustrations of animals, fireworks, etc., are used with approved labeling (The use of the designs will not make necessary the application of labeling not otherwise required.);

E) A change in the language or the arrangement of directions pertaining to the opening of containers or the serving of the product;

F) The addition, deletion or amendment of a dated or undated coupon, a cents-off statement, cooking instructions, packer product code information or the UPC product code information;

G) Any change in the name or address of the packer, manufacturer or distributor that appears in the signature line;

H) Any change in the net weight, provided the size of the net weight statement complies with 9 CFR 317.2 and 318.121;

I) The addition, deletion or amendment of recipe suggestions for the product;

J) Any change in punctuation;

K) Newly assigned or revised establishment numbers for a particular establishment that has been approved by the Department;

L) The addition or deletion of open dating information;

M) A change in the type of packaging material on which label is printed;

N) Brand name changes, provided that there are no design changes, the brand name does not use a term that connotes quality or other product characteristics, the brand name has no geographic

significance, and the brand name does not affect the name of the product;

O) The deletion of the word "new" on new product labeling;

P) The addition, deletion or amendment of special handling statements, provided that the change is consistent with 9 CFR 317.2(k) and 318.125(a);

Q) The addition of safe handling instructions as required by 9 CFR 317.2(1) and 381.125(b);

R) Changes reflecting a change in the quantity of an ingredient shown in the formula without a change in the order of predominance shown on the label, provided that the change in quantity of ingredients complies with any minimum or maximum limits for the use of the ingredients prescribed in 9 CFR 318, 319 and 381.147;

S) Changes in the color of the labeling, provided that sufficient contrast and legibility remain;

T) A change in the product vignette, provided that the change does not affect mandatory labeling information or misrepresent the content of the package;

U) A change in the establishment number by a corporation or parent company for an establishment under its ownership;

V) Changes in nutrition labeling that only involve quantitative adjustments to the nutrition labeling information, except for serving sizes, provided the nutrition labeling information maintains its accuracy and consistency;

W) Deletion of any claim, and the deletion of non-mandatory features or non-mandatory information; and

X) The addition or deletion of a direct translation of the English language into a foreign language for products marked "for export only".

i) With regard to the incorporated language in 9 CFR 317.6, the extension of time for exhausting existing stocks of labels is not applicable since all labels presently in use are in compliance with the rules of this Part.

j) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 9 CFR 317.24 (2004)).

k) Labels to be used for the relabeling of inspected and passed product shall be permitted to leave the official establishment when the product must be relabeled because the original labels have become mutilated or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.

l) The inspector shall grant authorization to transport labels, wrappers and containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 317.13 so that the inspector can notify the inspector at the destination point.

m) Labeling of custom slaughter and/or custom processed meat and/or meat products and the containers containing custom slaughtered and/or custom processed meat and/or meat products shall be as set forth in Section 5 of the Act.

n) References in the incorporated language to 9 CFR 312 shall be interpreted to mean in accordance with Section 125.90.

(Source: Peremptory amendment at 38 Ill. Reg. 4176, effective February 1, 2014)

Section 125.270 Entry into Official Establishment; Reinspection and Preparation of Product

a) The Department incorporates by reference 9 CFR 318.1(c) through 318.6, 318.9 through 318.10, 318.14 through 318.20, 318.22, 318.23, 318.24, 318.300 through 318.311 (2007; 76 FR 82077, effective December 30, 2011; 78 FR 66826, effective January 6, 2014).

b) No meat or meat product shall be brought into an official establishment unless it is inspected or has been prepared in an official establishment or in a federally

licensed establishment and is identified by an official inspection legend as set forth in Section 125.90, a federal inspection legend, or is exempt from inspection as stated in Section 125.110. Meat and meat products received in an official establishment during the absence of the inspector shall be identified as set forth in Section 125.200 and, unless exempt from inspection, shall not be used or prepared until they have been reinspected. Any meat and meat product originally prepared at any official establishment may not be returned to any part of such establishment other than the receiving area until it has been reinspected by the inspector and passed. Wild game carcasses shall comply with Section 5(B)(4) of the Act. The official establishment shall maintain an inventory of non-meat items (e.g., spices, preservatives) which are received at the official establishment. Any product that is brought on the premises of an official establishment contrary to the provisions of this Section shall be removed immediately from such establishment by the operator of the establishment.

c) Reinspections of meat and/or meat products within the official establishment shall be performed through the use of a random digit table.

d) Docks and receiving rooms for meat and/or meat products or other articles used by the establishment in the preparation of meat products entering an official establishment shall be approved by the inspector if the location of such docks or receiving rooms will not permit such product or article to pass through rooms containing inspected and passed products.

e) The manner of defrosting frozen products and methods of treating to preserve products shall be in accordance with procedures as set forth in the "Meat and Poultry Inspection Manual" as adopted in Section 125.20.

f) Casings or weasand shall be inspected and passed if it is in compliance with the specific provisions as stated in 9 CFR 318.5(i) for passage of such articles.

g) The Department does not approve new substances to be used on meat or in meat products, their uses or the levels of use of an approved substance. Such substances will be permitted to be used and artificial flavorings may be used if they do not adulterate the meat and/or meat product in accordance with Section 2.11 of the Act and are in compliance with the provisions of this Section.

h) References to exemptions from slaughter and custom slaughter shall mean those exemptions set forth in Section 125.110.

i) References within the incorporated language to the federal Poultry Inspection Act, Section 403 of the Act, Section 7 of the Act, 9 CFR 303, and paragraph 23(a) of the Act shall be interpreted to mean in accordance with the Meat and Poultry Inspection Act and the rules of this Part.

j) The Department does not approve thermometers for use in smokehouses, dry rooms and other compartments that are used in the treatment of pork.

k) Disinfectants shall be those as set forth in Section 125.180.

l) Adequate vacuum shall be determined through the use of vacuum gauges.

m) Canned products which may be processed without steam-pressure cooking shall be those products as stated in the "Meat and Poultry Inspection Manual" as adopted by the Department in Section 125.20.

n) The inspector shall permit lots of canned product to be shipped from the official establishment prior to the completion of the incubation period on the representative samples in accordance with the specific provisions in 9 CFR 318.309.

o) The standards and procedures for determining when ingredients of finished products are in compliance with this Section shall be as set forth in the "Meat and Poultry Inspection Manual" as adopted by the Department in Section 125.20.

(Source: Peremptory amendment at 38 Ill. Reg. 4176, effective February 1, 2014)

SUBPART C: POULTRY INSPECTION

Section 125.380 Labeling and Containers

a) The Department incorporates by reference 381.115 through 381.127, 381.129 through 381.132(f), 381.133, 381.134, 381.136 through 381.140, 381.144(a) through 381.144(d), 381.400, 381.402, 381.408, 381.409, 381.412, 381.413, 381.443; 381.444; 381.445; 381.454; 381.456, 381.460, 381.461, 381.462, 381.463, 381.469, 381.480, 381.500 (2010; 75 FR 82148, effective January 1, 2012; 76 FR 82077, effective December 30, 2011; 77 FR 76824, effective December 31, 2012; 78 FR 66826, effective January 6, 2014).

b) Each shipping container and each immediate container containing inspected and

passed poultry and/or poultry products shall be identified in accordance with the labeling provisions of this Section.

c) Immediate containers of poultry products packed in, bearing or containing any chemical additive shall bear a label naming the additive and the purpose of its use.

d) Labels for consumer packages shall be approved if the label is not misbranded in accordance with Section 2.20 of the Act and is in compliance with this Section.

e) The specific statements listed in 9 CFR 381.121 may be added to the label for the shipping container at the option of the licensee.

f) The quantity of contents as shown on the label shall be in compliance with the Weights and Measures Act and the rules adopted thereto (8 Ill. Adm. Code 600).

g) No labeling or containers that have not been approved shall be used until a final decision is rendered at an administrative hearing in accordance with Section 19 of the Act.

h) The Department shall approve the manufacture of a device or label containing an official mark of inspection provided the device or label is in compliance with Section 125.90.

i) Labeling and sketch labeling shall be approved by the Department if the label is in compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield office of the Department for approval.

j) The Department shall approve temporary labeling as stated in 9 CFR 381.132(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the permanent labels before the expiration of the temporary approval.

k) A copy of each label submitted for approval shall be accompanied by a statement showing the common or usual names, the kinds and percentages of the ingredients comprising the poultry product and a statement indicating the method or preparation of the product with respect to which the label is to be used. Laboratories used for chemical analysis shall be any approved laboratory as defined in 8 Ill. Adm. Code 20.1.

l) The Department does not approve terms for generic labeling and considers the approval of terms as generic to be the responsibility of the federal government.

m) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 9 CFR 317.24 (1997)).

n) Labels and devices approved for use pursuant to Section 125.90 and this Section shall be disposed of only when such labels or devices have been mutilated or damaged or when the establishment ceases to do business. Such labels and devices shall be given to the inspector for disposition.

o) The inspector shall grant authorization to transport labels, wrappers and containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 381.138 so that the inspector can notify the inspector at the destination point.

p) Labels to be used for the relabeling of inspected and passed product shall be permitted to leave the official establishment when the product must be relabeled because the original labels have become mutilated or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.

q) Labeling of custom slaughtered and/or custom processed poultry and/or poultry products and the containers containing custom slaughtered and/or custom processed poultry products shall be as set forth in Section 5 of the Act.

r) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3), (4), (5) and (9) of the Act.

(Source: Peremptory amendment at 38 Ill. Reg. 4176, effective February 1, 2014)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PUBLIC HEARING

1) Statutory Authority: 5 ILCS 100/5-70(c)

2) Summary of Hearing: The Governor's Office and the Illinois Department of Healthcare and Family Services, in cooperation with the Department of Children and Family Services, the Department on Aging, the Department of Human Services and the Department of Public Health, is seeking a five-year Medicaid and Children's Health Insurance Program (CHIP) Section 1115 research and demonstration waiver that encompasses all services and eligible populations served under a single authority, with broad flexibility to manage the programs more efficiently and to align and coordinate programs where possible. The State expects that over the five year life of the Demonstration, aggregate expenditures will be the same as they would have been without the waiver.

The draft waiver application can be viewed on the Governor's website at the following link: http://www2.illinois.gov/gov/healthcarereform/Pages/1115Waiver.aspx.

3) Date, Time and Location of Public Hearing:

Friday, February 14, 2014
9:00 AM to 12:00 PM
Howlett Auditorium
Michael J. Howlett Building
501 South Second Street
Springfield, IL 62756

Thursday, February 20, 2014
2:00 PM to 5:00 PM
Assembly Hall Auditorium
James R. Thompson Center
100 W. Randolph Street
Chicago, IL 60601

4) Other Pertinent Information:

- Persons must sign in at the registration desk located outside of the public hearing location. Persons wishing to provide oral testimony will indicate such during registration and must submit a written copy of the testimony at that time.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PUBLIC HEARING

- Written testimony from those choosing not speaking will also be accepted during the registration period.
- Speakers will be heard on a first come, first served basis.
- Individuals giving oral testimony are asked to limit their comments to three minutes.
- Organizations are asked to select one spokesperson to present oral testimony on behalf of the organization and will be asked to limit their comments to five minutes.
- To assist the orderly conduct of the hearing and to ensure that the opinions of all interested individuals and/or groups are considered, the Department may impose other rules of procedure as necessary, including, but not limited to, adjusting the time limit or the order of presentation.

5) Name and address of Agency Contact Person: Any interested party may direct comments, data, views, or arguments concerning these proposed changes. All comments not provided at the hearing must be made in writing by February 20, 2014, and should be addressed to:

Theresa Eagleson, Administrator
Division of Medical Programs
Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62794
Email address: hfs.bpra@illinois.gov

This notice as well as the draft waiver application is posted on the HFS Public Involvement web page:
http://www2.illinois.gov/hfs/PublicInvolvement/PublicNotices/Pages/default.aspx

This notice is being provided in accordance with federal requirements provided at 42 CFR 447.205.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

1) Heading of the Part: Hospital Services

2) Code Citation: 89 Ill. Adm. Code 148

3) Section Number: 148.140

4) Date Proposal published in *Illinois Register*: July 30, 2010; 34 Ill. Reg. 10665

5) Date Adoption published in *Illinois Register*: December 27, 2010; 35 Ill. Reg. 420

6) Summary and Purpose of Expedited Correction: The above rulemaking added subsection (a)(1)(E) and subsection (g), concerning freestanding emergency centers, to Section 148.140. These subsections have not been repealed but have been inadvertently omitted from the text of subsequent amendments to this Section. This Request for an Expedited Correction will restore the omitted text.

7) Correction Effective Date: December 27, 2010

8) Information and questions regarding this request shall be directed to:

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

217/782-1233

The full text of the Corrected Rule begins on the next page:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

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

PART 148
HOSPITAL SERVICES

SUBPART A: GENERAL PROVISIONS

Section
148.10 Hospital Services
148.20 Participation
148.25 Definitions and Applicability
148.30 General Requirements
148.40 Special Requirements
148.50 Covered Hospital Services
148.60 Services Not Covered as Hospital Services
148.70 Limitation On Hospital Services

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section
148.80 Organ Transplants Services Covered Under Medicaid (Repealed)
148.82 Organ Transplant Services
148.85 Supplemental Tertiary Care Adjustment Payments
148.90 Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments
148.95 Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments
148.100 Outpatient Rural Hospital Adjustment Payments
148.103 Outpatient Service Adjustment Payments
148.105 Psychiatric Adjustment Payments
148.110 Psychiatric Base Rate Adjustment Payments
148.112 High Volume Adjustment Payments
148.115 Rural Adjustment Payments
148.117 Outpatient Assistance Adjustment Payments
148.120 Disproportionate Share Hospital (DSH) Adjustments
148.122 Medicaid Percentage Adjustments
148.126 Safety Net Adjustment Payments
148.130 Outlier Adjustments for Exceptionally Costly Stays
148.140 Hospital Outpatient and Clinic Services

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

148.150 Public Law 103-66 Requirements
148.160 Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
148.170 Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
148.180 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
148.190 Copayments
148.200 Alternate Reimbursement Systems
148.210 Filing Cost Reports
148.220 Pre September 1, 1991, Admissions
148.230 Admissions Occurring on or after September 1, 1991
148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals
148.260 Calculation and Definitions of Inpatient Per Diem Rates
148.270 Determination of Alternate Cost Per Diem Rates For All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
148.285 Excellence in Academic Medicine Payments (Repealed)
148.290 Adjustments and Reductions to Total Payments
148.295 Critical Hospital Adjustment Payments (CHAP)
148.296 Tertiary Care Adjustment Payments
148.297 Pediatric Outpatient Adjustment Payments
148.298 Pediatric Inpatient Adjustment Payments
148.300 Payment
148.310 Review Procedure
148.320 Alternatives
148.330 Exemptions
148.340 Subacute Alcoholism and Substance Abuse Treatment Services
148.350 Definitions (Repealed)
148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
148.368 Volume Adjustment (Repealed)
148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
148.390 Hearings
148.400 Special Hospital Reporting Requirements
148.402 Medicaid Eligibility Payments (Repealed)
148.404 Medicaid High Volume Adjustment Payments (Repealed)
148.406 Intensive Care Adjustment Payments (Repealed)
148.408 Trauma Center Adjustment Payments (Repealed)
148.410 Psychiatric Rate Adjustment Payments (Repealed)
148.412 Rehabilitation Adjustment Payments (Repealed)
148.414 Supplemental Tertiary Care Adjustment Payments (Repealed)
148.416 Crossover Percentage Adjustment Payments (Repealed)
148.418 Long Term Acute Care Hospital Adjustment Payments (Repealed)
148.420 Obstetrical Care Adjustment Payments (Repealed)
148.422 Outpatient Access Payments (Repealed)
148.424 Outpatient Utilization Payments (Repealed)
148.426 Outpatient Complexity of Care Adjustment Payments (Repealed)
148.428 Rehabilitation Hospital Adjustment Payments (Repealed)
148.430 Perinatal Outpatient Adjustment Payments (Repealed)
148.432 Supplemental Psychiatric Adjustment Payments (Repealed)
148.434 Outpatient Community Access Adjustment Payments (Repealed)
148.440 High Volume Adjustment Payments
148.442 Inpatient Services Adjustment Payments
148.444 Capital Needs Payments
148.446 Obstetrical Care Payments
148.448 Trauma Care Payments
148.450 Supplemental Tertiary Care Payments
148.452 Crossover Care Payments
148.454 Magnet Hospital Payments
148.456 Ambulatory Procedure Listing Increase Payments
148.458 General Provisions
148.460 Catastrophic Relief Payments
148.462 Hospital Medicaid Stimulus Payments
148.464 General Provisions
148.466 Magnet and Perinatal Hospital Adjustment Payments
148.468 Trauma Level II Hospital Adjustment Payments
148.470 Dual Eligible Hospital Adjustment Payments
148.472 Medicaid Volume Hospital Adjustment Payments
148.474 Outpatient Service Adjustment Payments

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

148.476 Ambulatory Service Adjustment Payments
148.478 Specialty Hospital Adjustment Payments
148.480 ER Safety Net Payments
148.482 Physician Supplemental Adjustment Payments
148.484 Freestanding Children's Hospital Adjustment Payments
148.486 Freestanding Children's Hospital Outpatient Adjustment Payments

SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

Section
148.500 Definitions
148.510 Reimbursement

SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

Section
148.600 Definitions
148.610 Scope of the Program
148.620 Assistance Level and Reimbursement
148.630 Criteria and Information Required to Establish Eligibility
148.640 Covered Services

SUBPART E: INSTITUTION FOR MENTAL DISEASES PROVISIONS FOR HOSPITALS

Section
148.700 General Provisions

SUBPART F: EMERGENCY PSYCHIATRIC DEMONSTRATION PROGRAM

Section
148.800 General Provisions
148.810 Definitions
148.820 Individual Eligibility for the Program
148.830 Providers Participating in the Program
148.840 Stabilization and Discharge Practices
148.850 Medication Management
148.860 Community Connect IMD Hospital Payment
148.870 Community Connect TCM Agency Payment
148.880 Program Reporting

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

148.TABLE A Renal Participation Fee Worksheet
148.TABLE B Bureau of Labor Statistics Equivalence
148.TABLE C List of Metropolitan Counties by SMSA Definition

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

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg.

12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359, effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill.

Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5514, effective April 1, 2005; emergency amendment at 29 Ill. Reg. 5756, effective April 8, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 11622, effective July 5, 2005, for the remainder of the 150 days; amended at 29 Ill. Reg. 8363, effective June 1, 2005; emergency amendment at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12568, effective August 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 15629, effective October 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19973, effective November 23, 2005; amended at 30 Ill. Reg. 383, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 596, effective January 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 955, effective January 9, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 2827, effective February 24, 2006; emergency amendment at 30 Ill. Reg. 7786, effective April 10, 2006, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 12400, effective July 1, 2006, for the remainder of the 150 days; emergency expired September 6, 2006; amended at 30 Ill. Reg. 8877, effective May 1, 2006; amended at 30 Ill. Reg. 10393, effective

May 26, 2006; emergency amendment at 30 Ill. Reg. 11815, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18672, effective November 27, 2006; emergency amendment at 31 Ill. Reg. 1602, effective January 1, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 1997, effective January 15, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 5596, effective April 1, 2007; amended at 31 Ill. Reg. 8123, effective May 30, 2007; amended at 31 Ill. Reg. 8508, effective June 1, 2007; emergency amendment at 31 Ill. Reg. 10137, effective July 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11688, effective August 1, 2007; amended at 31 Ill. Reg. 14792, effective October 22, 2007; amended at 32 Ill. Reg. 312, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 518, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 2993, effective February 16, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 8718, effective May 29, 2008; amended at 32 Ill. Reg. 9945, effective June 26, 2008; emergency amendment at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 33 Ill. Reg. 501, effective December 30, 2008; peremptory amendment at 33 Ill. Reg. 1538, effective December 30, 2008; emergency amendment at 33 Ill. Reg. 5821, effective April 1, 2009, for a maximum of 150 days; emergency expired August 28, 2009; amended at 33 Ill. Reg. 13246, effective September 8, 2009; emergency amendment at 34 Ill. Reg. 15856, effective October 1, 2010, for a maximum of 150 days; emergency expired February 27, 2011; amended at 34 Ill. Reg. 17737, effective November 8, 2010; amended at 35 Ill. Reg. 420, effective December 27, 2010; expedited correction at 38 Ill. Reg. _____, effective December 27, 2010; amended at 35 Ill. Reg. 10033, effective June 15, 2011; amended at 35 Ill. Reg. 16572, effective October 1, 2011; emergency amendment at 36 Ill. Reg. 10326, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 148.70(g) suspended at 36 Ill. Reg. 13737, effective August 15, 2012; suspension withdrawn from Section 148.70(g) at 36 Ill. Reg. 18989, December 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 148.70(g) at 36 Ill. Reg. 18976, effective December 12, 2012 through June 30, 2013; emergency amendment to Section 148.140(b)(1)(F) suspended at 36 Ill. Reg. 13739, effective August 15, 2012; suspension withdrawn from Section 148.140(b)(1)(F) at 36 Ill. Reg. 14530, September 11, 2012; emergency amendment to Sections 148.140(b) and 148.190(a)(2) in response to Joint Committee on Administrative Rules action at 36 Ill. Reg. 14851, effective September 21, 2012 through June 30, 2013; amended at 37 Ill. Reg. 402, effective December 27, 2012; emergency rulemaking at 37 Ill. Reg. 5082, effective April 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 10432, effective June 27, 2013.

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.140 Hospital Outpatient and Clinic Services

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

a) Fee-For-Service Reimbursement

1) Reimbursement for hospital outpatient services shall be made on a fee-for-service basis, except for:

A) Those services that meet the definition of the Ambulatory Procedure Listing (APL) as described in subsection (b) of this Section.

B) End stage renal disease treatment (ESRDT) services, as described in subsection (c) of this Section.

C) Those services provided by a Certified Pediatric Ambulatory Care Center (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D).

D) Those services provided by a Critical Clinic Provider as described in subsection (e) of this Section.

E) Those services provided by a Freestanding Emergency Center, as described in subsection (g) of this Section.

2) Except for the procedures under the APL groupings described in subsection (b) of this Section, fee-for-service reimbursement levels shall be at the lower of the hospital's usual and customary charge to the public or the Department's statewide maximum reimbursement screens. Hospitals will be required to bill the Department utilizing specific service codes. However, all specific client coverage policies (relating to client eligibility and scope of services available to those clients) that pertain to the service billed are applicable to hospitals in the same manner as to non-hospital providers who bill fee for service.

3) With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rate described in subsection (a)(2) of this Section shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:

A) The reimbursement rates described in subsection (a)(2) of this Section shall be no less than the reimbursement rates in effect on

June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.

B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

4) Maternal and Child Health Program rates, as described in 89 Ill. Adm. Code 140, Table M, shall be paid to Certified Hospital Ambulatory Primary Care Centers (CHAPCC), as described in 89 Ill. Adm. Code 140.461(f)(1)(A) and Section 148.25(b)(5)(A), Certified Hospital Organized Satellite Clinics (CHOSC), as described in 89 Ill. Adm. Code 140.461(f)(1)(B) and Section 148.25(b)(5)(B), and Certified Obstetrical Ambulatory Care Centers (COBACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(C), and Section 148.25(b)(5)(C). Maternal and Child Health Program rates shall also be paid to Certified Pediatric Ambulatory Care Centers (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D), for covered services as described in 89 Ill. Adm. Code 140.462(e)(3), that are provided to non-assigned Maternal and Child Health Program clients, as described in 89 Ill. Adm. Code 140.464(b)(1).

5) Certified Pediatric Ambulatory Care Centers (CPACC), as described in 89 Ill. Adm. Code 140.461(f)(1)(D) and Section 148.25(b)(5)(D), shall be reimbursed in accordance with 89 Ill. Adm. Code 140.464(b)(2) for assigned clients.

6) Hospitals described in Sections 148.25(b)(2)(A) and 148.25(b)(2)(B) shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year.

7) With the exception of the retrospective adjustment described in subsection (a)(3) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this Section.

b) Ambulatory Procedure Listing (APL)
Effective July 1, 2012, the Department will reimburse hospitals for certain hospital outpatient procedures as described in subsection (b)(1) of this Section.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

1) APL Groupings
Under the APL, a list was developed that defines those technical procedures that require the use of the hospital outpatient setting, its technical staff or equipment. These procedures are separated into separate groupings based upon the complexity and historical costs of the procedures. The groupings are as follows:

A) Surgical Groups

i) Surgical group 1(a) consists of intense surgical procedures. Group 1(a) surgeries require an operating suite with continuous patient monitoring by anesthesia personnel. This level of service involves advanced specialized skills and highly technical operating room personnel using high technology equipment. The rate for this surgical procedure group shall be $1,794.00.

ii) Surgical group 1(b) consists of moderately intense surgical procedures. Group 1(b) surgeries generally require the use of an operating room suite or an emergency room treatment suite, along with continuous monitoring by anesthesia personnel and some specialized equipment. The rate for this surgical procedure group shall be $1,049.00.

iii) Surgical group 1(c) consists of low intensity surgical procedures. Group 1(c) surgeries may be done in an operating suite or an emergency room and require relatively brief operating times. Such procedures may be performed for evaluation or diagnostic reasons. The rate for this surgical procedure group shall be $752.00.

iv) Surgical group 1(d) consists of surgical procedures of very low intensity. Group 1(d) surgeries may be done in an operating room or emergency room, have a low risk of complications, and include some physician-administered diagnostic and therapeutic procedures. Certain dental procedures performed by dentists are included in this group. In order for a dental procedure to be eligible for

reimbursement in the outpatient setting, the following criteria must be met: patient requires general anesthesia or conscious sedation; patient has a medical condition that places the patient at an increased surgical risk, such as, but not limited to, cardiopulmonary disease, congenital anomalies, history of complications associated with anesthesia, such as hyperthermia or allergic reaction, or bleeding diathesis; or the patient cannot be safely managed in an office setting because of behavioral, developmental, or mental disorder. The rate for this surgical procedure group shall be $287.00.

B) Diagnostic and Therapeutic Groups

i) Diagnostic and therapeutic group 2(a) consists of advanced or evolving technologically complex diagnostic or therapeutic procedures. Group 2(a) procedures are typically invasive and must be administered by a physician. The rate for this surgical procedure group shall be $941.00.

ii) Diagnostic and therapeutic group 2(b) consists of technologically complex diagnostic and therapeutic procedures that are typically non-invasive. Group 2(b) procedures typically include radiological consultation or a diagnostic study. The rate for this procedure group shall be $304.00.

iii) Diagnostic and therapeutic group 2(c) consists of other diagnostic tests. Group 2(c) procedures are generally non-invasive and may be administered by a technician and monitored by a physician. The rate for this procedure group shall be $176.00.

iv) Diagnostic and therapeutic group 2(d) consists of therapeutic procedures. Group 2(d) procedures typically involve parenterally administered therapeutic agents. Either a nurse or a physician is likely to perform such procedures. The rate for this procedure group shall be $136.00.

C) Group 3 reimbursement for services provided in a hospital emergency department will be made in accordance with one of the three levels described in this Section. Emergency Services mean those services that are for a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, possessing an average knowledge of medicine and health, could reasonably expect that the absence of immediate attention would result in placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part. The determination of the level of service reimbursable by the Department shall be based upon the circumstances at the time of the initial examination, not upon the final determination of the client's actual condition, unless the actual condition is more severe.

i) Emergency Level I refers to Emergency Services provided in the hospital's emergency department for the alleviation of severe pain or for immediate diagnosis and/or treatment of conditions or injuries that pose an immediate significant threat to life or physiologic function or requires an intense level of physician or nursing intervention. An "intense level" is defined as more than two hours of documented one-on-one nursing care or interactive treatment. The rate for this service shall be $181.00.

ii) Emergency Level II refers to Emergency Services that do not meet the definition in this Section of Emergency Level I care, but that are provided in the hospital emergency department for a medical condition manifesting itself by acute symptoms of sufficient severity. The rate for this service shall be $67.00.

iii) Non-Emergency/Screening Level means those services provided in the hospital emergency department that do not meet the requirements of Emergency Level I or II stated in this Section. For such care, the Department will reimburse

the hospital either applicable current FFS rates for the services provided or a screening fee, but not both. The rate for this service shall be $26.00.

D) Group 4 for observation services is established to reimburse such services that are provided when a patient's current condition does not warrant an inpatient admission but does require an extended period of observation in order to evaluate and treat the patient in a setting that provides ancillary resources for diagnosis or treatment with appropriate medical and skilled nursing care. The hospital may bill for both observation and other APL procedures but will be reimbursed only for the procedure (group) with the highest reimbursement rate. Observation services will be reimbursed under one of three categories:

i) for at least 60 minutes but less than six hours and 31 minutes of services, the rate shall be $74.00;

ii) for at least six hours and 31 minutes but less than 12 hours and 31 minutes of services, the rate shall be $222.00; or

iii) for at least 12 hours and 31 minutes or more of services, the rate shall be $443.00.

E) Group 5 for psychiatric treatment services is established to reimburse for certain outpatient treatment psychiatric services that are provided by a hospital that is enrolled with the Department to provide inpatient psychiatric services. Under this group, the Department will reimburse, at different rates, Type A and Type B Psychiatric Clinic Services, as defined in Section 148.40(d)(1). A different rate will also be reimbursed to children's hospitals as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).

i) The rate for Type A psychiatric clinic services shall be $68.00.

ii) The rate for Type A psychiatric clinic services provided by a Children's Hospital shall be $102.00.

iii) The rate for Type B psychiatric clinic services shall be $101.00.

iv) The rate for Type B psychiatric clinic services provided by a Children's Hospital shall be $102.00.

F) Effective July 1, 2012, subject to 89 Ill. Adm. Code 152.100, Group 6 for physical rehabilitation services shall no longer be in effect and outpatient physical rehabilitation services provided by a hospital shall be reimbursed through the non-institutional payment system, but will be reimbursed as a hospital service at the following rates of reimbursement:

i) The rate for rehabilitation services provided by a hospital enrolled with the Department to provide outpatient physical rehabilitation shall be $130.00.

ii) The rate for rehabilitation services provided by a hospital that is not enrolled with the Department to provide physical rehabilitation shall be $115.00.

iii) The rate for rehabilitation services provided by children's hospitals, as defined in 89 Ill. Adm. Code 149.50(c)(3)(A), shall be $130.00.

2) Each of the groups described in subsection (b)(1) of this Section will be reimbursed by the Department considering the following:

A) The Department will provide cost outlier payments for specific devices and drugs associated with specific APL procedures. Such payments will be made if:

i) The device or drug is on an approved list maintained by the Department. In order to be approved, the Department will consider requests from medical providers and shall base its decision on medical appropriateness of the device or drug and the costs of such device or drug; and

ii) The provision of such devices or drugs is deemed to be

medically appropriate for a specific client, as determined by the Department's physician consultants.

B) Additional payment for such devices or drugs, as described in subsection (b)(2)(A) of this Section, will require prior authorization by the Department unless it is determined by the Department's professional medical staff that prior authorization is not warranted for a specific device or drug. When such prior authorization has been denied for a specific device or drug, the decision may be appealed as allowed by 89 Ill. Adm. Code 102.80(a)(7) and in accordance with the provisions for assistance appeals at 89 Ill. Adm. Code 104.

C) The amount of additional payment for devices or drugs, as described in subsection (b)(2)(A) of this Section, will be based on the following methodology:

i) The product of a cost to charge ratio that, in the case of cost reporting hospitals as described in Section 148.130(d), or in the case of other non-cost reporting providers, equals 0.5 multiplied by the provider's total covered charges on the qualifying claim, less the APL payment rate multiplied by four;

ii) If the result of subsection (b)(2)(C)(i) of this Section is less than or equal to zero, no additional payment will be made. If the result is greater than zero, the additional payment will equal the result of subsection (b)(2)(C)(i) of this Section, multiplied by 80 percent. In such cases, the provider will receive the sum of the APL payment and the additional payment for such high cost devices or drugs.

D) For county-owned hospitals located in an Illinois county with a population greater than three million, reimbursement rates for each of the reimbursement groups shall be equal to the amounts described in subsection (b)(1) of this Section multiplied by a factor of 2.72.

E) Reimbursement rates for hospitals not required to file an annual

cost report with the Department may be lower than those listed in this Section.

F) Reimbursement for each APL group described in this subsection (b) shall be all-inclusive for all services provided by the hospital, regardless of the amount charged by a hospital. No separate reimbursement will be made for ancillary services or the services of hospital personnel. Exceptions to this provision are that hospitals shall be allowed to bill separately, on a fee-for-service basis, for professional outpatient services of a physician providing direct patient care who is salaried by the hospital; chemotherapy services provided in conjunction with radiation therapy services; and physical rehabilitation, occupational or speech therapy services provided in conjunction with any APL group described in this subsection (b). For the purposes of this Section, a salaried physician is a physician who is salaried by the hospital; a physician who is reimbursed by the hospital through a contractual arrangement to provide direct patient care; or a group of physicians with a financial contract to provide emergency department care. Under APL reimbursement, salaried physicians do not include radiologists, pathologists, nurse practitioners, or certified registered nurse anesthetists and no separate reimbursement will be allowed for such providers.

3) The assignment of procedure codes to each of the reimbursement groups in subsections (b)(1)(A) through (b)(1)(E) of this Section are detailed in the Department's Hospital Handbook and in notices to providers.

4) A one-time fiscal year 2000 payment will be made to hospitals. Payment will be based upon the services, specified in this Section, provided on or after July 1, 1998, and before July 1, 1999, which were submitted to the Department and determined eligible for payment (adjudicated) by the Department on or prior to April 30, 2000, excluding services for Medicare/Medicaid crossover claims and claims that resulted in a zero payment by the Department. A one-time amount of:

A) $27.75 will be paid for each service for procedure code W7183 (Psychiatric clinic Type A for adults).

B) $24.00 will be paid for each service for APL Group 5 (Psychiatric clinic Type A only) provided by a children's hospital as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).

C) $15.00 will be paid for each service for APL Group 6 (Physical rehabilitation services) provided by a children's hospital as defined in 89 Ill. Adm. Code 149.50(c)(3)(A).

5) County Facility Outpatient Adjustment

A) Effective for services provided on or after July 1, 1995, county owned hospitals in an Illinois county with a population of over three million shall be eligible for a county facility outpatient adjustment payment. This adjustment payment shall be in addition to the amounts calculated under this Section and are calculated as follows:

i) Beginning with July 1, 1995, hospitals under this subsection shall receive an annual adjustment payment equal to total base year hospital outpatient costs trended forward to the rate year minus total estimated rate year hospital outpatient payments, multiplied by the resulting ratio derived when the value 200 is divided by the quotient of the difference between total base year hospital outpatient costs trended forward to the rate year and total estimated rate year hospital outpatient payments divided by one million.

ii) The payment calculated under this subsection (b)(5)(A) may be adjusted by the Department to ensure compliance with aggregate and hospital specific federal payment limitations.

iii) The county facility outpatient adjustment under this subsection shall be made on a quarterly basis.

B) County Facility Outpatient Adjustment Definition. The definitions of terms used with reference to calculation of the county facility outpatient adjustment are as follows:

i) "Base Year" means the most recently completed State fiscal year.

ii) "Rate Year" means the State fiscal year during which the county facility adjustment payments are made.

iii) "Total Estimated Rate Year Hospital Outpatient Payments" means the Department's total estimated outpatient date of service liability, projected for the upcoming rate year.

iv) "Total Hospital Outpatient Costs" means the statewide sum of all hospital outpatient costs derived by summing each hospital's outpatient charges derived from actual paid claims data multiplied by the hospital's cost-to-charge ratio.

6) Critical Access Hospital Rate Adjustment
Hospitals designated by the Illinois Department of Public Health as Critical Access Hospital (CAH) providers in accordance with 42 CFR 485.subpart F shall be eligible for an outpatient rate adjustment for services identified in subsections (b)(1)(A) through (b)(1)(F), excluding services for Medicare/Medicaid crossover claims. This adjustment shall be calculated as follows:

A) An annual distribution factor shall be calculated as follows:

i) The numerator shall be $33 million.

ii) The denominator shall be the RY 2011 total outpatient cost coverage deficit calculated in accordance with 89 Ill. Adm. Code 148.115, less the RY 2011 Rural Adjustment Outpatient Payments calculated in accordance with 89 Ill. Adm. Code 148.115, plus the annual outpatient supplemental payment calculated in accordance with 89 Ill. Adm. Code 148.456.

B) Hospital Specific Adjustment Value
For each hospital qualified under this subsection (b)(6) the hospital specific adjustment value shall be the product of each hospital's

specific cost coverage deficit calculated in subsection (b)(6)(A)(ii) and the distribution factor calculated in subsection (b)(6)(A):

C) Effective for dates of service on or after July 1, 2012, the final APL Rate Adjustment Values shall be the quotient of:

i) The hospital specific adjustment value identified in subsection (b)(6)(B) divided by

ii) The total outpatient services identified in subsections (b)(1)(A) through (b)(1)(E), excluding services for Medicare/Medicaid crossover claims for calendar year 2009, adjudicated and contained in the Department's paid claims database as of December 31, 2010.

D) Non-State Government Owned Provider Adjustment
Final APL rates for hospitals identified in non-State government owned or operated providers in the State's Upper Payment Limits demonstration shall be adjusted when necessary to assure compliance with federal upper payment limits as stated in 42 CFR 447.304.

E) Applicability
The rates calculated in accordance with subsection (b)(6)(A) shall be effective for dates of service beginning January 1, 2011 and shall be adjusted each State fiscal year beginning July 1, 2011.

i) For State fiscal year 2011, the rate year shall begin January 1, 2011 and end June 30, 2011.

ii) For State fiscal year 2012 and beyond, the rate year shall be for dates of services beginning July 1 through June 30 of the subsequent year.

iii) For purposes of this adjustment, a children's hospital identified in Section 149.50(c)(3)(B) shall be combined with the corresponding general acute care parent hospital.

iv) Beginning with State fiscal year 2012 and each subsequent

State fiscal year thereafter, the adjustment to the FY 2011 final APL Rate adjustment shall be limited to 2% in accordance with spending limits in 35 ILCS 5/201.5.

7) No Year-End Reconciliation
With the exception of the retrospective rate adjustment described in subsection (b)(9) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this subsection (b).

8) Rate Adjustments
With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rates described in subsection (b)(5) of this Section shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:

A) The reimbursement rates described in subsection (b)(5) of this Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.

B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

9) Services are available to all clients in geographic areas in which an encounter rate hospital or a county-operated outpatient facility is located. All specific client coverage policies (relating to client eligibility and scope of services available to those clients) that pertain to the service billed are applicable to hospitals reimbursed under the Ambulatory Care Program in the same manner as to encounter rate hospitals and to non-hospital and hospital providers who bill and receive reimbursement on a fee-for-service basis.

10) Hospitals described in Section 148.25(b)(2)(A) and (b)(2)(B) shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year.

c) Payment for outpatient end-stage renal disease treatment (ESRDT) services provided pursuant to Section 148.40(c) shall be made at the Department's payment rates, as follows:

1) For inpatient hospital services provided pursuant to Section 148.40(c)(1), the Department shall reimburse hospitals pursuant to Sections 148.240 through 148.300 and 89 Ill. Adm. Code 149.

2) For outpatient services or home dialysis treatments provided pursuant to Section 148.40(c)(2) or (c)(3), the Department will reimburse hospitals and clinics for ESRDT services at a rate that will reimburse the provider for the dialysis treatment and all related supplies and equipment, as defined in 42 CFR 405.2163 (1994). This rate will be that rate established by Medicare pursuant to 42 CFR 405.2124 and 413.170 (1994).

3) Payment for non-routine services. For services that are provided during outpatient or home dialysis treatment pursuant to Section 148.40(c)(2) or (c)(3) but are not defined as a routine service under 42 CFR 405.2163 (1994), separate payment will be made to independent laboratories, pharmacies, and medical supply providers pursuant to 89 Ill. Adm. Code 140.430 through 140.434, 140.440 through 140.450, and 140.475 through 140.481, respectively.

4) Payment for physician services relating to ESRDT will be made separately to physicians, pursuant to 89 Ill. Adm. Code 140.400.

5) With respect to those hospitals described in Section 148.25(b)(2)(A), the reimbursement rates described in this subsection (c) shall be adjusted on a retrospective basis. The retrospective adjustment shall be calculated as follows:

A) The reimbursement rates described in this subsection (c) shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports.

B) The per diem cost of inpatient hospital services shall be calculated

by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

6) With the exception of the retrospective rate adjustment described in subsection (c)(5) of this Section, no year-end reconciliation is made to the reimbursement rates calculated under this subsection (c).

7) Hospitals described in Section 148.25(b)(2)(A) and (b)(2)(B) of this Section shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year.

d) Non Hospital-Based Clinic Reimbursement

1) County-Operated Outpatient Facility Reimbursement
Reimbursement for all services provided by county-operated outpatient facilities, as described in Section 148.25(b)(2)(C), that do not qualify as either a Maternal and Child Health Program managed care clinics, as described in 89 Ill. Adm. Code 140.461(f), or as a Critical Clinic Provider, as described in subsection (e) of this Section, shall be on an all-inclusive per encounter rate basis as follows:

A) Base Rate. The per encounter base rate shall be calculated as follows:

i) Allowable direct costs shall be divided by the number of direct encounters to determine an allowable cost per encounter delivered by direct staff.

ii) The resulting quotient, as calculated in subsection (d)(1)(A)(i) of this Section, shall be multiplied by the Medicare allowable overhead rate factor to calculate the overhead cost per encounter.

iii) The resulting product, as calculated in subsection (d)(1)(A)(ii) of this Section, shall be added to the resulting quotient, as calculated in subsection (d)(1)(A)(i) of this Section to determine the per encounter base rate.

iv) The resulting sum, as calculated in subsection (d)(1)(A)(iii)

of this Section, shall be the per encounter base rate.

B) Supplemental Rate

i) The supplemental service cost shall be divided by the total number of direct staff encounters to determine the direct supplemental service cost per encounter.

ii) The supplemental service cost shall be multiplied by the allowable overhead rate factor to calculate the supplemental overhead cost per encounter.

iii) The quotient derived in subsection (d)(1)(B)(i) of this Section shall be added to the product derived in subsection (d)(1)(B)(ii) of this Section, to determine the per encounter supplemental rate.

iv) The resulting sum, as described in subsection (d)(1)(B)(iii) of this Section, shall be the per encounter supplemental rate.

C) Final Rate

i) The per encounter base rate, as described in subsection (d)(1)(A)(iv) of this Section, shall be added to the per encounter supplemental rate, as described in subsection (d)(1)(B)(iv) of this Section, to determine the per encounter final rate.

ii) The resulting sum, as determined in subsection (d)(1)(C)(i) of this Section, shall be the per encounter final rate.

iii) The per encounter final rate, as described in subsection (d)(1)(C)(ii) of this Section, shall be adjusted in accordance with subsection (d)(2) of this Section.

2) Rate Adjustments
Rate adjustments to the per encounter final rate, as described in subsection (d)(1)(C)(iii) of this Section, shall be calculated as follows:

A) The reimbursement rates described in subsections (d)(1)(A) through (d)(1)(C) and (e)(2) of this Section shall be no less than the reimbursement rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

B) The per diem cost of inpatient hospital services shall be calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

C) The final rate described in subsection (d)(1)(C) of this Section shall be no less than $147.09 per encounter.

3) County-operated outpatient facilities, as described in Section 148.25(b)(2)(C), shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year. No year-end reconciliation is made to the reimbursement calculated under this subsection (d).

4) Services are available to all clients in geographic areas in which an encounter rate hospital or a county-operated outpatient facility is located. All specific client coverage policies (relating to client eligibility and scope of services available to those clients) that pertain to the service billed are applicable to encounter rate hospitals in the same manner as to hospitals reimbursed under the Ambulatory Care Program and to non-hospital and hospital providers who bill and receive reimbursement on a fee-for-service basis.

e) Critical Clinic Providers

1) Effective for services provided on or after September 27, 1997, a clinic owned or operated by a county with a population of over three million, that is within or adjacent to a hospital, shall qualify as a Critical Clinic Provider if the facility meets the efficiency standards established by the

Department. The Department's efficiency standards under this subsection (e) require that the quotient of total encounters per facility fiscal year for the Critical Clinic Provider divided by total full time equivalent physicians providing services at the Critical Clinic Provider shall be greater than:

A) 2700 for reimbursement provided during the facility's cost reporting year ending during 1998,

B) 2900 for reimbursement provided during the facility's cost reporting year ending during 1999,

C) 3100 for reimbursement provided during the facility's cost reporting year ending during 2000,

D) 3600 for reimbursement provided during the facility's cost reporting year ending during 2001, and

E) 4200 for reimbursement provided during the facility's cost reporting year ending during 2002.

2) Reimbursement for all services provided by any Critical Clinic Provider shall be on an all-inclusive per-encounter rate that shall equal reported direct costs of Critical Clinic Providers for each facility's cost reporting period ending in 1995, and available to the Department as of September 1, 1997, divided by the number of Medicaid services provided during that cost reporting period as adjudicated by the Department through July 31, 1997.

3) Critical Clinic Providers, as described in this subsection (e), shall be required to submit outpatient cost reports to the Department within 90 days after the close of the facility's fiscal year. No year-end reconciliation is made to the reimbursement calculated under this subsection (e).

4) The reimbursement rates described in this subsection (e) shall be no less than the reimbursement rates in effect on July 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services shall be calculated by

dividing the total allowable Medicaid costs by the total allowable Medicaid days.

f) Critical Clinic Provider Pharmacies
Prescribed drugs, dispensed by a pharmacy that is a Critical Clinic Provider, that are not part of an encounter reimbursable under subsection (e) of this Section shall be reimbursed at the rate described in subsection (e)(2) of this Section.

g) Freestanding Emergency Centers
A Freestanding Emergency Center (FEC), as defined in Section 148.25(h) of this Part, is eligible to enroll for reimbursement of emergency services. Reimbursement for the emergency services provided in an FEC shall be made at the applicable APL group rate identified in subsection (b) of this Section. Payment for salaried physician services performed in conjunction with an APL procedure shall be made in accordance with subsection (b) of this Section.

(Source: Amended at 35 Ill. Reg. 420, effective December 27, 2010; Expedited Correction at 38 Ill. Reg. _____, effective Eecember 27, 2010)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 21, 2014 through January 27, 2014. These rulemakings are scheduled for review at the Committee's February 18, 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
3/7/14	Department of Revenue, Income Tax (86 Ill. Adm. Code 100)	12/2/13 37 Ill. Reg. 19082	2/18/14
3/8/14	Department of Healthcare and Family Services, Medical Payment (89 Ill. Adm. Code 140)	8/9/13 37 Ill. Reg. 12637	2/18/14
3/9/14	Illinois Racing Board, Licensing (11 Ill. Adm. Code 502)	12/6/13 37 Ill. Reg. 19523	2/18/14
3/9/14	Department of Revenue, Live Adult Entertainment Facility Surcharge Act (86 Ill. Adm. Code 900)	11/22/13 37 Ill. Reg. 18832	2/18/14
3/9/14	Illinois Educational Labor Relations Board, General Procedures (80 Ill. Adm. Code 1100)	10/4/13 37 Ill. Reg. 15559	2/18/14
3/9/14	Illinois Educational Labor Relations Board, Representation Procedures (80 Ill. Adm. Code 1110)	10/4/13 37 Ill. Reg. 15563	2/18/14
3/9/14	Illinois Educational Labor Relations Board, Collective Bargaining and Impasse Resolution	10/4/13 37 Ill. Reg.	2/18/14

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

	(80 Ill. Adm. Code 1130)	15567	
3/9/14	Illinois Educational Labor Relations Board, University of Illinois Bargaining Units (80 Ill. Adm. Code 1135)	10/4/13 37 Ill. Reg. 15584	2/18/14
3/9/14	Department of Healthcare and Family Services, Child Support Services (89 Ill. Adm. Code 160)	11/15/13 37 Ill. Reg. 18022	2/18/14
3/12/14	State Board of Education, Code of Ethics for Illinois Educators (23 Ill. Adm. Code 22)	11/8/13 37 Ill. Reg. 17352	2/18/14
3/12/14	State Board of Education, Standards for the School Service Personnel Certificate (23 Ill. Adm. Code 23)	11/8/13 37 Ill. Reg. 17358	2/18/14
3/12/14	State Board of Education, Standards for Certification in Special Education (23 Ill. Adm. Code 28)	11/8/13 37 Ill. Reg. 17439	2/18/14
3/12/14	State Board of Education, Standards for Administrative Certification (23 Ill. Adm. Code 29)	11/8/13 37 Ill. Reg. 17551	2/18/14
3/12/14	State Board of Education, Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)	11/8/13 37 Ill. Reg. 15635	2/18/14

PROCLAMATIONS

2014-22
GUBERNATORIAL DISASTER PROCLAMATION

Extreme winter weather and cold temperatures have impacted the State of Illinois this season. This weather has created a large demand for liquefied petroleum gas such as propane and other home heating fuels, causing shortages and interruptions of these products throughout the Midwest, including Illinois. Transportation delays have further exacerbated the availability of these resources. Due to this continued shortage, the United States Department of Transportation, Federal Motor Carrier Safety Administration, issued an Emergency Declaration on January 21, 2014, pursuant to 49 CFR section 390.23, to provide regulatory relief to commercial vehicles supporting the delivery of propane and home heating fuels in affected states such as Illinois.

In the interest of ensuring the public health and safety of the people of Illinois, and pursuant to the provisions of Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7, I hereby proclaim that a disaster exists within the State of Illinois as a result of critical shortages of liquefied petroleum gas. This proclamation will enable liquefied gas trucks and operators licensed in Illinois who are traveling through other states to continue their transportation of propane and other home heating fuels to alleviate this emergency.

Date: January 25, 2014
Filed: January 27, 2014

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 38, Issue 6 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

83 - 200 3416
2 - 1925 3424
2 - 1925 3442
86 - 100 3482
86 - 220 3502
86 - 270 3504
86 - 320 3506
86 - 370 3508
86 - 395 3510
86 - 630 3512
86 - 670 3514
86 - 690 3516
86 - 693 3518
86 - 695 3520
23 - 2700 3522
23 - 2720 3541
23 - 2731 3557
23 - 2732 3563
23 - 2765 3569

ADOPTED RULES

14 - 555 1/23/2014 3577
47 - 395 1/21/2014 3596
35 - 611 1/27/2014 3608
80 - 1540 1/24/2014 4023
92 - 2520 1/27/2014 4037

EMERGENCY RULES

86 - 220 1/22/2014 4047
86 - 270 1/22/2014 4060
86 - 320 1/22/2014 4073
86 - 370 1/22/2014 4086
86 - 395 1/22/2014 4099
86 - 630 1/22/2014 4112
86 - 670 1/22/2014 4125
86 - 690 1/22/2014 4138
86 - 693 1/22/2014 4151
86 - 695 1/22/2014 4164

PEREMPTORY RULES

8 - 125 2/1/2014 4176

REQUEST FOR EXPEDITED

CORRECTION
89 - 148 4196

EXECUTIVE ORDERS AND PROCLAMATIONS
14 - 22 1/25/2014 4226

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