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July 6, 2015 Volume 39, Issue 27

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INTRODUCTION

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

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or preemptory 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 2015

Issue#	Rules Due Date	Date of Issue
1	December 22, 2014	January 2, 2015
2	December 29, 2014	January 9, 2015
3	January 5, 2015	January 16, 2015
4	January 12, 2015	January 23, 2015
5	January 20, 2015	January 30, 2015
6	January 26, 2015	February 6, 2015
7	February 2, 2015	February 13, 2015
8	February 9, 2015	February 20, 2015
9	February 17, 2015	February 27, 2015
10	February 23, 2015	March 6, 2015
11	March 2, 2015	March 13, 2015
12	March 9, 2015	March 20, 2015
13	March 16, 2015	March 27, 2015
14	March 23, 2015	April 3, 2015
15	March 30, 2015	April 10, 2015
16	April 6, 2015	April 17, 2015
17	April 13, 2015	April 24, 2015
18	April 20, 2015	May 1, 2015
19	April 27, 2015	May 8, 2015

20	May 4, 2015	May 15, 2015
21	May 11, 2015	May 22, 2015
22	May 18, 2015	May 29, 2015
23	May 26, 2015	June 5, 2015
24	June 1, 2015	June 12, 2015
25	June 8, 2015	June 19, 2015
26	June 15, 2015	June 26, 2015
27	June 22, 2015	July 6, 2015
28	June 29, 2015	July 10, 2015
29	July 6, 2015	July 17, 2015
30	July 13, 2015	July 24, 2015
31	July 20, 2015	July 31, 2015
32	July 27, 2015	August 7, 2015
33	August 3, 2015	August 14, 2015
34	August 10, 2015	August 21, 2015
35	August 17, 2015	August 28, 2015
36	August 24, 2015	September 4, 2015
37	August 31, 2015	September 11, 2015
38	September 8, 2015	September 18, 2015
39	September 14, 2015	September 25, 2015
40	September 21, 2015	October 2, 2015
41	September 28, 2015	October 9, 2015
42	October 5, 2015	October 16, 2015
43	October 13, 2015	October 23, 2015
44	October 19, 2015	October 30, 2015
45	October 26, 2015	November 6, 2015
46	November 2, 2015	November 13, 2015
47	November 9, 2015	November 20, 2015
48	November 16, 2015	November 30, 2015
49	November 23, 2015	December 4, 2015
50	November 30, 2015	December 11, 2015
51	December 7, 2015	December 18, 2015
52	December 14, 2015	December 28, 2015

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: White-Tailed Deer Hunting By Use of Bow and Arrow
- 2) Code Citation: 17 Ill. Adm. Code 670
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
670.20	Amendment
- 4) Statutory Authority: Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to discontinue sale of the nonresident over-the-counter single antlerless-only archery deer permit.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citation:</u>
670.21	Amendment	39 Ill. Reg. 4663, April 3, 2015
670.60	Amendment	39 Ill. Reg. 4663, April 3, 2015
- 11) Statement of Statewide Policy Objective: This rulemaking neither creates, nor expands, any State mandate affecting units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Shelly Knuppel, Legal Counsel
Department of Natural Resources
One Natural Resources Way

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

Springfield IL 62702-1271

217/782-1809

- 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: July 2015

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 670

WHITE-TAILED DEER HUNTING BY USE OF BOW AND ARROW

Section

670.10	Statewide Open Seasons and Counties
670.20	Statewide Deer Permit Requirements
670.21	Deer Permit Requirements – Landowner/Tenant Permits
670.30	Statewide Legal Bow and Arrow
670.40	Statewide Deer Hunting Rules
670.50	Rejection of Application/Revocation of Permits
670.55	Reporting Harvest
670.60	Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36].

SOURCE: Adopted at 5 Ill. Reg. 8888, effective August 25, 1981; codified at 5 Ill. Reg. 10641; emergency amendment at 5 Ill. Reg. 11402, effective October 14, 1981, for a maximum of 150 days; emergency expired March 13, 1982; amended at 6 Ill. Reg. 10721, effective August 20, 1982; emergency amendment at 6 Ill. Reg. 15581, effective December 14, 1982, for a maximum of 150 days; emergency expired May 13, 1983; amended at 7 Ill. Reg. 10790, effective August 24, 1983; amended at 8 Ill. Reg. 19004, effective September 26, 1984; amended at 9 Ill. Reg. 14317, effective September 9, 1985; amended at 10 Ill. Reg. 16658, effective September 22, 1986; amended at 11 Ill. Reg. 2275, effective January 20, 1987; amended at 12 Ill. Reg. 12042, effective July 11, 1988; amended at 13 Ill. Reg. 12839, effective July 21, 1989; amended at 14 Ill. Reg. 14787, effective September 4, 1990; amended at 14 Ill. Reg. 19859, effective December 3, 1990; amended at 15 Ill. Reg. 10021, effective June 24, 1991; amended at 15 Ill. Reg. 16691, effective October 31, 1991; amended at 16 Ill. Reg. 11116, effective June 30, 1992; amended at 17 Ill. Reg. 286, effective December 28, 1992; amended at 17 Ill. Reg. 13452, effective July 30, 1993; amended at 18 Ill. Reg. 5842, effective April 5, 1994; amended at 19 Ill. Reg. 7560, effective May 26, 1995; amended at 19 Ill. Reg. 15411, effective October 26, 1995; amended at 20 Ill. Reg. 6723, effective May 6, 1996; amended at 21 Ill. Reg. 5561, effective April 19, 1997; amended at 22 Ill. Reg. 7995, effective April 28, 1998; amended at 23 Ill. Reg. 6829, effective May 20, 1999; amended at 24 Ill. Reg. 6908, effective April 20, 2000; amended at 25 Ill. Reg.

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7217, effective May 22, 2001; amended at 25 Ill. Reg. 11471, effective August 14, 2001; amended at 26 Ill. Reg. 9356, effective June 17, 2002; amended at 27 Ill. Reg. 10025, effective June 23, 2003; amended at 28 Ill. Reg. 9968, effective July 6, 2004; amended at 29 Ill. Reg. 9761, effective June 24, 2005; amended at 30 Ill. Reg. 12196, effective June 28, 2006; amended at 31 Ill. Reg. 8202, effective May 25, 2007; amended at 32 Ill. Reg. 9337, effective June 13, 2008; amended at 33 Ill. Reg. 11571, effective July 27, 2009; amended at 34 Ill. Reg. 4839, effective March 19, 2010; amended at 35 Ill. Reg. 10739, effective June 23, 2011; amended at 36 Ill. Reg. 13450, effective August 10, 2012; amended at 37 Ill. Reg. 14926, effective August 30, 2013; amended at 38 Ill. Reg. 22752, effective November 18, 2014; amended at 39 Ill. Reg. _____, effective _____.

Section 670.20 Statewide Deer Permit Requirements

- a) All archery deer hunters must have a current, valid Illinois archery deer permit. Archery deer permits (except landowner/tenant property-only permits and nonresident permits issued to clients of outfitters as detailed in Section 670.20(c)) will authorize the holder to hunt in any of the open counties of the State, on property where permission to hunt has been obtained from the property owner. Nonresident archery deer permits issued to outfitter clients who received a permit based on the preference given to outfitter clients are valid only on property controlled by the outfitter used to gain preference.
- b) Resident Permits
 - 1) Resident archery deer permits are available over-the-counter (OTC) from agents designated by the Department (pursuant to 17 Ill. Adm. Code 2520) as combination permits, each consisting of one either-sex permit and one antlerless-only permit, or as a single antlerless-only permit. The fee for a resident archery combination permit shall be \$25; a resident archery single antlerless-only permit shall be \$15. While there is no limit to the number of archery deer permits that an individual resident may purchase, no one may harvest more deer than allowed by the restrictions prescribed in Section 670.40. Lifetime licenses issued after August 15, 2006 shall not qualify a nonresident of Illinois for a resident deer permit.
 - 2) In addition to the permits listed in subsection (b)(1), resident hunters have the option of purchasing a maximum of one resident single either-sex permit for a fee of \$15. Applicants must submit an application to the Permit Office using the official current Resident Single Either-Sex

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NOTICE OF PROPOSED AMENDMENT

Archery Deer Permit application form by September 1. Applications are available from the DNR website at <http://www.dnr.illinois.gov>. Applications submitted on forms from previous years will be returned. Applicants must complete all portions of the permit application form. Incomplete applications and fees will be returned. Each applicant must submit a personal check or money order with his/her individual application.

- c) A limited number of nonresident archery deer permits is available as combination permits, each consisting of one either-sex permit and one antlerless-only permit. The fee for the nonresident combination archery deer permit shall be \$410. Nonresident hunters may apply during the period June 1 through June 30 via telephone using DNR's telephone vendor system (1-888-673-7648). Applicants may apply for and receive a maximum of one nonresident combination archery deer permit during a license year. (Note: Receiving nonresident landowner archery deer permits does not preclude the recipient from also applying for and receiving the regular nonresident combination archery deer permit.) The number of nonresident combination archery deer permits shall be limited to 25,000, with clients of outfitters currently permitted by the Department of Natural Resources given preference in the drawing for the first 7,500. Clients of permitted outfitters should contact the outfitter prior to applying to receive a certification number to be used in the application process to verify their outfitter client status. Permits will be allocated using a computerized, random lottery drawing conducted after June 30. If the number of eligible outfitter clients in the drawing is less than 7,500, all remaining permits will be allocated to the remaining applicants until the quota is reached. If the number of eligible outfitter clients in the drawing exceeds 7,500, those outfitter clients unsuccessful in obtaining one of the first 7,500 permits will compete against non-client applicants for the remaining permits. Up to six individuals may apply for nonresident combination archery permits as a group. Groups must identify a group leader, and all applicants must provide the same group leader information at the time of application. If applying for permits given preferentially to clients of outfitters, all group applicants must also provide the same outfitter certification number. Permits available after the lottery will be sold on a first-come, first-served basis to applicants who have not previously received a permit for the current deer season. ~~Nonresidents may not purchase a combination archery deer permit after September 30 if they have previously purchased any single antlerless-only archery deer permit for the current deer season.~~

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- ~~d)~~ ~~An unlimited number of nonresident single antlerless only archery deer permits is available over the counter (OTC) from agents for a fee of \$25.~~
- ~~de)~~ Hunters purchasing archery deer permits must supply all necessary applicant information to the license vendor in order to properly complete the permit.
- ~~ef)~~ Applications for landowner/tenant permits may be obtained by writing to:

Department of Natural Resources
L/T Deer Permit
P.O. Box 19227
Springfield IL 62794-9227

To obtain a landowner/tenant permit, applicants must submit an application to the Permit Office using the official current Archery Deer Permit application form. Applications submitted on forms from previous years will be returned. Applicants must complete all portions of the permit application form. Incomplete applications and fees will be returned. Each applicant must submit a personal check or money order for his/her individual application.

- ~~fg)~~ Permits are not transferable. Refunds will not be granted unless the Department has erroneously issued the permit.
- ~~gh)~~ A \$3 service fee will be charged for replacement permits issued by DNR, except that there will be no charge for permits lost in the mail. The procedures for obtaining a replacement license are detailed in 17 Ill. Adm. Code 2520.50. Monies from this source will be deposited in the Wildlife and Fish Fund.
- ~~hi)~~ Hunting without a valid permit is a Class B misdemeanor (see 520 ILCS 5/2.24). Providing false information on an application is a Class A misdemeanor (see 520 ILCS 5/2.38).

(Source: Amended at 39 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Liquor Control Act
- 2) Code Citation: 86 Ill. Adm. Code 420
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
420.1	New Section
420.5	New Section
420.10	Amendment
420.80	Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-90; 235 ILCS 5/8-13
- 5) A Complete Description of the Subjects and Issues Involved: Most of the statutes administered by the Department are contained in Chapter 35 of the Illinois Compiled Statutes. The Liquor Control Act is contained in Chapter 235 of the Illinois Compiled Statutes. A new Section 420.1 is added to Part 420 to explain that Part 420 contains the rules and regulations for the administration of the duties vested in the Department by Article VIII of the Liquor Control Act of 1934.

Article I of the Liquor Control Act contains definitions for words used in the Liquor Control Act. A new Section 420.5 is added to Part 420 to incorporate the definitions that are relevant to Article VIII and may be helpful for understanding the rules contained in Part 420.

PA 95-634 amended Article V of the Liquor Control Act by providing for the licensing of wine shippers at 235 ILCS 5/5-1. A winery shipper's license allows a person who is licensed to make wine under the laws of another state to ship wine made by that licensee directly to a resident of Illinois for that resident's personal use and not for resale. An applicant for a winery shipper's license must consent to the jurisdiction of the Department of Revenue concerning the enforcement of the Act and any related laws, rules, and regulations. A winery shipper's licensee must pay to the Department the liquor gallonage tax under Section 8-1 of the Liquor Control Act for all wine that is sold by the licensee and shipped to a person in this State. A licensee who is not otherwise required to register under the Retailers' Occupation Tax Act must register under the Use Tax Act to collect and remit Use Tax to the Department for all gallons of wine that are sold by the licensee and shipped to persons in this State. Section 10 of the Part is amended to add the statutory text.

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PA 96-34 and PA 96-38 amended Article VIII of the Liquor Control Act by raising the tax rates on cider, wine, beer and alcoholic spirits, effective September 1, 2009. (See 235 ILCS 5/8-1). Section 10 of the rules is amended to reflect the rate changes.

PA 96-1027 amended the Department of Revenue Law. Beginning October 1, 2010, a company who has an annual tax liability of \$20,000 or more is required to make all payments of tax to the Department by electronic funds transfer. Prior to October 1, 2010, the threshold was \$200,000. 20 ILCS 2505/2505-210 is cited. Section 80 of the Part is amended to reflect this change.

- 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 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:

Richard S. Wolters
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

- 13) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Out-of state wine shippers and distributors of cider, wine, beer and alcoholic spirits.
 - B) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping. An out-of-state wine shipper who is not otherwise required to register under the Retailers' Occupation Tax Act must register under the Use Tax Act to collect and remit Use Tax to the Department for all gallons of wine that are sold and shipped to persons in this State.
 - C) Types of professional skills necessary for compliance: Accounting and bookkeeping
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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 REVENUEPART 420
LIQUOR CONTROL ACT

Section

420.1	Purpose
420.5	Definitions
420.10	Gallonage Taxes
420.20	Claims to Recover Erroneously Paid Tax
420.30	Shipments of Alcoholic Liquors Out of Illinois
420.40	Non-Beverage Alcoholic Preparations and Compounds
420.50	Non-Beverage Users of Alcoholic Liquors
420.60	Act Does Not Apply
420.70	Tax Provisions of Act Do Not Apply
420.80	Monthly Return
420.90	Books and Records
420.100	Carriers
420.110	Sales to Governmental Bodies
420.120	Warehousing of Liquors
420.130	Non-Beverage User's Books and Records
420.140	Tax-Free Sales of Alcoholic Liquor for Use Aboard Ships Operating in Foreign Commerce Outside the Continental Limits of the United States

AUTHORITY: Implementing and authorized by Article VIII of the Liquor Control Act of 1934 [235 ILCS 5/Art. VIII].

SOURCE: Filed and effective June 17, 1958; codified at 8 Ill. Reg. 17910; amended at 14 Ill. Reg. 18083, effective October 18, 1990; amended at 15 Ill. Reg. 3498, effective February 21, 1991; amended at 24 Ill. Reg. 8096, effective May 26, 2000; amended at 24 Ill. Reg. 14763, effective September 25, 2000; amended at 27 Ill. Reg. 830, effective January 3, 2003; amended at 28 Ill. Reg. 11914, effective July 27, 2004; amended at 39 Ill. Reg. _____, effective _____.

Section 420.1 Purpose

This Part contains rules and regulations for administration of the duties vested in the Department of Revenue by Article VIII of the Liquor Control Act of 1934 [235 ILCS 5].

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(Source: Added at 39 Ill. Reg. _____, effective _____)

Section 420.5 Definitions

For purposes of this Part:

"Act" means the Liquor Control Act of 1934 [235 ILCS 5].

"Airplane license" means a license described in Section 5-1(j) of the Act.

"Alcohol" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol. [235 ILCS 5/1-3.01]

"Alcoholic liquor" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by a human being. The provisions of the Act shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with Acts of Congress and regulations promulgated thereunder, nor to any liquid or solid containing .5% or less of alcohol by volume. No tax provided for in Article VIII of the Act shall apply to wine intended for use and used by any church or religious organization for sacramental purposes, provided that the sacramental wine shall be purchased from a licensed manufacturer or importing distributor under the Act. [235 ILCS 5/1-3.05]

"Beer" means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like. [235 ILCS 5/1-3.04]

"Brewer" means a person who is engaged in the manufacture of beer. [235 ILCS 5/1-3.09]

"Brew pub" means a person who manufactures beer only at a designated premises to make sales to importing distributors, distributors, and nonlicensees for use and consumption only, who stores beer at the designated premises and who is allowed to sell at retail from the licensed premises, provided that a brew

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pub licensee shall not sell for off-premises consumption more than 50,000 gallons per year. [235 ILCS 5/1-3.33]

"Brew pub license" means a license described in Section 5-1(n) of the Act.

"Department" means the Department of Revenue [235 ILCS 5/1-3.20].

"Distributor" means any person, other than a manufacturer or nonresident dealer licensed under the Act, who is engaged in this State in purchasing, storing, possessing or warehousing any alcoholic liquors for resale or reselling at wholesale, whether within or without this State. [235 ILCS 5/1-3.15]

"Foreign importer" means anyone other than a nonresident dealer licensed under the Act who imports into this State, from any point outside the United States, any alcoholic liquors other than in bulk for sale to a licensed importing distributor [235 ILCS 5/1-3.27].

"Importing distributor" means any person other than a nonresident dealer licensed under the Act who imports into this State, from any point in the United States outside this State, whether for himself or herself or for another, any alcoholic liquors for sale or resale, or for use in the manufacture, preparation or compounding of products other than alcoholic liquors, or who imports into this State, from any point in the United States outside this State, for consumption in any one calendar year, more than one gallon of such liquors [235 ILCS 5/1-3.16].
"Importing distributor" includes an airplane licensee (see Section 1(j) of the Act).

"Liquor Control Commission" means the commission created by Section 3-1 of the Act.

"Manufacturer" means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler or person who fills or refills an original package, whether for himself or herself or for another, and others engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquors as defined in this Section [235 ILCS 5/1-3.08]. "Manufacturer" includes a manufacturer's licensee and brew pub licensee.

"Nonresident dealer" means any person, firm, partnership, corporation or other legal business entity who or which exports into this State, from any point outside of this State, any alcoholic liquors for sale to Illinois licensed foreign importers

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or importing distributors. A nonresident dealer's license shall be restricted to the actual manufacturer of such alcoholic liquors or the primary United States importer of such alcoholic liquors, if manufactured outside of the United States, or the duly registered agent of such manufacturer or importer. Registration of the agent with the Liquor Control Commission, in such manner and form as it may prescribe, shall be a prerequisite to the issuance of a nonresident dealer's license to an agent. [235 ILCS 5/1-3.29]

"Retailer" means a person who sells, or offers for sale, alcoholic liquor for use or consumption and not for resale in any form. [235 ILCS 5/1-3.17]

"Spirits" means any beverage that contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and those liquors when rectified, blended or otherwise mixed with alcohol or other substances. [235 ILCS 5/1-3.02]

"Wine" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, including those beverages when fortified by the addition of alcohol or spirits, as defined in this Section. [235 ILCS 5/1-3.03]

"Winery shipper's license" means a license described in Section 5-1(r) of the Act.

(Source: Added at 39 Ill. Reg. _____, effective _____)

Section 420.10 Gallonage Taxes

a) Measure of Tax:

1) Tax Imposed

- A) Until September 1, 2009, a~~A~~ tax is imposed upon the privilege of engaging in business as a manufacturer or as an importing distributor of alcoholic liquor at the rate of 73¢ per gallon for wine containing less than 20% of alcohol by volume other than cider containing less than 7% alcohol by volume; 18.5¢ per gallon on beer; 18.5¢ per gallon for cider containing not less than 0.5% alcohol by volume nor more than 7% alcohol by volume; and \$4.50 per gallon on alcoholic liquor having 20% or more of

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alcohol by volume, manufactured or imported for sale or use by such manufacturer, or as agent for any other person, or purchased tax-free for sale or use by such manufacturer, or as agent for any other person, or imported for sale or use by such importing distributor, or as agent for any other person, or purchased tax-free for sale or use by such importing distributor, or as agent for any other person.

B) *Beginning September 1, 2009, a tax is imposed upon the privilege of engaging in business as a manufacturer or as an importing distributor of alcoholic liquor other than beer at the rate of 23.1¢ per gallon for cider containing not less than 0.5% alcohol by volume nor more than 7% alcohol by volume, \$1.39 per gallon for wine other than cider containing less than 7% alcohol by volume, \$8.55 per gallon on alcohol and spirits, and 23.1¢ per gallon on all beer manufactured and sold or used by the manufacturer, or as an agent for any other person, or sold or used by the importing distributor, or as an agent for any other person. [235 ILCS 5/8-1]*

2) *For purposes of this Section, "cider" means any alcoholic beverage obtained by the alcohol fermentation of the juice of apples or pears including, but not limited to, flavored, sparkling, or carbonated cider. [235 ILCS 5/8-1]*

b) ~~Persons Liable for Tax:~~

- 1) Sales of alcoholic liquor by an Illinois licensed foreign importer to an Illinois licensed importing distributor of alcoholic liquor are not taxable even if both licenses are held by the same legal entity.
- 2) Where one licensed manufacturer or importing distributor sells alcoholic liquor to another licensed manufacturer or importing distributor, ~~thesueh~~ sale may be made tax-free to the extent to which the sale of alcoholic liquor by one Illinois licensed manufacturer or importing distributor to another Illinois licensed manufacturer or importing distributor is authorized by the licensing provisions of Article V of the Act. When ~~thesueh~~ sale is made tax-free, the purchasing manufacturer or importing distributor is responsible for paying the proper tax unless ~~thesueh~~ purchaser sells the alcoholic liquor that he or she has bought tax-free to

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another licensed manufacturer or importing distributor under circumstances authorized by the licensing provisions of the Act and elects not to pay the tax. This procedure may be continued until a licensed manufacturer or importing distributor sells the alcoholic liquor to someone not licensed as a manufacturer or importing distributor, in which event, if the tax liability has not been assumed previously, ~~the~~ manufacturer or importing distributor who makes the sale to a purchaser not licensed as a manufacturer or importing distributor must pay the proper tax when filing his ~~or her~~ return for the month in which he ~~or she~~ makes ~~the~~ taxable sale unless there is some other basis for claiming tax exemption, such as the fact that the sale is in interstate commerce (see Section 420.30) or that the sale is made to a ~~non-beverage~~ ~~nonbeverage~~ user (see Sections 420.500 and 420.110(b)).

- 3) *The application form for a winery shipper's license filed under the Act includes an acknowledgement consenting to the jurisdiction of the Liquor Control Commission, the Department, and the courts of this State concerning the enforcement of the Act and any related laws, rules and regulations, including authorizing the Department and the Liquor Control Commission to conduct audits for the purpose of ensuring compliance with the Act. A winery shipper licensee must pay to the Department the State liquor gallonage tax under Section 8-1 of the Act for all wine that is sold by the licensee and shipped to a person in this State. For the purposes of Section 8-1 of the Act, a winery shipper licensee shall be taxed in the same manner as a manufacturer of wine. A winery shipper licensee who is not otherwise required to register under the Retailers' Occupation Tax Act [35 ILCS 120] must register under the Use Tax Act [35 ILCS 105] to collect and remit use tax to the Department for all gallons of wine that are sold by the winery shipper licensee and shipped to persons in this State. If a winery shipper licensee fails to remit the tax imposed under the Act in accordance with the provisions of Article VIII of the Act, the winery shipper's license shall be revoked in accordance with the provisions of Article VII of the Act. If a winery shipper licensee fails to properly register and remit tax under the Use Tax Act or the Retailers' Occupation Tax Act for all wine that is sold by the winery shipper licensee and shipped to persons in this State, the winery shipper's license shall be revoked in accordance with the provisions of Article VII of the Act. A winery shipper licensee must collect, maintain and submit to the Liquor*

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Control Commission on a semiannual basis the total number of cases per resident of wine shipped to residents of this State. [235 ILCS 5/5-1(r)]

4) If any person received any alcoholic liquors from a manufacturer or importing distributor, with respect to which alcoholic liquors no tax is imposed under Article VIII of the Act, and that alcoholic liquor is thereafter disposed of in such a manner or under such circumstances as may cause the same to become the base for the tax imposed by Article VIII of the Act, that person shall make the same reports and returns, pay the same taxes and be subject to all other provisions of that Article relating to manufacturers and importing distributors. [235 ILCS 5/8-1]

c) The tax imposed under Section 8-1 of the Act shall be in addition to all other occupation or privilege taxes imposed by the State of Illinois or any political subdivision of the State. [235 ILCS 5/8-1].

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 420.80 Monthly Return

a) Requirement for Filing:

1) Each manufacturer and importing distributor of alcoholic liquor must file a return on the form approved and provided by the Department between the 1st and 15th day of each calendar month, covering transactions in alcoholic liquors during the preceding calendar month. Payment of the tax in the amount disclosed by the return shall accompany the return.

A) Voluntary Electronic Filing and Payment of Taxes. Beginning January 1, 2003, taxpayers may elect to file returns electronically under ~~the provisions of~~ 86 Ill. Adm. Code 760. A taxpayer that elects to electronically file a return and accompanying schedules must also make payment through Electronic Funds Transfer as provided in 86 Ill. Adm. Code 750. Taxpayers who both timely pay tax by Electronic Funds Transfer and timely file returns and schedules electronically shall be entitled to a discount as follows:

i) For original returns due on January 1, 2003 through September 30, 2003, the discount shall be 1.75% or \$1,250

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per return, whichever is less;

- ii) For original returns due on October 1, 2003 through September 30, 2004, the discount shall be 2% or \$3,000 per return, whichever is less; and
 - iii) For original returns due on or after October 1, 2004, the discount shall be 2% or \$2,000 per return, whichever is less.
- B) Mandatory Electronic Payment of Taxes. Effective January 1, 2003, taxpayers whose annual liability is \$200,000 or more for the preceding calendar year are required to make payments of tax by Electronic Funds Transfer. *Beginning October 1, 2010, a taxpayer who has an annual tax liability of \$20,000 or more shall make all payments of that tax to the Department by electronic funds transfer. [20 ILCS 2505/2505-210] (See as provided in 86 Ill. Adm. Code 750.)*
- 2) After a first return has been filed by any manufacturer or importing distributor, a return form will be mailed by the Department on or about the first day of each succeeding month to ~~that~~ manufacturer or importing distributor. However, it is the duty of each manufacturer and importing distributor to obtain forms, and failure to receive forms from the Department will not be an excuse for failing to file returns when and as required by the Act.
 - 3) Each manufacturer or importing distributor is required to file a return for each month that his or her license is in full force and effect, irrespective of the fact that he or she may not have any tax liability to pay for that month.
 - 4) In any case ~~in which~~ ~~where~~ business is permanently discontinued, or ~~when~~ ~~where~~ a stock of alcoholic liquors has been sold in bulk and the taxpayer has gone out of business, ~~the~~ ~~sueh~~ taxpayer should immediately notify the Department of this fact, and upon a proper showing by ~~the~~ ~~sueh~~ taxpayer that his or her license has been canceled by the Illinois Liquor Control Commission, he or she will be permitted to discontinue filing monthly returns.

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- 5) In completing the Liquor Revenue Return form, the amount of liquor manufactured, rectified, blended or bottled during the month must be included on the return by manufacturers of alcohol and spirits and by first and second class ~~winemakers~~~~wine-makers~~. In the case of manufacturers of alcohol and spirits, this item shall include bottled alcoholic liquor produced by ~~thesuch~~ manufacturer in Illinois and bulk alcoholic liquor for which a deduction is being claimed on any schedule accompanying the return. In the case of first and second class ~~winemaking~~~~wine-making~~, this item shall include all wine (whether immediately bottled or not) produced by the ~~winemaker~~~~wine-maker~~ in Illinois. Wineries ~~that~~~~which~~ are licensed as manufacturers, but not as first or second class ~~winemakers~~~~wine-makers~~, do not report anything as manufactured, rectified, blended or bottled.
- b) Schedules Accompanying Return of Manufacturer or Importing Distributor of Alcoholic Liquor:
- 1) As part of the monthly return of a manufacturer or importing distributor of alcoholic liquor, and to be completed and filed supplementary ~~to the return~~~~thereto~~ in specified instances, the Department requires the completion and filing of the schedules described ~~in subsection (b)(2)~~~~hereinbelow~~. The totals of the several columns on each of the schedules must be carried to the corresponding columns and entered on proper lines according to the schedule designation on the monthly tax return.
- 2) In every instance ~~in which~~~~where~~ a manufacturer or importing distributor is required, by any particular schedule, to make a report of alcoholic liquors manufactured, imported, stored on hand or held in warehouses, purchased or otherwise acquired, sold or otherwise transferred, used, bottled, blended, fortified or rectified by ~~that person~~~~him~~, ~~the person~~~~he~~ shall, to comply with the provisions of the Act, also include in the appropriate schedule the alcoholic liquors manufactured, imported, stored on hand or held in warehouses, purchased or otherwise acquired, sold or otherwise transferred, used, bottled, blended, fortified or rectified by ~~that person~~~~him~~ as agent for others.
- A) Schedule "A" – Alcoholic Liquor Transactions. This schedule must be completed and filed monthly by each importing distributor who imports alcoholic liquors into this State. This schedule consists of

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a detailed itemization of ~~thesuch~~ importations, and the importing distributor must include in it all ~~such~~ importations of alcoholic liquors, regardless of whether the merchandise is imported in bond or out of bond. The mere fact that a warehouse acting as agent for the importing distributor receives the merchandise and issues a warehouse receipt ~~therefor~~ does not relieve the importing distributor from reporting the transaction. All alcoholic liquors imported and stored in public or bonded warehouses, for the account of an importing distributor, must be reported by ~~thesaid~~ importing distributor in this schedule at the time the alcoholic liquors are imported and receipt of the alcoholic liquors for the account of the importing distributor is acknowledged by the warehouse. This information may not be withheld until withdrawals of the alcoholic liquors from the warehouse are made. Items of this nature should be reported as importations into Illinois.

- B) Schedule "F" – Alcoholic Liquor Transactions. In this schedule, manufacturers of alcohol and spirits report only bottled alcoholic liquors purchased tax-free, including transfers in bond covered by the issuance, transfer or negotiation of warehouse receipts. All other manufacturers and importing distributors, however, must report tax-free purchases of both bottled and bulk alcoholic liquors in this schedule, including transfers in bond covered by the issuance, transfer or negotiation of warehouse receipts. Bottled alcoholic liquors purchased tax-free and stored in public or bonded warehouses for the account of a manufacturer of alcohol and spirits and all alcoholic liquors purchased tax-free and stored in public or bonded warehouses for the account of other manufacturers (such as wineries) and importing distributors, must be reported in this schedule at the time of purchase, and ~~thesuch~~ report may not be withheld until ~~thesuch~~ alcoholic liquors are withdrawn from the warehouse.
- C) Schedule "G" – Tax-Paid Inventory. This schedule must be completed by manufacturers and importing distributors who purchase tax-paid alcoholic liquors.
- D) Schedule "C" – Tax-Free Alcoholic Liquor Sales in Interstate Commerce and Foreign Trade. This schedule must be filed by

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manufacturers or importing distributors who claim deductions on the monthly return of gallonage of alcoholic liquors sold by them and shipped tax-free in interstate or foreign commerce, or delivered tax-free to ships for use outside the continental limits of the United States in foreign commerce as provided in Section 420.140. Manufacturers and importing distributors must include in the schedule bulk (as well as all other) alcoholic liquors shipped tax-free in interstate or foreign commerce, or delivered tax-free to ships for use outside the continental limits of the United States in foreign commerce as provided in Section 420.140.

- i) Each manufacturer who includes tax exempt sales of bulk alcoholic liquor in this schedule must verify that the quantity so sold has been included in [thehis](#) Liquor Revenue Return inventory.
 - ii) A separate Schedule "C" – Tax-Free Alcoholic Liquor Sales in Interstate Commerce and Foreign Trade must be filed covering shipments into each state.
- E) Schedule "B" – Tax-Free Sales of Alcoholic Liquors to Other Illinois-Licensed Manufacturers and Importing Distributors. This schedule must be filed by Illinois manufacturers or importing distributors, if the product is manufactured outside of Illinois, who sell alcoholic liquors tax-free to other licensed manufacturers or importing distributors in Illinois. Each manufacturer, who includes in this schedule tax-free sales of bulk alcoholic liquors, must verify that the quantity so sold has been included in [thehis](#) Liquor Revenue Return inventory. Manufacturers and importing distributors must include in this schedule tax-free sales and transfers of alcoholic liquors in bond, including alcoholic liquors covered by original, transferred or negotiated warehouse receipts.
- F) Schedule "E" – Tax-Free Alcoholic Liquor Sales for Non-Beverage Purposes. This schedule must be filed by manufacturers and importing distributors who claim deductions on the monthly return for tax-free sales of alcoholic liquors made to holders of non-beverage user's licenses. Original permits or coupons permitting the tax-free purchase of alcoholic liquors for non-beverage

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purposes must accompany this schedule. This schedule must also be filed by manufacturers and importing distributors who claim deductions on the monthly return for tax-free sales of alcoholic liquors to the United States or to a foreign government, their departments, agencies or instrumentalities, for non-beverage purposes. Each manufacturer, who includes in this schedule sales of bulk alcoholic liquors, must verify that the quantity so sold has been included in ~~the~~^{his} Liquor Revenue Return inventory. Sales of wine for sacramental purposes must be reported as sales for non-beverage purposes. The seller should keep in its books and records certifications covering each delivery, and statements signed by the minister, priest or rabbi, showing the quantity of wine in each delivery together with a statement that the wine will be used only for sacramental purposes (see Section 420.70 of this Part).

- G) Schedule "J" – Report of Alcoholic Liquors Lost, Destroyed, or Damaged During Production and Bottling. Losses incurred during production and bottling alcoholic liquors carried in inventory on the Liquor Revenue Return at the time when ~~the~~^{such} bottling loss occurs must be listed on this schedule. Bottling losses will not be allowed as tax exempt unless accurate records are maintained and the deduction on the return is supported by this schedule.
- H) Schedule for "Other Illinois Liquor Tax Deductions". This schedule should be used when manufacturers or importing distributors claim deductions on the monthly return for a gallonage of alcoholic liquors that may not be properly addressed by any of the other schedules supplied by the Department. Deductions claimed should be explained in detail and filed with the monthly return. Claimed exemptions from the tax will not be allowed at the time of audit unless supported by competent documentary evidence. For example, if alcoholic liquors are dumped for the purpose of destroying the alcoholic liquors, claimed exemption from the tax will not be allowed unless supported by an affidavit of a Department representative who witnessed the destruction of the alcoholic liquors. The licensee should retain a copy of the affidavit. Each manufacturer, who includes in this schedule sales of bulk alcoholic liquors, must verify that the quantity so sold has been included in his Liquor Revenue Return inventory.

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- I) Schedule "D" – Tax-Free Bulk Purchases Used in Rectification, Bottling and Blending. This schedule must be filed by manufacturers of alcohol and spirits, and will consist of a detailed itemization of all purchases of alcoholic liquors in bulk only, to be used in rectification, bottling or blending, or for sale in original containers, with respect to which the Illinois Alcoholic Liquor Tax has not been paid. All ~~such~~ purchases of bulk alcoholic liquors must be included in this schedule irrespective of the fact that the alcoholic liquors are purchased in bond or imported in bond. The fact that a warehouse, acting as agent for ~~thesueh~~ manufacturer, may receive the alcoholic liquors and issue a warehouse receipt ~~therefor~~ does not relieve the manufacturer from reporting the transaction. All bulk alcoholic liquors purchased tax-free in Illinois or imported into Illinois by a manufacturer of alcohol and spirits and stored in a public or bonded warehouse for ~~its~~ account must be reported in this schedule at the time ~~thesueh~~ alcoholic liquors are purchased by ~~thesueh~~ manufacturer and received by the warehouse, and this information may not be withheld until ~~thesueh~~ alcoholic liquors are withdrawn from the warehouse. This is an information schedule only and is not to be entered on the monthly return.
- J) Returned Merchandise. Alcoholic liquors returned by Illinois licensees to vendors from whom ~~thesueh~~ alcoholic liquors were purchased, and who are located outside of the State of Illinois, must be reported the same as a sale in interstate commerce on Schedule "C"– Tax-Free Sales in Interstate Commerce and Foreign Trade.
- i) Alcoholic liquors returned to Illinois licensees by their customers located outside of the State of Illinois must be reported the same as an importation on Schedule "A" – Alcoholic Liquor Transactions.
- ii) When untaxed alcoholic liquors are returned to a manufacturer or an importing distributor, both parties being Illinois licensees, the person returning ~~thesueh~~ liquors will report the transaction on Schedule "B"– Tax-Free

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Alcoholic Liquor Sales to Licensed Manufacturers and Importing Distributors, and the one receiving the returned liquors will report on Schedule "F"—Alcoholic Liquor Transactions.

- iii) Tax-paid alcoholic liquors returned to an Illinois manufacturer or importing distributor by someone in Illinois need not be scheduled by the person returning ~~thesueh~~ liquors, but the person receiving the returned liquors must report the transaction on Schedule "G"—Tax-Paid Inventory, the same as a purchase of tax-paid alcoholic liquor.
- c) **Statement By Out-of-State Sellers Other Than Illinois Licensed Foreign Importers:**
Out-of-State sellers, who are not licensed in Illinois as foreign importers, and who sell, to Illinois licensed importing distributors, beer, wine, or alcohol and spirits ~~that, which~~ are located at some place in the United States outside Illinois, and ~~that, which~~ are shipped or otherwise delivered into Illinois, are required to file with the Department, within 15 days after the end of each month, on forms prescribed and furnished by the Department, a statement setting forth the names and addresses of the persons in Illinois to whom beer, wine or alcohol and spirits were so sold and shipped or otherwise delivered during the preceding month and the respective quantities so sold and shipped or otherwise delivered.
- d) **Information Returns From Illinois Licensed Foreign Importers:**
- 1) The Department has determined it to be necessary, for the proper performance of its functions and duties under the Act, to require licensed foreign importers who are not also licensed in Illinois as importing distributors of alcoholic liquor to file a monthly information return with the Department. ~~TheSueh~~ return must be filed by the 15th day of the month following the month for which ~~thesueh~~ return is filed. ~~TheSueh~~ return shall contain such information as the Department may reasonably require.
 - 2) It is not necessary for ~~thesueh~~ special foreign importer information return to be filed by any foreign importer who is also licensed in Illinois as an importing distributor of alcoholic liquor.

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(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Cigarette Tax Act
- 2) Code Citation: 86 Ill. Adm. Code 440
- 3) Section Number: 440.50 Proposed Action: Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-90
- 5) A Complete Description of the Subjects and Issues Involved: The Tobacco Products Act of 1995 allows only stamping distributors to possess untaxed little cigars and affix tax stamps to unstamped packages of little cigars containing 20 or 25 little cigars. To qualify as a stamping distributor a person must possess a license under the Cigarette Tax Act or Cigarette Use Tax Act and the Tobacco Products Tax Act. To obtain a license under the Cigarette Tax Act, Section 440.50 requires an applicant to present to the Department satisfactory proof in writing that the applicant will be able to buy cigarettes directly from at least 3 major cigarette manufacturers. The proposed amendment to Section 440.50 will permit a person licensed as a distributor under the Tobacco Products Tax Act to obtain a license under the Cigarette Tax Act in order to qualify as a stamping distributor for the purpose of acquiring and possessing untaxed little cigars and affixing tax stamps to unstamped packages of little cigars containing 20 or 25 little cigars without having to present to the Department satisfactory proof in writing that the applicant will be able to buy cigarettes directly from at least 3 major cigarette manufacturers. When a licensed tobacco distributor possessing a distributor's license under the Cigarette Tax Act subsequently wishes to possess or affix stamps to unstamped packages of cigarettes, the distributor must present the Department with satisfactory proof in writing that he or she will be able to buy cigarettes directly from at least 3 major cigarette manufacturers.
- 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

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- 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:

Richard S. Wolters
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Distributors of little cigars
 - 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 2015

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 440
CIGARETTE TAX ACT

Section	
440.10	Nature and Rate of Tax
440.20	Tax – How Paid
440.30	Tax – Who Liable For
440.40	Design
440.50	Tax Stamps – When and By Whom Affixed: License or Permit Required
440.60	Tax Stamps – How Affixed
440.70	Tax Stamps – Affixed Out of State
440.80	Transporter Permits
440.90	Tax Stamps – Purchase of: Cost: Discount
440.100	Returns Required: When Filed
440.110	Books and Records: Examination: Preservation
440.120	Unused Stamps and Meter Units: Sale of: Notice to Department
440.130	Mutilated Stamps
440.140	Tax Meters (Repealed)
440.150	Tax Meter Machine Settings (Repealed)
440.160	Vending Machines
440.170	Sales Out of Illinois
440.180	Sales to Governmental Bodies
440.190	Sample Packages of Cigarettes: Stamps or Other Evidence of Tax Payment Affixed
440.200	Credit for Stamps that Are Damaged, Unused, Destroyed or on Packages Returned to the Manufacturer
440.210	Sale of Forfeited Cigarettes and Vending Machines
440.220	Tax-Free Sales of Cigarettes for Use Aboard Ships Operating in Foreign Commerce Outside The Continental Limits of the United States
440.230	Claims for Credit or Refund
440.240	Protest Procedures

AUTHORITY: Implementing and authorized by the Cigarette Tax Act [35 ILCS 130].

SOURCE: Filed and effective June 17, 1958; amended at 6 Ill. Reg. 2831 and 2834, effective March 3, 1982; codified at 8 Ill. Reg. 17912; amended at 13 Ill. Reg. 10678, effective June 16,

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1989; amended at 14 Ill. Reg. 6794, effective April 19, 1990; amended at 15 Ill. Reg. 117, effective December 24, 1990; emergency amendment at 23 Ill. Reg. 9541, effective July 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14748, effective December 8, 1999; amended at 24 Ill. Reg. 9903, effective June 23, 2000; emergency amendment at 24 Ill. Reg. 10752, effective July 6, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 17793, effective November 28, 2000; amended at 25 Ill. Reg. 933, effective January 8, 2001; emergency amendment at 26 Ill. Reg. 9021, effective June 10, 2002, for a maximum of 150 days; emergency expired November 5, 2002; amended at 27 Ill. Reg. 1618, effective January 15, 2003; emergency amendment at 27 Ill. Reg. 10524, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; amended at 28 Ill. Reg. 3906, effective February 13, 2004; amended at 32 Ill. Reg. 17575, effective October 27, 2008; amended at 39 Ill. Reg. _____, effective _____.

Section 440.50 Tax Stamps – When and By Whom Affixed: License or Permit Required

- a) The Department, or any person authorized by the Department, will sell tax stamps only to licensed distributors. It shall be unlawful for any person to engage in the business as a distributor of cigarettes in this State without first having obtained a license or permit ~~therefor~~ from the Department. Application for a distributor's license shall be made to the Department in form as furnished and prescribed by the said Department and shall be accompanied by a joint and several bond in the amount of \$2,500. Except when the applicant is the manufacturer or when the applicant is a person licensed as a distributor under the Tobacco Products Tax Act of 1995 [35 ILCS 143] applying for a distributor's license under the Act to qualify as a stamping distributor for the purpose of acquiring and possessing untaxed little cigars and affixing tax stamps to unstamped packages of little cigars containing 20 or 25 little cigars, no distributor's license shall be issued to an applicant unless he presents the Department with satisfactory proof in writing that he or she will be able to buy cigarettes directly from at least 3 major cigarette manufacturers. A person licensed as a distributor under the Tobacco Products Tax Act of 1995 issued a distributor's license under the Act to qualify as a stamping distributor for the purpose of acquiring and possessing untaxed little cigars and affixing tax stamps to unstamped packages of little cigars containing 20 or 25 little cigars is prohibited from acquiring, possessing or affixing stamps to unstamped packages of cigarettes until the distributor presents the Department with satisfactory proof in writing that he or she will be able to buy cigarettes directly from at least 3 major cigarette manufacturers. Each licensed place of business shall be covered by a separate license.

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- b) The annual license fee payable to the Department for each distributor's license shall be \$250. The purpose of the annual license fee is to defray the cost, to the Department, of serializing cigarette tax stamps. Each applicant for license shall pay the fee to the Department at the time of submitting his application for license to the Department.
- c) All licenses issued by the Department under the Cigarette Tax Act shall be valid for not to exceed one year after issuance unless sooner revoked, canceled or suspended as in the Act provided.
- d) The Department may, in its discretion, upon application, issue permits authorizing the payment of the tax imposed by the Act by out-of-State cigarette manufacturers who are not required to be licensed as distributors of cigarettes in this State, but who elect to qualify under the Act as distributors of cigarettes in this State, and who, to the satisfaction of the Department, furnish adequate security to insure payment of the tax, provided that any permit shall extend only to cigarettes ~~that~~^{which} the permittee-manufacturer places in original packages that are contained inside a sealed transparent wrapper.
- e) All permits issued by the Department under the Cigarette Tax Act shall be valid for not to exceed one year after issuance unless sooner revoked, canceled or suspended as in the Act provided.
- f) The following are ineligible to receive a distributor's license or permit under ~~the~~^{this} Act:
- 1) A person who is not of good character and reputation in the community in which he resides;
 - 2) A person who has been convicted of a felony under any ~~federal~~^{Federal} or State law, if the Department, after investigation and a hearing, if requested by the applicant, determines that ~~such~~ person has not been sufficiently rehabilitated to warrant the public trust;
 - 3) A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% (in the case of distributors) or 1% (in the case of out-of-State cigarette manufacturer permittees) of the stock of ~~that~~^{such} corporation, would not be eligible to receive a license under ~~the~~^{this} Act for any reason.

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- g) The first distributor who delivers cigarettes or causes them to be delivered in this State to a purchaser must affix proper stamp or stamps to each original package of cigarettes before delivering the cigarettes (or causing them to be delivered) in this State to the purchaser, or (in the case of manufacturers of cigarettes in original packages ~~that~~~~which~~ are contained inside a sealed transparent wrapper) to imprint the required language on the original package of cigarettes beneath ~~the~~~~such~~ outside wrapper, as provided in Section 440.20(b) ~~of this Part~~.
- h) On and after July 22, 1999, *no stamp or imprint may be affixed to, or made upon, any package of cigarettes unless that package complies with all requirements of the federal Cigarette Labeling and Advertising Act, (15 USC 1331 ~~et seq.~~) ~~and following~~, for the placement of labels, warnings, or any other information upon a package of cigarettes that is sold within the United States. Under the authority of Section 6 of the Cigarette Tax Act ~~[35 ILCS 130], the Department shall revoke the license of any distributor that is determined to have violated this subsection (h). A person may not affix a stamp on a package of cigarettes, cigarette papers, wrappers, or tubes if that individual package has been marked for export outside the United States with a label or notice in compliance with 27 CFR Section 290.185 of Title 27 of the Code of Federal Regulations. It is not a defense to a proceeding for violation of this subsection that the label or notice has been removed, mutilated, obliterated, or altered in any manner.~~* (Section 3 of the Cigarette Tax Act)
- i) On and after August 15, 1999, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (h) ~~of this Section~~ and found in the possession of a distributor create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers or tubes were stamped or imprinted in violation of the Cigarette Tax Act.
- j) On and after September 1, 1999, packages of cigarettes, cigarette papers, wrappers or tubes stamped or imprinted in a manner not in accordance with subsection (h) ~~of this Section~~ and found in the possession of a retailer create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers or tubes were stamped or imprinted by the distributor from whom they were obtained in violation of the Cigarette Tax Act.
- k) *On and after June 13, 2000, no stamp or imprint may be affixed to, or made upon, any package of cigarettes that:*

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- 1) *bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States, including but not limited to labels stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording;*
- 2) *does not comply with:*
 - A) *all requirements imposed by or pursuant to federal law regarding warnings and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States, including but not limited to the precise warning labels specified in the federal Cigarette Labeling and Advertising Act, (15 USC 1333); and*
 - B) *all federal trademark and copyright laws;*
- 3) *is imported into the United States in violation of 26 USC 5754 or any other federal law or implementing federal regulations;*
- 4) *the person affixing the stamp or imprint otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States;*
- 5) *for which there has not been submitted to the Secretary of the U.S. Department of Health and Human Services the list or lists of the ingredients added to tobacco in the manufacture of the cigarettes required by the federal Cigarettes Labeling and Advertising Act, (15 USC 1335a); or*
- 6) *has been altered, prior to sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure:*
 - A) *any statement, label, stamp, sticker, or notice described in subsection (k)(1) of this Section; or*
 - B) *any health warning that is not specified in, or does not conform with the requirements of, the federal Cigarette Labeling and*

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Advertising Act, ~~(15 USC 1333)~~. (Section 3-10 of the Act)

- l) On and after July 15, 2000, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (k) ~~of this Section~~ and found in the possession of a distributor create a rebuttable presumption that the package of cigarettes, cigarette papers, wrappers, or tubes were stamped or imprinted in violation of the Cigarette Tax Act.
- m) On and after July 31, 2000, packages of cigarettes, cigarette papers, wrappers or tubes stamped or imprinted in a manner not in accordance with subsection (k) ~~of this Section~~ and found in the possession of a retailer create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrapper or tubes were stamped or imprinted by the distributor from whom they were obtained in violation of the Cigarette Tax Act.
- n) *On and after June 13, 2000, on the first business day of each month, each person licensed to affix the State tax stamp to cigarettes shall file with the Department, for all cigarettes imported into the United States to which the person has affixed the tax stamp in the preceding month:*
 - 1) *a copy of:*
 - A) *the permit issued pursuant to the Internal Revenue Code, (26 USC 5713), to the person importing the cigarettes into the United States allowing the person to import the cigarettes; and*
 - B) *the customs form containing, with respect to the cigarettes, the internal revenue tax information required by the U.S. Bureau of Alcohol, Tobacco and Firearms;*
 - 2) *a statement, signed by the person under penalty of perjury, which shall be treated as confidential by the Department and exempt from disclosure under the Freedom of Information Act [5 ILCS 140], identifying the brand and brand styles of all ~~thesuch~~ cigarettes, the quantity of each brand style of ~~thesuch~~ cigarettes, the supplier of ~~thesuch~~ cigarettes, and the person or persons, if any, to whom ~~thesuch~~ cigarettes have been conveyed for resale;*
 - 3) *in addition to the statement required in subsection (n)(2) ~~of this Section~~, a separate statement, signed by the individual under penalty of perjury,*

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which shall not be treated as confidential or exempt from disclosure, separately identifying the brands and brand styles of ~~thesuch~~ cigarettes;

- 4) *in addition to the statement required in subsections (n)(2) and (n)(3) ~~of this Section~~, a separate statement, signed by an officer of the manufacturer or importer under penalty of perjury, certifying that the manufacturer or importer has complied with:*
- A) *the package health warning and ingredient reporting requirements of the federal Cigarette Labeling and Advertising Act, (15 USC 1333 and 1335a) ~~;~~ with respect to ~~thesuch~~ cigarettes; and*
 - B) *the provisions of Exhibit T of the Master Settlement Agreement entered in the case of People of the State of Illinois v. Philip Morris, et al. (Circuit Court of Cook County, No. 96-L13146), including a statement indicating whether the manufacturer is, or is not, a participating tobacco manufacturer within the meaning of Exhibit T.*
- o) *The Department may revoke or suspend the license or licenses of any distributor, in the manner provided in Section 6 of the Cigarette Tax Act, if the Department determines that the distributor knew or had reason to know that the distributor was committing any the acts prohibited in subsection (k) ~~of this Section~~ or had failed to comply with any of the requirements of subsection (l) ~~of this Section~~. In addition, the Department may impose on the distributor a civil penalty in an amount not to exceed the greater of 500% of the retail value of the cigarettes involved or \$5000. Cigarettes acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this State in violation of subsection (k) ~~of this Section~~ shall be subject to seizure and forfeiture whether the violation is knowing or otherwise. (Section 3-10 of the Act)*

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Special Education
- 2) Code Citation: 23 Ill. Adm. Code 226
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
226.10	Amendment
226.60	Amendment
226.75	Amendment
226.100	Amendment
226.110	Amendment
226.120	Amendment
226.125	New Section
226.130	Amendment
226.135	Amendment
226.150	Amendment
226.160	Amendment
226.180	Amendment
226.220	Amendment
226.230	Amendment
226.300	Amendment
226.320	Amendment
226.550	Amendment
226.560	Amendment
226.570	Amendment
226.710	Amendment
226.730	Amendment
226.731	Repeal
226.735	Amendment
226.770	Amendment
226.800	Amendment
226.810	Amendment
226.820	Amendment
226.830	Amendment
226.840	Amendment
226.850	Amendment
226.860	Amendment
- 4) Statutory Authority: 105 ILCS 5/Art. 14 and 2-3.6

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- 5) A Complete Description of the Subjects and Issues Involved: A number of updates are being proposed for Part 226, the set of rules that specifies the requirements for the provision of education and related services for students with disabilities under the federal Individuals with Disabilities Education Act (IDEA) and Article 14 of the School Code. Changes being proposed in Part 226 at this time address five pieces of legislation enacted in the last several years, acknowledge the 2013 change from a system of teacher certification to one of educator licensure, and provide general updates and clarifications.

Of particular note, new Section 226.125 is being proposed in response to PA 98-705, effective July 14, 2014. The law added Section 2-3.160 to the School Code, directing the agency to incorporate into rules "an international definition" of dyslexia, as was recommended by the Reading Instruction Advisory Group in December 2014. The definition of the International Dyslexia Association is being incorporated by reference in the rules. Additionally, new Section 226.125 reminds school districts and special education cooperatives that dyslexia is one of a number of disorders that may result in a child's identification as having a specific learning disability, necessitating an evaluation to determine the child's eligibility for special education and related services. New Section 226.125 is being proposed – rather than defining dyslexia under Section 226.75 (Definitions) – since the term is not used elsewhere in the rules.

Section 226.220(a) acknowledges a change in Section 14-6.01 of the School Code, which requires that special education and related services identified in the Individualized Education Program (IEP) be provided to a student within 10 "school attendance" days after notice regarding the IEP is provided to the student's parents (PA 98-219, effective August 9, 2013). Previously, the provision of services was required to begin within 10 calendar days. Staff are proposing the rule further clarify that the initial or revised IEP may be implemented in the following school year in situations when notice is provided with fewer than 10 school days left in a school year. For purposes of Section 226.220, "school day" is defined in federal regulations as "any day, including a partial day, that children are in attendance at school for instructional purposes".

Under the provisions of PA 98-517, effective August 22, 2013, the IEP for students, beginning at age 14½, must address independent living skills (see proposed amendment in Section 226.230). Previously, Section 14-8.03 required that the IEP only include independent living skills "where applicable".

Two proposed changes result from PA 98-383, effective August 16, 2013. Section 226.560 reiterates statutory language requiring that a parent who participates in a mediation process that fails to resolve disagreements file a request for a due process

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hearing within 10 days after the mediation concludes in order to continue the student's current educational placement and services. Under Section 14-8.02a of the School Code, both the parent and school district could opt for mediation, rather than another administrative or judicial proceeding like a due process hearing, to settle disagreements regarding special education and related services.

PA 98-383 also added Section 14-8.02e to the School Code, requiring that the State Board establish, by rule, "State complaint procedures". While Section 226.570 currently enumerates complaint procedures, it does not address a new requirement for providing an opportunity to the school district, special education cooperative or other public entity that is the subject of the complaint to respond before the complaint's consideration by the State Board of Education. New subsection (c) establishes a timeframe for an entity to respond and submit its response to the agency. Since the amount of time needed to respond depends on the complexity of the complaint, the rule proposes that the specific deadline for response be included in the agency's notification to the affected entity. Additionally, the proposed rule reinforces the requirement in Section 14-8.02e that the entity also is responsible for providing its response to the parent, individual, or organization (or the representing attorney) filing the complaint at the time the response is submitted to the State Board.

Finally, a technical change is proposed in Section 226.830 in response to PA 96-657, effective August 25, 2009. PA 96-657 added Section 14-8.02(g-5) to the School Code, which in part, defined "qualified professionals" for the purpose of independent evaluations of students requested by parents; therefore, a cross-reference to the School Code requirement is being proposed.

- 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? Yes; see Section 226.125.
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

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- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this Notice to:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777-0001

217/782-5270
rules@isbe.net

- 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 2015

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

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 226

SPECIAL EDUCATION

SUBPART A: GENERAL

Section

- 226.10 Purpose
- 226.50 Requirements for a Free Appropriate Public Education (FAPE)
- 226.60 Charter Schools
- 226.75 Definitions

SUBPART B: IDENTIFICATION OF ELIGIBLE CHILDREN

Section

- 226.100 Child Find Responsibility
- 226.110 Evaluation Procedures
- 226.120 Reevaluations
- [226.125 Specific Learning Disability: Dyslexia](#)
- 226.130 Additional Procedures for Students Suspected of or Having a Specific Learning Disability
- 226.135 Additional Procedures for Students Suspected of or Having [an Intellectuala Cognitive](#) Disability
- 226.140 Modes of Communication and Cultural Identification
- 226.150 Evaluation to be Nondiscriminatory
- 226.160 Medical Review
- 226.170 Criteria for Determining the Existence of a Specific Learning Disability (Repealed)
- 226.180 Independent Educational Evaluation
- 226.190 Reevaluation (Repealed)

SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Section

- 226.200 General Requirements

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226.210	IEP Team
226.220	Development, Review, and Revision of the IEP
226.230	Content of the IEP
226.240	Determination of Placement
226.250	Child Aged Three Through Five
226.260	Child Reaching Age Three

SUBPART D: PLACEMENT

Section	
226.300	Continuum of Placement Options
226.310	Related Services
226.320	Service to Students Living in Residential Care Facilities
226.330	Placement by School District in State-Operated or Nonpublic Special Education Facilities
226.340	Nonpublic Placements by Parents Where FAPE is at Issue
226.350	Service to Parentally-Placed Private School Students
226.360	Placement by School Districts in Remote Educational Programs

SUBPART E: DISCIPLINE

Section	
226.400	Disciplinary Actions
226.410	Manifestation Determination Review (Repealed)
226.420	Appeals (Repealed)
226.430	Protection for Children Not Yet Eligible for Special Education (Repealed)
226.440	Referral to and Action by Law Enforcement and Judicial Authorities (Repealed)

SUBPART F: PROCEDURAL SAFEGUARDS

Section	
226.500	Language of Notifications
226.510	Notification of Parents' Rights
226.520	Notification of District's Proposal
226.530	Parents' Participation
226.540	Consent
226.550	Surrogate Parents
226.560	Mediation
226.570	State Complaint Procedures

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SUBPART G: DUE PROCESS

Section	
226.600	Calculation of Timelines
226.605	Request for Hearing; Basis (Repealed)
226.610	Information to Parents Concerning Right to Hearing
226.615	Procedure for Request
226.620	Denial of Hearing Request (Repealed)
226.625	Rights of the Parties Related to Hearings
226.630	Qualifications, Training, and Service of Impartial Due Process Hearing Officers
226.635	Appointment, Recusal, and Substitution of Impartial Due Process Hearing Officers
226.640	Scheduling the Hearing and Pre-Hearing Conference
226.645	Conducting the Pre-Hearing Conference
226.650	Child's Status During Due Process Hearing (Repealed)
226.655	Expedited Due Process Hearing
226.660	Powers and Duties of Hearing Officer
226.665	Record of Proceedings
226.670	Decision of Hearing Officer; Clarification
226.675	Monitoring and Enforcement of Decisions; Notice of Ineligibility for Funding
226.680	Reporting of Decisions (Repealed)
226.690	Transfer of Parental Rights

SUBPART H: ADMINISTRATIVE REQUIREMENTS

Section	
226.700	General
226.710	Policies and Procedures
226.720	Facilities and Classes
226.730	Class Size for 2009-10 and Beyond
226.731	Class Size Provisions for 2007-08 and 2008-09 (Repealed)
226.735	Work Load for Special Educators
226.740	Records; Confidentiality
226.750	Additional Services
226.760	Evaluation of Special Education
226.770	Fiscal Provisions
226.780	Procedures for Withdrawal Hearings before the Regional Board of School Trustees

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SUBPART I: PERSONNEL

Section	
226.800	Personnel Required to be Qualified
226.810	Special Education Teaching Approval
226.820	Authorization for Assignment
226.830	List of Independent Evaluators
226.840	Qualifications of Evaluators
226.850	List of Qualified Workers
226.860	List of Other Noncertified Employees Qualifying for Reimbursement

AUTHORITY: Implementing Article 14 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art.14 and 2-3.6].

SOURCE: Adopted August 12, 1976; rules repealed and new emergency rules adopted at 2 Ill. Reg. 37, p. 29, effective September 1, 1978, for a maximum of 150 days; rules repealed and new rules adopted at 3 Ill. Reg. 5, p. 932, effective February 1, 1979; emergency amendment at 4 Ill. Reg. 38, p. 328, effective September 15, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 8021, effective July 22, 1981; amended at 6 Ill. Reg. 558, effective December 23, 1981; emergency amendment at 7 Ill. Reg. 6511, effective May 6, 1983, for a maximum of 150 days; emergency amendment at 7 Ill. Reg. 8949, effective July 15, 1983, for a maximum of 150 days; codified at 8 Ill. Reg. 6669; amended at 8 Ill. Reg. 7617, effective May 17, 1984; emergency amendment at 10 Ill. Reg. 3292, effective January 27, 1986, for a maximum of 150 days; emergency expired June 24, 1986; amended at 10 Ill. Reg. 18743, effective October 22, 1986; amended at 10 Ill. Reg. 19411, effective October 31, 1986; amended at 13 Ill. Reg. 15388, effective September 14, 1989; emergency amendment at 14 Ill. Reg. 11364, effective June 26, 1990, for a maximum of 150 days; emergency expired November 23, 1990; amended at 15 Ill. Reg. 40, effective December 24, 1990; amended at 16 Ill. Reg. 12868, effective August 10, 1992; emergency amendment at 17 Ill. Reg. 13622, effective August 3, 1993, for a maximum of 150 days; emergency expired December 31, 1993; amended at 18 Ill. Reg. 1930, effective January 24, 1994; amended at 18 Ill. Reg. 4685, effective March 11, 1994; amended at 18 Ill. Reg. 16318, effective October 25, 1994; amended at 19 Ill. Reg. 7207, effective May 10, 1995; amended at 20 Ill. Reg. 10908, effective August 5, 1996; amended at 21 Ill. Reg. 7655, effective July 1, 1997; Part repealed, new Part adopted at 24 Ill. Reg. 13884, effective August 25, 2000; amended at 27 Ill. Reg. 8126, effective April 28, 2003; amended at 31 Ill. Reg. 9915, effective June 28, 2007; amended at 32 Ill. Reg. 4828, effective March 21, 2008; amended at 34 Ill. Reg. 17433, effective October 28, 2010; amended at 35 Ill. Reg. 8836, effective May 26, 2011; peremptory amendment, pursuant to PA 97-461, at 35 Ill. Reg. 14836, effective August 22, 2011;

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amended at 36 Ill. Reg. 12648, effective July 18, 2012; amended at 36 Ill. Reg. 12870, effective July 24, 2012; amended at 37 Ill. Reg. 16788, effective October 2, 2013; amended at 39 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 226.10 Purpose

This Part establishes the requirements for the treatment of children and the provision of special education and related services pursuant to the Individuals with Disabilities Education Improvement Act (also referred to as "IDEA") (20 USC 1400 et seq.), its implementing regulations (34 CFR 300, as amended by 71 Fed. Reg. 46540 (August 14, 2006) [and 73 Fed. Reg. 73027 \(December 1, 2008\)](#), no later amendments or editions included), and Article 14 of the School Code [105 ILCS 5/Art. 14]. This Part also distinguishes between requirements derived from federal authority and those imposed additionally pursuant to Article 14 of the School Code or the authority of the State Board of Education. The requirements of IDEA, its implementing regulations, and this Part shall apply in every instance when a child is or may be eligible for special education and related services.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.60 Charter Schools

For purposes of IDEA and this Part, charter schools established pursuant to Article 27A of the School Code [105 ILCS 5/Art. 27A] shall be treated either as schools within school districts or as local educational agencies in their own right.

- a) When a school's charter is issued by a local board of education pursuant to Section 27A-8 of the School Code [105 ILCS 5/27A-8], that charter school shall be considered as a school within the district over which that board of education exercises jurisdiction.
- b) When a school's charter is issued by the State [Charter School Commission](#)~~Board of Education~~ pursuant to Section [27A-7.5](#)~~27A-9(f)~~ of the School Code [105 ILCS [5/27A-7.5](#)~~27A-9(f)~~], that charter school shall be considered as a local educational agency.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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Section 226.75 Definitions

Assistive Technology Device: See 34 CFR 300.5.

Behavioral Intervention: An intervention based on the methods and empirical findings of behavioral science and designed to influence a child's actions or behaviors positively.

Case Study Evaluation: See "Evaluation".

Day; Business Day; School Day: See 34 CFR 300.11.

Developmental Delay: See 34 CFR 300.8 and 300.111(b). Delay in physical development, cognitive development, communication development, social or emotional development, or adaptive development (may include children from three through nine years of age).

Disability: IDEA identifies 13 disabilities as the basis for students' eligibility for special education and related services. These disabilities (autism, deaf-blindness, deafness, emotional disability, hearing impairment, ~~intellectual~~~~cognitive~~ disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment) shall be defined as set forth in 34 CFR 300.8(c). In addition, for purposes of this Part, "autism" shall include, but not be limited to, any Autism Spectrum Disorder that adversely affects a child's educational performance.

Domain: An aspect of a child's functioning or performance that must be considered in the course of designing an evaluation. The domains are health, vision, hearing, social and emotional status, general intelligence, academic performance, communication status, and motor abilities.

Equipment (a programmatic definition, not intended to coincide with the definition of "equipment" given in the [Requirements for Accounting, Budgeting, Financial Reporting, and Auditing](#) ~~Program Accounting Manual~~ at 23 Ill. Adm. Code ~~100.20110.120~~): See 34 CFR 300.14.

Evaluation: See 34 CFR 300.15.

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Extended School Year Services: See 34 CFR 300.106(b).

Functional Behavioral Assessment: An assessment process for gathering information regarding the target behavior, its antecedents and consequences, controlling variables, the student's strengths, and the communicative and functional intent of the behavior, for use in developing behavioral interventions.

General Curriculum: The curriculum adopted and/or used by a local school district or by the schools within a district for nondisabled students; the content of the program, as opposed to the setting in which it is offered.

IEP Team: See 34 CFR 300.23.

Independent Educational Evaluation: See 34 CFR 300.502(a)(3)(i).

Individualized Education Program or IEP: See 34 CFR 300.22. An IEP shall be considered "linguistically and culturally appropriate" if it addresses the language and communication needs of a student as a foundation for learning, as well as any cultural factors that may affect the student's education.

Individualized Family Service Plan or IFSP: See 34 CFR 300.24.

Least Restrictive Environment (LRE): See 34 CFR 300.114.

Limited English Proficient: See 34 CFR 300.27.

Native Language: See 34 CFR 300.29.

Parent: See 34 CFR 300.30.

Personally Identifiable (with reference to information): See 34 CFR 300.32.

Qualified Bilingual Specialist: An individual who holds the qualifications described in Section 226.800(f) ~~of this Part~~.

Qualified Personnel: Staff members or other individuals who hold the certificate, [educator or professional](#) license, registration, or credential that is required for the performance of a particular task.

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Qualified Specialist: An individual who holds the applicable qualifications described in Subpart I ~~of this Part~~.

Related Services: See 34 CFR 300.34.

School District: A public school district established under Article 10 or Article 34 of the School Code [105 ILCS 5/Art. 10 or 34] or a charter school established under Article 27A of the School Code [105 ILCS 5/Art. 27A].

Special Education: See 34 CFR 300.39.

Student Record: See Section 2 of the Illinois School Student Records Act [105 ILCS 10/2] and 23 Ill. Adm. Code 375.10 (Student Records).

Supplementary Aids and Services: See 34 CFR 300.42.

Transition Services: See 34 CFR 300.43.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART B: IDENTIFICATION OF ELIGIBLE CHILDREN

Section 226.100 Child Find Responsibility

This Section implements the requirements of 34 CFR 300.111.

- a) Each school district shall be responsible for actively seeking out and identifying all children from birth through age 21 within the district (and those parentally-placed private school children for whom the district is responsible under 34 CFR 300.131) who may be eligible for special education and related services. Procedures developed to fulfill the child find responsibility shall include:
 - 1) Annual and ongoing screenings~~An annual screening~~ of children under the age of five for the purpose of identifying those who may need early intervention or special education and related services.
 - 2) Ongoing review of each child's performance and progress by teachers and other professional personnel, in order to refer those children who exhibit problems ~~that~~which interfere with their educational progress and/or their

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adjustment to the educational setting, suggesting that they may be eligible for special education and related services.

- 3) Ongoing coordination with early intervention programs to identify children from birth through two years of age who have or are suspected of having disabilities, in order to ensure provision of services in accordance with applicable timelines. Each local school district shall participate in transition planning conferences arranged by the designated lead agency under 20 USC 1437(a)(9) in order to develop a transition plan enabling the public school to implement an IFSP or IEP no later than the third birthday of each eligible child.
- b) When the responsible school district staff members conclude that an individual evaluation of a particular child is warranted based on factors such as a child's educational progress, interaction with others, or other functioning in the school environment, the requirements for evaluation set forth in this Subpart B shall apply.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.110 Evaluation Procedures

Procedures for requesting and conducting initial evaluations of children who are suspected of requiring special education and related services shall conform to the requirements of 34 CFR 300.301, 300.304, 300.305, ~~and 300.306~~ and 300.309. For purposes of this Section, ~~the "date of referral" discussed in Section 14-8.02 of the School Code shall be understood to be the date of written parental consent for an evaluation, and~~ screening procedures done in accordance with 34 CFR 300.302 shall not be considered an evaluation. Consent for the initial evaluation shall be obtained in conformance with the requirements of 34 CFR 300.300. In addition, the following requirements shall apply.

- a) **Procedures for Requesting an Initial Evaluation**
Each school district shall develop and make known to all concerned persons procedures by which an evaluation may be requested. These procedures shall:
 - 1) Designate the steps to be taken in making a request for an evaluation;
 - 2) Designate the persons to whom a request may be made;

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- 3) Identify the information that must be provided;
 - 4) Provide any assistance that may be necessary to enable persons making requests to meet any related requirements established by the district; and
 - 5) Identify the process for providing the parents with notice of their rights with respect to procedural safeguards.
- b) A request may be made by a parent of a child or by an employee of a State educational agency, another State agency, a local educational agency, or a community service agency.
- c) District's Response to Request
- 1) The school district shall be responsible for processing the request, deciding what action should be taken, and initiating the necessary procedures.
 - 2) To determine whether the child requires an evaluation, the district may utilize screening data and conduct preliminary procedures, such as observation of the child, assessment for instructional purposes, consultation with the teacher or other individual making the request, and a conference with the child.
 - 3) Within 14 school days after receiving a request for an evaluation, the district shall determine whether an evaluation is warranted. If the district determines not to conduct an evaluation, it shall provide written notice to the parents in accordance with 34 CFR 300.503(b). If an evaluation is to be conducted:
 - A) The district shall convene a team of individuals (including the parent) having the knowledge and skills necessary to administer and interpret evaluation data. The composition of the team will vary depending upon the nature of the child's symptoms and other relevant factors.
 - B) The team shall identify the assessments necessary to complete the evaluation in accordance with 34 CFR 300.305 and shall prepare a written notification for the parents as required under 34 CFR

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300.304(a). For each domain, the notification shall either describe the needed assessments or explain why none are needed.

- C) The district shall ensure that the notification of the team's conclusions is transmitted to the parents within the 14-school-day timeline applicable under this subsection (c)(3), along with the district's request for the parents' consent to conduct the needed assessments.
- d) Upon completion of the assessments identified pursuant to subsection (c)(3) ~~of this Section~~, but no later than 60 school days following the date the parent signs the written consent ~~from the parent~~ to perform the needed assessments, the determination of eligibility shall be made and the IEP meeting shall be completed. If fewer than 60 days remain in a school year after the date of parental consent, the eligibility determination shall be made and the IEP meeting shall be completed prior to the first day of the following school year. (Section 18-8.02(b) of the School Code)
- e) At the conclusion of the meeting convened pursuant to subsection (d) ~~of this Section~~, the team shall prepare a report describing its consideration of pre-existing information about the child, all new evaluation reports obtained, and any other information relevant to the decision about the child's eligibility. This description shall relate the information considered to the child's needs and shall further conform to the requirements of Section 226.130 ~~of this Part~~ if applicable. The IEP Team's report shall also include:
- 1) the date of the meeting;
 - 2) the signatures of the participants, indicating their presence at the meeting; and
 - 3) any separate written statement provided by a participant who wishes to be on record as disagreeing with the conclusions expressed in the team's report.
- f) The school district shall provide a copy of the IEP Team's report to the parent at the conclusion of the team's meeting. In addition, the district shall provide to the parent, ~~within ten school days after the meeting~~, written notice conforming to the requirements of Section 226.520 ~~of this Part~~ as to the eligibility determination

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reached with respect to the child. The parent shall also be entitled to receive copies of any evaluation reports upon request.

- g) A copy of the IEP Team's report, together with all documentation upon which it is based, shall become a part of the child's temporary student record.
- h) If an assessment is conducted under nonstandard conditions, a description of the extent to which the assessment varied from standard conditions shall be included in the evaluation report. This information is needed so that the team of evaluators can assess the effects of these variances on the validity and reliability of the information reported and determine whether additional assessments are needed. For example, the use of a translator when a qualified bilingual specialist is not available may create nonstandard conditions.
- i) If any needed portion of the evaluation cannot be completed due to lack of parental involvement, religious convictions of the family, or inability of the child to participate in an evaluative procedure, the district shall note the missing portions in the child's evaluation report and state the reasons why those portions could not be completed.
- j) In the event that the student is determined to be eligible for special education and related services pursuant to the procedures described in subsections (d) and (e) ~~of this Section~~, the IEP meeting shall be conducted within 30 days after the date of that determination.
- k) If a district fails to conduct the evaluation, the parent of the child in question (or the student, if Section 226.690 ~~of this Part~~ applies) may appeal this failure in an impartial due process hearing.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.120 Reevaluations

Procedures for the completion of reevaluations of children for whom special education and related services are currently being provided shall conform to the requirements of 34 CFR 300.303, 300.304, 300.305, ~~and 300.306~~ and 300.309, as well as ~~the relevant provisions of~~ Section 226.110 of this Part.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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Section 226.125 Specific Learning Disability: Dyslexia

- a) For the purposes of this Section, dyslexia has the meaning set forth at <http://www.interdys.org>, as adopted by the Board of Directors of The International Dyslexia Association, 40 York Road, 4th Floor, Baltimore MD 21204. (No later amendments to or editions of these standards are incorporated.)
- b) In accordance with 34 CFR 300.8(b)(10), dyslexia is one of a number of disorders included as a specific learning disability that may adversely affect the student's educational performance and result in the child's eligibility for special education and related services.
- c) Each child suspected of having dyslexia or identified as dyslexic shall be referred for an evaluation in accordance with the requirements of 34 CFR 300.304 through 300.311 and Subpart B of this Part.

(Source: Added at 39 Ill. Reg. _____, effective _____)

Section 226.130 Additional Procedures for Students Suspected of or Having a Specific Learning Disability

- a) In addition to the requirements set forth in Sections 226.110 and 226.120 of this Part, the district shall adhere to the procedures set forth at 34 CFR 300.307, 300.308, 300.309, 300.310, and 300.311 when evaluating a student who is suspected of, or who has previously been identified as having, a specific learning disability as described in 34 CFR 300.8.
- b) Provided that the requirements of this subsection (b) are met, each district shall, ~~no later than the beginning of the 2010-11 school year,~~ implement the use of a process that determines how the child responds to scientific, research-based interventions as part of the evaluation procedure described in 34 CFR 300.304. When a district implements the use of a process of this type, the district shall not use any child's participation in the process as the basis for denying a parent's request for an evaluation.
 - 1) ~~The No later than January 1, 2008, the State Superintendent of Education shall, in consultation with the statewide teacher organizations, statewide school management organizations, and State Advisory Council on~~

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~~Education of Students with Disabilities~~, prepare and disseminate a plan outlining the nature and scope of the professional development that is necessary to permit implementation of a process of this type and describing any additional activities or resources that the Superintendent finds to be essential.

- 2) The plan shall quantify the estimated cost of the professional development and other necessary resources and shall identify sources of funding that are or may become available to the State Superintendent for these purposes.
- 3) The plan shall include:
 - A) a method of identifying school districts that are less able than others to implement a process of the required type without technical or financial assistance from the State;
 - B) a timeframe for the provision of training, other technical assistance and materials, or financial resources for related purposes that demonstrates the State Superintendent's best efforts to secure and provide relevant support to districts; and
 - C) a method of allocating resources that affords first consideration to districts that may otherwise be unable to implement a process of the required type without diverting necessary support from other aspects of the educational program.
- c) ~~Each~~~~No later than January 1, 2009, each~~ district shall ~~transition to the~~ have develop a plan for the use of a process that determines how the child responds to scientific, research-based interventions as part of the evaluation procedure described in 34 CFR 300.304. Each district's plan shall identify the resources the district will devote to this purpose and include an outline of the types of State-level assistance the district expects to need, with particular reference to the professional development necessary for its affected staff members to implement this process. The ~~transition~~ plan developed pursuant to this subsection (c) may be incorporated into a district's district improvement plan (see 23 Ill. Adm. Code 1.85(b)) if one exists.

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- d) In addition to using an identification process of the type required by subsection (b) ~~of this Section~~, a district may use a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.135 Additional Procedures for Students Suspected of or Having an Intellectual ~~Cognitive~~ Disability

In addition to the requirements set forth in Sections 226.110 and 226.120 ~~of this Part~~, the district shall ensure that a psychological evaluation has been conducted and a recommendation for eligibility made by a school psychologist for any child who is suspected of or determined to have an intellectual ~~a cognitive~~ disability.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.150 Evaluation to be Nondiscriminatory

Each evaluation shall be conducted so as to ensure that it is nondiscriminatory with respect to language, culture, race, and gender. (See also 34 CFR 300.304(c).)

- a) The languages used to evaluate a child shall be consistent with the child's primary language or other mode of communication. (See Section 226.140 ~~of this Part~~.) If the language use pattern involves two or more languages or modes of communication, the child shall be evaluated by qualified specialists or, when needed, qualified bilingual specialists using each of the languages or modes of communication used by the child. The provisions of subsections (b) and (c) of this Section shall apply when a qualified bilingual specialist is needed but unavailable.
- b) If documented efforts to locate and secure the services of a qualified bilingual specialist are unsuccessful, the district shall use an individual who possesses the professional credentials required under Section 226.840 ~~of this Part~~ to complete the specific components of the evaluation. This qualified specialist shall be assisted by a ~~certificated~~ school district employee holding an educator license issued pursuant to Article 21B of the School Code [105 ILCS 5/Art. 21B] or other individual who has demonstrated competencies in the language of the child.

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- c) If documented efforts to locate and secure the services of a qualified bilingual specialist or a qualified specialist assisted by another individual as provided in subsection (b) ~~of this Section~~ are unsuccessful, the district shall conduct assessment procedures which do not depend upon language. Any special education resulting from ~~thesesuch~~ alternative procedures shall be reviewed annually until the student's proficiency is determined no longer to be limited pursuant to 23 Ill. Adm. Code ~~228.25228 (Program Options, Placement, and Assessment Transitional Bilingual Education; see Section 228.15)~~.
- d) Tests given to a child whose primary language is other than English shall be relevant, to the maximum extent possible, to his or her culture.
- e) If the child's receptive and/or expressive communication skills are impaired due to hearing and/or language deficits, the district shall utilize test instruments and procedures that do not stress spoken language and one of the following:
- 1) Visual communication techniques in addition to auditory techniques.
 - 2) An interpreter to assist the evaluative personnel with language and testing.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.160 Medical Review

- a) In accordance with 34 CFR 300.304(c)(4), any student who is being evaluated or re-evaluated for special education services shall be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, communicative status, and motor abilities. The results of the medical review shall be used by the IEP team to address any educationally relevant medical findings or other health concerns that may affect the provision of FAPE to students with disabilities. The medical review shall consist of the following components.
- 1) Subjective information, if relevant, which may include:
 - A) a description of the perceptions that the parents and student, as applicable, have regarding the student's health;
 - B) a health history of the student from the parents; and

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- C) a description of perceptions of the student's teachers relative to how the student's health may be affecting his or her academic performance or access to the curriculum.
- 2) Objective information, if relevant, which shall include:
 - A) a summary of information contained in the student's health record and the record of other health-related information, as defined at 23 Ill. Adm. Code 375.10 (Definitions), about his or her prior and current health conditions; and
 - B) a summary of any relevant health-related information obtained from records provided by or requested from the student's parent, health care provider, or health facility where the student has received services, which may address prenatal and birth history; early growth and development; medical issues the child has experienced; hospitalizations and significant injuries; medical diagnosis, if any; and medications or treatments the child currently receives.
 - 3) Nursing services, if relevant, which shall include the identification of the school health services or school nurse services necessary to enable a student with a disability to receive FAPE as described in his or her IEP. (See 34 CFR 300.34(c)(13).)
 - 4) Educationally relevant medical findings, which shall include the identification of the medical conditions and other health-related issues that are likely to adversely affect a child's educational performance.
 - 5) Recommendations, which shall include an analysis of the information gathered for the purpose of:
 - A) determining the medical, school health, and/or school nurse services that should be provided during the school day; and
 - B) developing a proposed plan that provides for specific accommodations, modifications, or interventions to be implemented when educationally relevant medical, school health,

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and/or school nurse findings are made, which shall include annual goals, short-term objectives, and ongoing evaluation.

b) Qualifications of Personnel

- 1) Until June 30, 2016, the practitioners who are qualified to conduct a medical review that addresses each of the components listed in subsection (a) ~~of this Section~~ shall be limited to:
 - A) An individual who holds a professional educator license endorsed for school support personnel ~~for~~ school ~~nurse~~nursing, pursuant to 23 Ill. Adm. Code 25.245 (Endorsement for School Nurses); or
 - B) An individual licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987 [225 ILCS 60]; or
 - C) An individual licensed as a registered professional nurse pursuant to Article 60 of the Nurse Practice Act [225 ILCS 65/Art. 60]; or
 - D) An individual licensed as an advanced practice nurse pursuant to Article 65 of the Nurse Practice Act [225 ILCS 65/Art. 65].
- 2) Beginning July 1, 2016, the practitioners who are qualified to conduct certain components of the medical review, as identified in this subsection (b)(2), shall be limited to:
 - A) An individual who holds a professional educator license ~~with~~ ~~endorsed for~~ school support personnel ~~endorsement for~~ school ~~nurse~~nursing, pursuant to 23 Ill. Adm. Code 25.245 (Endorsement for School Nurses), who may conduct any of the components listed in subsections (a)(1) through (5) ~~of this Section~~; or
 - B) An individual licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987 [225 ILCS 60], who may conduct any of those components listed in subsections (a)(1) through (4) ~~of this Section~~; or
 - C) An individual licensed as a registered professional nurse pursuant to Article 60 of the Nurse Practice Act [225 ILCS 65/Art. 60] and

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who also holds a bachelor's degree in nursing, education or a related field, who may conduct any of those components listed in subsections (a)(1) through (4) ~~of this Section~~; or

- D) An individual licensed as an advanced practice nurse pursuant to Article 65 of the Nurse Practice Act [225 ILCS 65/Art. 65], who may conduct any of those components listed in subsections (a)(1) through (4) ~~of this Section~~.
- c) Certain exceptions shall apply to the personnel qualifications set forth in subsection (b) ~~of this Section~~.
- 1) After July 1, 2016, an individual meeting the qualifications set forth in subsection (b)(1)(B), (b)(1)(C) or (b)(1)(D) ~~of this Section~~ who is currently employed by a school district or special education cooperative also may continue to conduct activities described in subsection (a)(5) ~~of this Section~~, provided that no later than June 30, 2016, he or she:
- A) successfully completes a training course specific to special education laws and regulations and students with disabilities that is approved by the State Board of Education; or
- B) passes the content-area test for the school nurse endorsement authorized under 105 ILCS 5/21B-30 ~~and subject to the limitations regarding testing attempts set forth in 23 Ill. Adm. Code 25.720(i) (Applicability of Testing Requirement and Scores)~~.
- C) Any practitioner receiving authorization under subsection (c)(1) ~~of this Section~~ to conduct activities set forth in subsection (a)(5) ~~of this Section~~ retains that authorization provided he or she completes the professional development required at 23 Ill. Adm. Code 25.Subpart J-25.275 (Renewal of ~~the~~ Professional Educator Licenses~~License for School Support Personnel~~).
- 2) Beginning on July 1, 2016, a school district or special education cooperative may first employ a practitioner who meets the qualifications set forth in subsection (b)(2)(B), (b)(2)(C) or (b)(2)(D) to conduct the activities described in subsection (a)(5) ~~of this Section who is not fully~~

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~~qualified~~, provided that each of the conditions listed in this subsection (c)(2) are met.

- A) A school district or special education cooperative has not been able to recruit an individual meeting the qualifications set forth in subsection (b)(1)(A) ~~of this Section~~ due to a shortage of these individuals.
- B) The school district or special education cooperative must be actively engaged in the recruitment process, as evidenced by written documentation such as notices on the agency's website, postings with professional organizations, or personnel notices placed in newspapers, either online or in print. The school district or special education cooperative shall retain this documentation, which must include the date of publication or notice, for the duration of the employment of the practitioner recruited under the provisions of subsection (c)(2) ~~of this Section~~, and make it available upon request to the State Board of Education or its designee.
- C) Any individual hired pursuant to subsection (c)(2) ~~of this Section~~ shall meet the qualifications of subsection (b)(2)(B), (b)(2)(C) or (b)(2)(D) ~~of this Section~~ and meet either of the requirements stated in subsection (c)(1) ~~of this Section~~ as soon as is practicable, but in no case longer than 12 months from the date of hire.
- D) Any practitioner receiving authorization under this subsection (c)(2) to conduct activities set forth in subsection (a)(5) ~~of this Section~~ retains that authorization provided he or she completes the professional development required at 23 Ill. Adm. Code 25.Subpart J25.275 (Renewal of ~~the~~ Professional Educator Licenses ~~License for School Support Personnel~~).

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.180 Independent Educational Evaluation

Parents have the right to obtain an independent educational evaluation of their child at public expense in accordance with 34 CFR 300.502 and Section 14-8.02(b) and (g-5) of the School

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Code. The following rights and requirements shall also apply.

- a) If the parents disagree with the district's evaluation and wish to obtain an independent educational evaluation at public expense, their request to that effect shall be submitted in writing to the local school district superintendent.
- b) When an independent evaluation is obtained at public expense, the party chosen to perform the evaluation shall be either:
 - 1) an individual whose name is included on the list of independent educational evaluators developed by the State Board of Education pursuant to Section 226.830 ~~of this Part~~ with regard to the relevant types of evaluation; or
 - 2) another individual possessing the credentials required by Section 226.840 ~~of this Part~~.
- c) If the parent wishes an evaluator to have specific credentials in addition to those required by Section 226.840 ~~of this Part~~, the parent and the school district shall agree on the qualifications of the examiner and the specific evaluations to be completed prior to the initiation of an independent educational evaluation at public expense. If agreement cannot be reached, the school district shall initiate a due process hearing subject to the time constraints set forth in this Section, as applicable.
- d) Within 10 days after receiving a report of an independent evaluation conducted at either public or private expense, the ~~The~~ district shall provide written notice ~~of convening the IEP Team's meeting to consider the results within ten days after receiving the report of an evaluation conducted at public expense. In the case of an evaluation conducted at private expense, the district shall send the notice within ten days after the parent requests a meeting to consider the results.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Section 226.220 Development, Review, and Revision of the IEP

The development, review, and revision of each child's IEP shall conform to the requirements of

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34 CFR 300.324 and 300.328. The additional requirements of this Section shall also apply.

- a) When an IEP has been developed or revised, the district shall provide notice in accordance with 34 CFR 300.503(b) and (c) immediately to the parents, and implementation of the IEP shall occur no later than 10 school~~ten~~ days after the provision of this notice or by the beginning of the following school year if the IEP is developed or revised with fewer than 10 school days remaining in the school year.
- b) Either a child's educational provider or a child's parent may request an IEP meeting at any time. Within 10~~ten~~ days after receipt of ~~such~~ a request, the district shall either agree and notify the parent in accordance with 34 CFR 300.503 or notify the parents in writing of its refusal, including an explanation of the reason no meeting is necessary to ensure the provision of FAPE for the child.
- c) The development of an IEP for a child who has a disability on the autism spectrum shall include consideration of the factors specified in Section 14-8.02(b)(1) through (7) of the School Code.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.230 Content of the IEP

The content of each child's IEP shall conform to the requirements of 34 CFR 300.320. The additional requirements of this Section shall also apply.

- a) Each IEP shall include:
 - 1) A statement of measurable annual goals that reflect consideration of the State Goals for Learning and the Illinois Learning Standards (see 23 Ill. Adm. Code 1), as well as benchmarks or short-term objectives developed in accordance with the child's present levels of academic and functional educational performance.
 - 2) A statement regarding the child's ability to participate in State and district-wide assessments.
 - 3) A statement as to the languages or modes of communication in which special education and related services will be provided, if other than or in

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addition to English.

- 4) A statement as to whether the child requires the provision of services beyond the district's normal school year in order to receive FAPE ("extended school year services") and, if so, a description of those services that includes their amount, frequency, duration, and location.
- b) The IEP of a student who requires a behavioral intervention plan shall:
- 1) Summarize the findings of the functional behavioral assessment;
 - 2) Summarize prior interventions implemented;
 - 3) Describe any behavioral interventions to be used, including those aimed at developing or strengthening alternative or more appropriate behaviors;
 - 4) Identify the measurable behavioral changes expected and methods of evaluation;
 - 5) Identify a schedule for a review of the interventions' effectiveness; and
 - 6) Identify provisions for communicating with the parents about their child's behavior and coordinating school-based and home-based interventions.
- c) Beginning not later than the first IEP to be in effect when the child turns 14½, and updated annually thereafter, the IEP shall include:
- 1) appropriate, measurable, postsecondary goals based upon age-appropriate assessments related to employment, education or training, and, ~~as needed,~~ independent living;
 - 2) the transition services that are needed to assist the child in reaching those goals, including courses of study and any other needed services to be provided by entities other than the school district; and
 - 3) any additional requirements set forth in Section 14-8.03 of the School Code [105 ILCS 5/14-8.03].
- d) For purposes of 34 CFR 300.320(c), the age of majority under Illinois law is 18.

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The IEP of a student who may, after reaching age 18, become eligible to participate in the home-based support services program for adults with ~~intellectual~~^{cognitive} disabilities that is authorized by the Developmental Disability and Mental Disability Services Act [405 ILCS 80] shall set forth specific plans related to that program that conform to the requirements of Section 14-8.02 of the School Code.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART D: PLACEMENT

Section 226.300 Continuum of Placement Options

Each local school district shall, in conformance with the requirements of 34 CFR 300.39 and 300.115, ensure that a continuum of placements is available to meet the needs of children with disabilities for special education and related services. With respect to the home instruction and instruction in hospitals and institutions referenced in 34 CFR 300.39 and 300.115:

- a) The child receives services at home or in a hospital or other setting because he or she is unable to attend school elsewhere due to a medical condition.
- b) When an eligible student has a medical condition that will cause an absence for two or more consecutive weeks of school or ongoing intermittent absences, as defined in Section 14-13.01(a) of the School Code [105 ILCS 5/14-13.01(a)], the IEP Team for that child shall consider the need for home or hospital services. The provision of home or hospital services shall be based upon a written statement from a physician licensed to practice medicine in all its branches that specifies:
 - 1) the child's medical condition;
 - 2) the impact on the child's ability to participate in education (the child's physical and mental level of tolerance for receiving educational services); and
 - 3) the anticipated duration or nature of the child's absence from school.
- c) *Special education and related services required by the child's IEP must be implemented as part of the child's home or hospital instruction, unless the IEP Team determines that modifications are necessary during the home or hospital*

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instruction due to the child's condition. (Section 14-13.01 of the School Code)

- ~~1)d~~ 1) The amount of instructional or related service time provided through the home or hospital program shall be determined in relation to the child's educational needs and physical and mental health needs.
- ~~2)~~ 2) The amount of instructional time shall not be less than five hours per week unless the physician has certified in writing that the child should not receive as many as five hours of instruction in a school week. In the event that the child's illness or a teacher's absence reduces the number of hours in a given week to which the child is entitled, the school district shall work with the IEP Team and the child's parents to provide the number of hours missed, as medically advisable for the child.
- ~~d)e~~ d) A child whose home or hospital instruction is being provided via telephone or other technological device shall receive not less than two hours per week of direct instructional services.
- ~~e)f~~ e) Instructional time shall be scheduled only on days when school is regularly in session, unless otherwise agreed to by all parties.
- ~~f)g~~ f) Home or hospital instructors shall meet the requirements of 23 Ill. Adm. Code 1.610 (Personnel Required to be Qualified).
- ~~g)h~~ g) In accordance with Section 14-13.01(a) of the School Code, services required by the IEP shall be implemented not later than five school days after the district receives the physician's statement.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.320 Service to Students Living in Residential Care Facilities

Children with disabilities may be placed into public or nonpublic residential facilities for reasons other than education by various public entities, such as the Department of Corrections, the Department of Children and Family Services, or the juvenile courts. Except as provided in Section 14-8.01 of the School Code, the school district within whose boundaries ~~such a~~ public or nonpublic residential facility is located is responsible for ensuring special education and related services in the least restrictive environment to those students who are eligible pursuant to this Part. "Residential facilities" refers to any of the following.

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- a) "Children's Home" or "Orphanage": any licensed residential institution, other than those directly operated by the State of Illinois, ~~that~~which cares for disabled, neglected, delinquent, and/or dependent children.
- b) "Foster Family Home": an individual residential unit ~~that~~which cares for one or more disabled, neglected, delinquent, or dependent children who are not members of the primary family. ~~A~~Such a home of this type accepts foster children for care under specific and written authority of a municipal, county, or State agency authorized to make ~~the~~such placement.
- c) "State Residential Units": residential housing units ~~that~~which are directly operated by the State of Illinois, on property owned by the State, and primarily funded by an agency of the State.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART F: PROCEDURAL SAFEGUARDS

Section 226.550 Surrogate Parents

The qualifications, responsibilities, and appointment procedures for surrogate parents shall conform to the requirements of 34 CFR 300.519 and Section 14-8.02a of the School Code [105 ILCS 5/14-8.02a]. In addition, the following requirements shall apply:

- a) When a child who is a ward of the State is placed in a residential facility, a representative of that facility shall submit to the State Board of Education a request for the appointment of a surrogate parent. Upon enrollment of a student, the resident school district is responsible for ensuring the assignment of a surrogate parent if the residential facility has not already done so. ~~if the district has not already done so.~~
- b) The State Board of Education shall appoint a surrogate parent for each child who requires one, in keeping with the criteria set forth in 34 CFR 300.519(d) and the following requirements.
 - 1) All reasonable efforts shall be made to secure a surrogate parent whose racial, linguistic, and cultural background is similar to the child's.

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- 2) The surrogate parent shall have been trained by the State Board.
- c) When a surrogate parent is appointed, the State Board of Education shall provide written notification to the local school district, the individual appointed, and, if applicable, the residential facility of the name and address of the surrogate parent, the specific responsibilities to be fulfilled, and the length of time for which the appointment is valid.
- d) When a child living in a residential facility no longer requires a surrogate parent, a representative of the facility shall notify the State Board of Education in writing to that effect. This notification shall include the reason for withdrawal of the request.
- e) When a surrogate parent's appointment is terminated, the State Board of Education shall so notify the surrogate parent, the local school district, and, if applicable, the residential facility.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.560 Mediation

- a) The procedures for mediation shall conform to the requirements of 34 CFR 300.506.
- b) The agreement of the parties to enter mediation shall allow the child to remain, or "stay put", in his or her current placement during the pendency of the mediation. The placement shall be the last placement to which the parties agreed. If mediation fails to resolve the dispute between the parties, the parent (or student if 18 years of age or older or emancipated) shall have 10 days after the mediation concludes to file a request for a due process hearing in order to continue to invoke the "stay-put" provisions. (Section 14-8.02(j) of the School Code)

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.570 State Complaint Procedures

This Section sets forth the State Board of Education's written complaint procedures, as required by 34 CFR 300.151, 300.152, and 300.153 and Section 14-8.02e of the School Code.

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- a) A parent, individual, or organization, ~~or advocate~~ may file a signed, written complaint with the State Board of Education alleging that a local school district, cooperative service unit, or the State has violated the rights of one or more children with disabilities. ~~The~~Such a complaint shall include:
- 1) A statement that a responsible public entity has violated a requirement of Part B of the IDEA, 34 CFR, Article 14 of the School Code, or this Part;
 - 2) The facts on which the statement is based;
 - 3) The signature and contact information for the complainant;
 - 4) The names and addresses of the students involved (and the names of the schools of attendance), if known;
 - 5) A description of the nature of the problem of the child, including the facts relating to the problem; and
 - 6) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
- b) A complaint shall only be considered if it alleges that the violation occurred not more than one year prior to the date on which the complaint is received.
- c) Within 60 days after receiving a complaint that meets the requirements of subsections (a) and (b)~~a valid complaint is filed~~, the State Board of Education shall:
- 1) Carry out an independent on-site investigation, if deemed necessary by the State Board of Education.
 - 2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.
 - 3) Require that the public entity that is the subject of the complaint submit a written response to the complaint. (See Section 14-8.02e of the School Code.) The public entity shall submit its response and all other documentation to the State Board of Education and the parent, individual,

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or organization filing the complaint no later than the date indicated in the written correspondence received under this subsection (c)(3).

- 4) Provide the public entity with the opportunity during the complaint process to:
- A) offer a proposal to resolve the complaint; and/or
 - B) offer to engage the parent in mediation or alternative means of dispute resolution.
- 5)4) Review all relevant information and make an independent determination as to whether the public entity is violating a requirement of Part B of the IDEA, 34 CFR, Article 14 of the School Code, or this Part.
- 6)5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains:
- A) findings of fact and conclusions;
 - B) the reasons for the State Board of Education's final decision;
 - C) orders for any actions, including without limitation technical assistance activities and negotiation, that are necessary to bring the public entity into compliance with applicable requirements.
- d) An extension of the time limit set forth in subsection (c) ~~of this Section~~ shall be allowed if exceptional circumstances exist with respect to a particular complaint or if the parent and the public entity agree to extend the time to conduct the activities pursuant to subsection (c)(3)(B) ~~of this Section~~.
- e) If a written complaint is received by the State Board of Education involving one or more issues that are also the subject of a due process hearing, the State Board shall hold those portions of the complaint in abeyance pending the completion of the hearing. However, any issues that are not the subject of the hearing shall be resolved as provided in this Section.
- f) If a complaint is filed about an issue that has previously been decided in a due process hearing involving the same parties, the decision arising from that hearing

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shall be considered binding, and the State Board shall inform the complainant to that effect. A complaint alleging a public entity's failure to implement a decision arising from due process, however, shall be resolved by the State Board pursuant to Section 226.675 ~~of this Part~~.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART H: ADMINISTRATIVE REQUIREMENTS

Section 226.710 Policies and Procedures

- a) Each local school district, or the special education cooperative ~~entity~~ of which it is a member, shall develop written policies and procedures conforming to the requirements of subsection (b) ~~of this Section and shall submit these to the State Board of Education for approval, using a format supplied by the State Board. The policies and procedures shall be kept on file and presented to the State Board of Education upon request. The State Board shall approve those that conform to the requirements of this Section and are consistent with applicable federal and State statutes and regulations. The State Board shall notify districts of any deficiencies that must be remedied before approval will be granted.~~
- b) Each set of policies and procedures shall address the district's compliance with at least the requirements for:
- 1) the provision of a free appropriate public education;
 - 2) child find;
 - 3) evaluation (including policies and procedures developed pursuant to Section 226.130) and determination of eligibility;
 - 4) Individualized Education Programs;
 - 5) students' participation in assessments;
 - 6) serving students in the least restrictive environment;
 - 7) the provision of extended school year services;

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- 8) transition of children served under Part C of the Individuals with Disabilities Education Act into preschool programs;
 - 9) serving students who attend nonpublic schools;
 - 10) procedural safeguards;
 - 11) establishing the goal of full educational opportunity;
 - 12) confidentiality of personally identifiable information; and
 - 13) the use of federal matching funds under the Medicaid (Title XIX) or Children's Health Insurance (KidCare; Title XXI) program to supplement special education programs and services (if the district is participating in one or more of those federal programs).
- e) ~~Any revision of a set of policies and procedures shall be submitted to the State Board for approval prior to its implementation.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.730 Class Size for 2009-10 and Beyond

- a) When a student's IEP calls for services in a general education classroom, the student must be served in a class that is composed of students of whom at least 70 percent are without IEPs, that utilizes the general curriculum, that is taught by an instructor holding an educator license certified for general education and who is employed for that purpose, and that is not designated as a general remedial classroom. For purposes of this subsection (a), a student who receives speech services outside of the general education classroom and who does not require modifications to the content of the general education curriculum shall be included in the calculation of the percentage of students without IEPs. (See 105 ILCS 5/14-2.)
- b) Class size means the total number of students an educator serves during any special education class. As used in this subsection (b), "class" means any circumstance in which only students with IEPs are served and at least one special education teacher is assigned and provides instruction and/or therapy exclusively to students with IEPs. In the formation of special education classes, consideration

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shall be given to the age of the students, the nature and severity of their disabilities, the educational needs of the students, and the degree of intervention necessary, subject to the limitations of this subsection (b).

- 1) Except as provided in subsection (b)(5) ~~of this Section~~, classes in which all the students receive special education services for 20 percent of the school day or less shall have at least one qualified teacher for each 15 students in attendance during any given class. However, the district may increase the class size by a maximum of two students when a paraprofessional educator is provided for the entire class.
- 2) Except as provided in subsection (b)(5) ~~of this Section~~, each class in which any student receives special education services for more than 20 percent of the school day but no more than 60 percent of the school day shall have at least one qualified teacher for each 10~~ten~~ students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional educator is provided for the entire class.
- 3) Except as provided in subsection (b)(5) ~~of this Section~~, each class in which any student receives special education services for more than 60 percent of the school day shall have at least one qualified teacher for each eight students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional educator is provided for the entire class.
- 4) Each class for children ages three through five shall have at least one qualified teacher for each five students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional educator is provided for the entire class.
- 5) For any school year in which the amount of State reimbursement for teachers identified in Section 14-13.01 of the School Code [105 ILCS 5/14-13.01] exceeds the amount in effect on January 1, 2007 by at least 100 percent and no corresponding reduction has been made in other State sources of support for special education:
 - A) The maximum class size stated in subsection (b)(1) ~~of this Section~~ shall be 13 rather than 15;

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- B) The maximum class size stated in subsection (b)(2) ~~of this Section~~ shall be eight rather than 10; and
- C) The maximum class size stated in subsection (b)(3) ~~of this Section~~ shall be six rather than eight.
- 6) The provisions of subsections (b)(1) through (5) ~~of this Section~~ notwithstanding, class size shall be limited according to the needs of the students for individualized instruction and services.
- c) The maximum class sizes set forth in subsection (b) ~~of this Section~~ shall, if necessary, be further restricted at the local level to account for the activities and services in which the affected educators participate in order to provide students with IEPs the free, appropriate public education in the least restrictive environment to which they are entitled.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.731 Class Size Provisions for 2007-08 and 2008-09 (Repealed)

- a) ~~When a student's IEP calls for services in a general education classroom, the student must be served in a class that is composed of students of whom at least 70 percent are without IEPs, that utilizes the general curriculum, that is taught by an instructor certified for regular (general) education, and that is not designated as a general remedial classroom.~~
- b) ~~A student shall be considered to require "instructional" classes when he or she receives special education instruction for 50 percent of the school day or more. Classes for such students shall be subject to the limitations of this subsection (b).~~
- 1) ~~Early childhood instructional classes shall have a maximum ratio of one qualified teacher to five students in attendance at any given time; total enrollment shall be limited according to the needs of the students for individualized programming.~~
- 2) ~~Instructional classes for students who have either a severe/profound disability or multiple disabilities shall have a maximum enrollment of five students.~~

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- 3) ~~Instructional classes for children whose primary disability is a severe visual, auditory, physical, speech or language impairment, autism, traumatic brain injury, or an emotional disability or behavioral disorder shall have a maximum enrollment of eight students.~~
- 4) ~~Instructional classes for children whose primary disability is a specific learning disability or that serve children who have different disabilities shall have a maximum enrollment of ten students. Instructional programs that group students who have different disabilities shall be formulated only under the following circumstances:~~
 - A) ~~The students are grouped in relation to a common educational need; or~~
 - B) ~~The program can be completely individualized and the teacher is qualified to plan and provide an appropriate educational program for each student in the group.~~
- 5) ~~Instructional classes designed for children whose primary disability is moderate visual or auditory impairment shall have a maximum enrollment of 12 students.~~
- 6) ~~Instructional classes for children whose primary disability is mild/moderate cognitive disability shall have a maximum enrollment of 12 students at the primary level and 15 students at the intermediate, middle, junior high, and secondary levels.~~
- 7) ~~A school district may increase the enrollment in an instructional class by a maximum of two students in response to unique circumstances that occur during the school year. Such additions may be made only when the educational needs of all students who would be enrolled in the expanded program can be adequately and appropriately met. Alternatively, the district may increase the enrollment in an instructional class by a maximum of five students when a full-time, noncertified assistant is provided.~~

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- e) ~~A student shall be considered to require "resource" classes when he or she receives special education instruction for less than 50 percent of the school day. Classes for such students shall be subject to the limitations of this subsection (c).~~
- 1) ~~Enrollment shall be limited to the number of students who can effectively and appropriately receive assistance, up to a maximum of 20 students.~~
 - 2) ~~The teacher shall participate in determining the appropriate enrollment.~~
- d) ~~The caseload/class size for any service provider includes each student who receives direct or indirect service, such as consultation services, as delineated in an IEP.~~

(Source: Repealed at 39 Ill. Reg. _____, effective _____)

Section 226.735 Work Load for Special Educators

In order to provide students with IEPs the free, appropriate education to which they are entitled, each entity subject to this Part shall adopt a plan specifying limits on the work load of its special educators so that all services required under students' IEPs, as well as all needed ancillary and support services, can be provided at the requisite level of intensity.

- a) Each plan shall be developed in cooperation with the entity's affected employees and, where there is an exclusive representative, in accordance with the Illinois Educational Labor Relations Act (IELRA) [115 ILCS 5]. ~~Each plan shall take effect for the 2009-10 school year, or as soon as possible after that date, if a later date is necessary to comply with an agreement under the IELRA in effect at the beginning of that school year.~~
- b) Each plan shall be based on an analysis of the activities for which the entity's special educators are responsible and shall encompass, but need not be limited to:
 - 1) individualized instruction;
 - 2) consultative services and other collaboration among staff members;
 - 3) attendance at IEP meetings and other staff conferences; and
 - 4) paperwork and reporting.

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- c) The number of children served by a ~~speech and language~~ speech-language pathologist shall be based on the speech-language needs of each child. The other provisions of this Section notwithstanding, at no time shall the caseload of a ~~speech and language~~ speech-language pathologist exceed 60 students.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.770 Fiscal Provisions

- a) Requirements Related to the Provision of FAPE
- 1) A school district is responsible for developing students' IEPs and remains responsible for ensuring that children receive all the services described in their IEPs in a timely fashion, regardless of whether another agency will ultimately pay for the services.
 - 2) A school district may look to non-educational entities such as insurance companies and the Medicaid program, to pay for services for which ~~thesesuch~~ entities are otherwise responsible. The district must have written consent from parents in order to use their private insurance.
 - 3) Services required by an IEP must be provided at no cost to the child's parents, whether they have public or private insurance. Parents shall be notified that the use of their private insurance proceeds to pay for services is voluntary. In the case of a child who is dually insured (through private insurance and Medicaid), a family shall not be required to draw upon private insurance whose use is a prerequisite to billing Medicaid if that use of insurance will result in financial costs to the family.
 - 4) "Financial costs to the family" include:
 - A) Out-of-pocket expenses incurred in filing a claim, such as the payment of a deductible or required co-payment, but not including incidental costs such as the time needed to file an insurance claim or the postage needed to mail the claim;
 - B) A decrease in available lifetime coverage or any other benefit under an insurance policy;

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- C) Payment by the family for services that would otherwise be covered by the public insurance program and that are required for the child outside of the time the child is in school;
 - D) An increase in premiums or the discontinuation of a policy; and
 - E) A risk in terms of loss of eligibility for home- and community-based waivers, based on aggregate health-related expenditures.
- b) The federal regulations implementing the Individuals with Disabilities Education Act (see 34 CFR 300) establish detailed requirements for the use of federal funds in connection with service to students who are eligible under this Part. School districts and cooperative entities are required to comply with those federal requirements.
- c) School districts and cooperative entities shall use federal matching funds received under Medicaid or the KidCare program only to supplement special education programs and services.
- d) Computation of Reimbursement Under Section 14-7.03 of the School Code
The amount of reimbursement for which a district shall be eligible under Section 14-7.03 of the School Code shall be computed by determining the actual cost of maintaining the program in accordance with the State Board's rules for Determining Special Education Per Capita Tuition Charge (23 Ill. Adm. Code 130), ~~as further specified in this subsection (d). 1)The district's cost for administration and supervision shall be computed based on the relationship that the average daily membership of children in special education classes bears to the district's total average daily membership. 2)The cost of buildings and facilities shall not exceed 10% of the expenditures for classes. 3)All payments authorized by law, including State or federal grants for the education of children, shall be deducted when program reimbursement or per capita tuition is calculated. 4)The~~ total reimbursement for a child who is living in a residential care facility and who has been placed in a nonpublic special education program by the responsible district shall not exceed the amount authorized under Section 14-7.02 of the School Code.
- e) Eligibility of Students for Funding Under Section 14-7.03 of the School Code

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- 1) A student who meets the requirements of Section 14-1.11a(5) of the School Code [105 ILCS 5/14-1.11a(5)] is eligible for reimbursement under Section 14-7.03 of the School Code if he or she:
 - A) is a resident of one of the residential care facilities described in Section 226.320 ~~of this Part~~;
 - B) would not be a resident of that school district except by virtue of his or her placement in one of the residential care facilities described in Section 226.320(a) ~~of this Part~~; and
 - C) has been declared eligible for special education and related services pursuant to this Part.
- 2) A student who has been declared eligible for special education and related services pursuant to this Part and is living in a State residential unit or county-operated detention center is eligible for reimbursement under Section 14-7.03 of the School Code.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART I: PERSONNEL

Section 226.800 Personnel Required to be Qualified

- a) General
 - 1) Each school district, or the special education cooperative ~~entity~~ of which it is a member, shall employ sufficient professional personnel and ~~noncertified~~ personnel not holding Illinois educator licensure to deliver and supervise the full continuum of special education and related services needed by the eligible students who reside in the district or districts served by the cooperative. The number and types of personnel employed shall be based on students' need rather than administrative convenience.
 - 2) Each school district or special education cooperative ~~entity~~ shall periodically submit to the State Board of Education, on forms supplied by the State Board, the roster of the individuals who will be or are providing special education or related services. The State Board may request any

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additional documentation needed in order to verify that each individual holds the qualifications that are required for his or her assignments.

- 3) Reimbursement for personnel expenditures shall be made by the State Board with respect to only those individuals who are qualified, pursuant to this Subpart I, to *deliver services to students with IEPs* [105 ILCS 5/14-1.10 and 14-13.01] and whose positions are listed either in Section 226.850 or 226.860 of this Part, or pursuant to 23 Ill. Adm. Code 25.48 (Short-Term Emergency ~~Approval~~Certification in Special Education) when applicable.
 - 4) Each school district or special education cooperative-~~entity~~ shall develop and implement a comprehensive personnel development program for all personnel involved with the education of children with disabilities.
- b) Professional Instructional Personnel
Each individual employed in a professional instructional capacity shall:
- 1) hold a valid professional educator license endorsed for special preschool-age 21-~~certificate~~ and meet the qualifications required for the teaching area pursuant to 23 Ill. Adm. Code 25.43; or
 - 2) hold ~~another~~ valid professional educator license endorsed in another teaching area~~certificate~~ and approval issued by the State Board of Education specific to the area of responsibility (see Section 226.810-~~of this Part~~); or
 - 3) be employed pursuant to an authorization for assignment issued to the employing entity under Section 226.820-~~of this Part~~; or
 - 4) hold short-term emergency approval~~certification~~ issued pursuant to 23 Ill. Adm. Code 25.48 (~~beginning January 1, 2002~~).
- c) An individual assigned as a career and technical~~vocational~~ coordinator shall be required to hold approval for this position, which shall be granted provided that the individual submits an application demonstrating that he or she:
- 1) has two years' teaching experience;

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- 2) holds a valid professional educator license with either a special preschool-age 21 endorsement certificate or a secondary endorsement high school certificate; and
- 3) has completed at least 16 semester hours of college coursework, which shall at least include each of the areas identified in subsections (c)(3)(A) through (D) and may include one or more of the areas identified in subsections (c)(3)(E) through (H)(I) of this Section:
- A) Survey of the exceptional child;
 - B) Diagnosis of, and characteristics~~Characteristics~~ of the student with, all the disabilities encompassed by the Learning Behavior Specialist I (LBS I) credential~~an intellectual disability~~;
 - C) Adaptations or modifications of the general curriculum to meet the needs of students with the disabilities encompassed by the LBS I credential~~Characteristics of the socially and/or emotionally maladjusted student~~;
 - D) Career and technical~~Vocational~~ programming for students with disabilities;
 - E) Characteristics of other exceptionalities;
 - ~~F)~~ Methods appropriate for teaching children with all the disabilities encompassed by the LBS I credential~~course in special education~~;
 - ~~F)G)~~ Guidance and counseling;
 - ~~G)H)~~ Educational and psychological diagnosis;
 - ~~H)I)~~ Career~~Vocational~~ and technical education.
- d) An individual assigned as a teacher coordinator shall be required to hold approval for this position, which shall be granted provided that the individual submits an application demonstrating that he or she:
- 1) holds a valid professional educator license with either a special preschool-

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age 21 ~~endorsement certificate endorsed~~ for the disability area of assignment issued pursuant to 23 Ill. Adm. Code 25.43 or a secondary endorsement~~high school certificate~~ with special education approval in the applicable disability area issued pursuant to Section 226.810 ~~of this Part~~;

- 2) has completed a course in career and technical~~vocational~~ programming for students with disabilities; and
 - 3) has at least one year's work experience outside the field of education or has completed at least one course in either guidance and counseling or career~~vocational~~ and technical education.
- e) An individual assigned as a business manager's assistant shall hold a valid professional educator license~~an administrative certificate~~ endorsed for chief school business official pursuant to 23 Ill. Adm. Code 25.345.
- f) Qualified Bilingual Specialists
Professional staff otherwise qualified pursuant to this Section shall be considered "qualified bilingual specialists" if they submit the required application and meet the applicable requirements set forth in this subsection (f).
- 1) A holder of a valid professional educator license with a special preschool-age 21 ~~endorsement certificate endorsed~~ in the area of responsibility issued pursuant to 23 Ill. Adm. Code 25.43 shall successfully complete a language examination in the non-English language of instruction and shall have completed coursework covering:
 - A) Psychological/educational assessment of students with disabilities who have limited English proficiency;
 - B) Theoretical foundations of bilingual education and English as a second language, including the study of first and second language acquisition; and
 - C) Methods and materials for teaching students of limited English proficiency or students with disabilities who have limited English proficiency.
 - 2) A holder of a valid professional educator license with an~~an~~ early

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childhood, elementary, ~~secondary high school~~, or special ~~preschool-age 21 endorsement certificate~~ who also holds special education approval in the area of responsibility (see Section 226.810 ~~of this Part~~) shall successfully complete a language examination in the non-English language of instruction and shall have completed the coursework listed in subsections (f)(1)(A), (B), and (C) ~~of this Section~~.

- 3) A holder of a valid professional educator license with an early childhood, elementary, ~~secondary high school~~, or special kindergarten-grade 12 or preschool-age 21 endorsement certificate who also holds an endorsement approval to teach bilingual education or English as a second language shall have completed coursework covering:
 - A) Methods for teaching in the special education area of assignment;
 - B) Psychological/educational assessment of students with disabilities who have limited English proficiency, or psychological diagnosis for children with all types of disabilities; and
 - C) Characteristics of students, or characteristics of students with limited English proficiency specifically, in the special education area of assignment.

- 4) A holder of a valid educator license with stipulations endorsed for transitional bilingual educator certificate issued pursuant to 23 Ill. Adm. Code 25.90 and endorsed for the language of assignment shall have completed two years of successful teaching experience and have completed coursework covering:
 - A) Survey of children with all types of disabilities;
 - B) Assessment of the bilingual student, or psychological/educational assessment of the student with disabilities who has limited English proficiency;
 - C) Theoretical foundations of bilingual education and English as a second language, including the study of first and second language acquisition;

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- D) Methods for teaching in the special education area of assignment; and
- E) Characteristics of students, or characteristics of students with limited English proficiency specifically, in the special education area of assignment.
- 5) A holder of a valid professional educator license with a school supportservice personnel endorsement certificate endorsed for school counselor/guidance, school social worker/work, school psychologist/psychology, or speech and language pathologists/speech-language pathology shall successfully complete an examination in the non-English language and shall have completed coursework in assessment of the bilingual student or psychological/educational assessment of the student with disabilities who has limited English proficiency.
- g) Directors and Assistant Directors of Special Education
Each school district, or the special education cooperative entity of which it is a member, shall employ a full-time director of special education, who shall be the chief administrative officer of the special education programs and services of the district or cooperative entity.
- 1) Each director or assistant director of special education shall hold a valid professional educator license endorsed for director of special education/administrative certificate issued pursuant to 23 Ill. Adm. Code 25.365 and a master's degree, including 30 semester hours of coursework distributed among all the areas specified in ~~either~~ 23 Ill. Adm. Code 25.365(b) ~~or (c), as applicable~~. Beginning July 1, 2005, directors and assistant directors of special education shall be subject to the requirements of 23 Ill. Adm. Code 29.140 (Director of Special Education).
- 2) Each school district or the special education cooperative entity of which it is a member, shall submit to the State Board of Education a letter identifying the individual employed as the director of special education by his or her full name and Illinois Educator Identification Number. If the individual is qualified as required, the State Board shall confirm that the individual is the State-approved director of special education for the school district or special education cooperative entity.

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- h) Supervisors
- 1) Each school district or special education cooperative-~~entity~~ shall employ sufficient supervisory personnel to provide consultation to and coordination of special education services.
 - 2) Each individual performing a supervisory function shall hold one of the following:
 - A) a valid professional educator license with a special preschool-age 21 ~~endorsement certificate~~ in the area to be supervised, and a supervisory endorsement issued~~endorsed for supervision~~ pursuant to 23 Ill. Adm. Code 25.497, with two years' teaching experience in that area; or
 - B) a valid professional educator license with a school support service personnel endorsement, and a supervisory endorsement issued,~~with certificate endorsed for supervision and~~ two years' experience in the area to be supervised; or
 - C) a valid professional educator license with an administrative endorsement issued under 23 Ill. Adm. Code 25.Subpart E~~certificate~~ and either a ~~valid~~ special preschool-age 21 ~~endorsement certificate endorsed~~ for the area to be supervised or special education approval in that area.
- i) Chief Administrator of Special School
The chief administrator of a special school shall hold a valid professional educator license~~an administrative certificate~~ with a general administrative, principal or director of special education endorsement issued pursuant to 23 Ill. Adm. Code 25.335, 25.337, or 25.365 and either:
- 1) an endorsement or approval that is specific to at least one of the disabilities prevalent in the students served by the school, if the school serves students who are deaf or hard of hearing, blind or visually impaired, or speech- and language-impaired; or
 - 2) an endorsement as Learning Behavior Specialist I that either is unlimited or specific to one of the disabilities prevalent in the students served by the

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school (see 23 Ill. Adm. Code 25.46); or

- 3) approval as an LBS I issued by the State Board of Education pursuant to Section 226.810 and 23 Ill. Adm. Code 25.47 (Special Provisions for the Learning Behavior Specialist I Approval) ~~of this Part~~ that either is unlimited or specific to one of the disabilities prevalent in the students served by the school.

j) Other Professional Personnel

Each individual employed in a professional capacity not specified in subsections (a) through (i) ~~of this Section~~ shall, as appropriate to his or her assignment, hold:

- 1) a valid professional educator license endorsed for the school support service personnel certificate endorsed as appropriate to the area of responsibility (see 23 Ill. Adm. Code 25, Subpart D); or
- 2) a valid professional license or permission to practice, if the individual's profession is governed by such a requirement and either no educational credential in the same or a related field is issued by the State Board of Education (e.g., for a physical therapist) or the School Code permits the individual to perform the functions assigned; or
- 3) a credential, regardless of title, issued by a professional association or organization in the relevant field, when no educational credential in the same or a related field is issued by the State Board of Education and no license or permission to practice is required by the State (e.g., for a music therapist or a daily living skills specialist). Evidence of the individual's credential shall be kept on file by the school district or special education cooperative and presented to the State Board of Education upon request.

k) ~~Noncertified~~ Personnel Not Holding Educator Licensure

- 1) Each ~~noncertified~~ professional individual not holding educator licensure issued under Article 21B of the School Code [105 ILCS 5/Art. 21B] employed in a special education class, program, or service, and each individual providing assistance at a work site, shall function under the general direction of a professional staff member.
- 2) Each program assistant or aide, whether providing instructional or

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noninstructional services/aide, as well as each nonemployee providing any service in the context of special education, shall function under the direct supervision of a professional staff member.

A) Nothing in this subsection (k) authorizes individual student aides or others who do not hold an appropriate professional license to perform any nursing activity, as nursing activity may be defined in the Nurse Practice Act [225 ILCS 65] and rules governing that Act (68 Ill. Adm. Code 1300), including any procedures and duties requiring a medical order (e.g., tube feedings, catheterizations, administration of medications, tracheal suctioning, tube insertions, blood draws, dressing changes).

B) The provisions of this subsection (k) do not apply to paraprofessional educators licensed under Section 21B-20 of the School Code [105 ILCS 5/21B-20] nor to educational interpreters approved pursuant to 23 Ill. Adm. Code 25.550 (Approval of Educational Interpreters).

- 3) Each school district shall provide training experiences appropriate to the nature of their responsibilities to the individuals discussed in subsections (k)(1) and (2) ~~of this Section~~. Training shall be in lieu of the requirements for ~~noncertified~~ personnel not holding educator licensure set forth in 23 Ill. Adm. Code 1, Subpart F.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.810 Special Education Teaching Approval

Special education approval for LBS I or early childhood may be issued by the State Board of Education to an individual who does not hold a special preschool-age 21 endorsement on his or her professional educator license certificate or who lacks some of the qualifications for one of the endorsements enumerated in 23 Ill. Adm. Code 25.43. After August 31, 2015, LBS I approvals under this Section shall no longer be issued.

- a) Beginning July 1, 2001, special education teaching approval will be issued for individuals to serve as LBS I Learning Behavior Specialist (LBS)-I and may be limited to one or more of the following areas, as applicable (see 23 Ill. Adm. Code 25.47):

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- 1) Learning disabilities;
 - 2) Social/emotional disorders;
 - 3) Intellectual disability; and
 - 4) Physically handicapped.
- b) An individual who holds a valid professional educator license with an early childhood, special, elementary or secondary endorsement, high school, or a valid educator license with stipulations endorsed for transitional bilingual educatoreertificate shall receive LBS I approval to teach in a special education area listed in subsection (a) ~~of this Section~~ if he or she has successfully completed college-level coursework addressing each of the following areas:
- 1) Survey of exceptional children;
 - 2) Characteristics of special education students in the specific area of approval sought;
 - 3) Methods of teaching in the area of special education approval sought; and
 - 4) Psychological diagnosis for children with all types of disabilities.
- c) Except as provided in subsection (d) ~~of this Section~~, an individual who wishes to receive special education teaching approval shall submit an application for an LBS I endorsementa special certificate on a form supplied by the State Board of Education and shall comply with anysuch other application procedures as the State Board may require.
- 1) If the individual qualifies for an LBS I endorsementa special certificate, the State Board shall issue one and endorse it as warranted.
 - 2) If the individual does not qualify for an LBS I endorsementa special certificate, the State Board shall evaluate the application for special education approval and either issue the approval or notify the applicant of any deficiencies.

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- d) Special education approval issued prior to January 1, 2002, shall not be limited with regard to time or district of employment but shall be valid only for the special education areas indicated and the grade levels to which the individual's professional educator license or educator license with stipulation certificate applies.
- e) Any approval issued on or after January 1, 2002, shall be valid for three years, after which time the holder shall no longer be assigned to a special education teaching position unless he or she has received an unlimited LBS I endorsement pursuant to 23 Ill. Adm. Code 25.47 (Special Provisions for the Learning Behavior Specialist I Approval).
- e) ~~As of July 1, 2001, each teaching approval listed in subsection (a) of this Section shall automatically be reissued for service as an LBS I. An individual's pre-existing approvals shall result in receipt of either a limited or an unlimited LBS I approval (see 23 Ill. Adm. Code 25.47).~~
- f) Beginning January 1, 2002, the State Board shall issue early childhood special education approval to an individual who ~~either~~ holds a valid professional educator license with an early childhood endorsement certificate or ~~a special preschool-age 21 certificate with~~ an LBS I endorsement, provided that the individual makes application for approval in a format specified ~~on a form supplied~~ by the State Board demonstrating that he or she has successfully completed coursework in all the following areas:
- 1) Methods – Developmentally and individually appropriate methods for fostering the social, emotional, cognitive, communication, adaptive, and motor development and learning of young children with special needs in various settings, such as the home, the school, and the community.
 - 2) Assessment – Strategies, procedures, and formal and informal instruments for assessing young children's social, emotional, cognitive, communication, and motor skills; family concerns, priorities, and resources; and school, home, and community learning environments; and methods for conducting formative and summative individual and program evaluation.
 - 3) Language Development – Typical and atypical language development in young children; specific language disabilities; the relationship between

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communication delays and other areas of early learning and development; and alternative communication systems for young children with disabilities.

- 4) Family and Community Relationships – Strategies in developing positive and supportive relationships with families of young children with special needs, including the legal and philosophical basis for family participation; family-centered services; and strategies for working with socially, culturally, and linguistically diverse families. Strategies and models for promoting effective consultation and collaboration with other professionals and agencies within the community.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.820 Authorization for Assignment

In the circumstances described in this Section, neither the qualifications required by Section 226.800 ~~of this Part~~ nor special education approval under Section 226.810 ~~of this Part~~ shall be required. When authorized pursuant to this Section, reimbursement shall be available for staff providing special education and related services.

- a) No Fully Qualified Individual Available
 - ↳) When a district or cooperative entity, regional superintendent of schools, or nonpublic special education facility approved pursuant to 23 Ill. Adm. Code 401 (Special Education Facilities Under Section 14-7.02 of the School Code) demonstrates to the State Board of Education that it is unable to secure the services of an individual who holds the required credentials for a particular assignment, the State Board may authorize the assignment of another individual in accordance with if the director of special education submits a written request through the regional superintendent of schools, on a form provided by the State Board, that: A) ~~describes the position or assignment involved or the services to be provided and identifies the required certificate or approval;~~ B) ~~describes the population to be served, including the number of students in each disability category represented;~~ C) ~~describes the type and frequency of supervision and technical assistance to be provided to the individual, including the name and title of the supervisor and any other individual who will provide technical assistance;~~ D) ~~describes the unique training, education, experience, or other qualifications that will assist the individual in fulfilling the requirements of the position;~~ E) ~~describes the district's or cooperative entity's efforts to locate a fully qualified individual to~~

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~~fill the position, including contacts with universities, regional superintendents, and the State Board of Education; and F) indicates that the individual to be assigned is working toward attainment of the required certificate, endorsement, or approval for the position. 2) The State Board's authorization to assign such an individual shall be specific to the affected position and to the district or cooperative entity requesting the authorization and shall be limited to two years in duration. 3) As of January 1, 2002, no further authorizations to assign individuals to special education teaching positions shall be issued pursuant to this Section. The provisions of 23 Ill. Adm. Code 25.48 (Short-Term Emergency Certification in Special Education) shall apply instead. An individual for whom an authorization was issued prior to January 1, 2002, shall be allowed to serve in the current assignment until that authorization expires.~~

b) Interns

The State Board may also authorize the assignment of interns in school psychology, school social work, school nursing, and speech and language~~speech/language~~ pathology who will work under the supervision of fully qualified professionals, subject to the requirements of this subsection (b).

- 1) For each intern in school psychology, school social work, or school nursing, the director of special education shall submit, on forms supplied by the State Board:
 - A) verification provided by an educational institution that the candidate is participating in a formal internship under its auspices; and
 - B) a request for authorization to assign the individual to an intern's position.
- 2) For each intern in speech and language~~speech/language~~ pathology, the director of special education shall submit evidence that the individual holds a valid interim approval issued under 25 Ill. Adm. Code 25.255 (Interim Approval for Speech-Language Pathologist Interns)~~teaching certificate and has a bachelor's degree in communication disorders. The individual shall also either have completed graduate-level coursework in communication disorders or be enrolled in a program providing such coursework.~~ The director of special education shall provide evidence that the intern will be supervised by an individual who holds a valid

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~~professional educator license endorsed for a~~ special preschool-age 21 ~~certificate endorsed for~~ speech and language ~~impaired or speech language pathologist issued pathology~~ pursuant to 23 Ill. Adm. Code 25.43 (Standards for Licensure of Special Education Teachers) or 23 Ill. Adm. Code 25.252 (Endorsement for Non-Teaching Speech-Language Pathologist) ~~25.45~~, as applicable.

- e) ~~No Specific Credential Required~~
- 1) ~~When a school district or cooperative entity needs to fill a position for which no specific certificate, endorsement, or other credential is required, the district or cooperative entity shall seek authorization from the State Board of Education to assign the individual who has been selected.~~
 - 2) ~~The director of special education shall submit a written request through the regional superintendent of schools, on a form provided by the State Board, that:~~
 - A) ~~describes the position or the service to be provided, why it is needed, and for how long it is expected to be needed; and~~
 - B) ~~describes the training, education, experience, or other qualifications held by the individual selected that will be relevant to the unique needs of the students to be served (e.g., experience in teaching students with similar disabilities, experience in providing the specific services involved).~~
 - 3) ~~The State Board's authorization to assign such an individual shall be limited to the period for which the service is stated to be needed and shall be specific to the affected position and to the requesting entity.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.830 List of Independent Evaluators

- a) The State Board of Education shall develop a list of independent educational evaluators who hold the credentials required for the performance of the various evaluation components pursuant to Section 226.840 of this Part and meet the requirements of Section 14-8.02(g-5) of the School Code.

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- b) No person shall be included in the State Board's list unless he or she has provided in writing to the State Board the following specific information for each credential for which the Board's acknowledgment is sought:
- 1) name of license, certificate, or other credential;
 - 2) name of credentialing agency or body;
 - 3) number of certificate, license, registration, or other credential;
 - 4) date of issue; and
 - 5) period of validity.
- c) An individual who wishes to be considered a qualified bilingual specialist shall identify any ~~languages~~ language(s) other than English in which he or she is proficient and identify the specific qualifications held that correspond to the relevant requirements of Section 226.800(f) ~~of this Part~~.
- d) Persons wishing to be included on this list may submit the information about their credentials required under subsection (b) ~~of this Section~~ to the State Board at any time. The State Board shall update the list as changes may warrant and shall provide the list to school districts.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.840 Qualifications of Evaluators

The following list identifies the credentials required to administer certain types of evaluations. Where no requirements are established, an evaluation may be performed by an individual who is qualified to administer it according to the technical specifications of the publisher.

TYPE

Academic Performance

REQUIRED QUALIFICATIONS

Professional Educator License or approval issued under Section 226.810 ~~Teaching certificate/approval~~ appropriate for the age or disability of the child, or Professional Educator License with a School ~~Support Service~~ Personnel

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	Endorsement Certificate endorsed for school psychologist psychology or school counselor guidance . (See Article 21B of the School Code [105 ILCS 5/Art. 21B-24] and the State Board's rules at 23 Ill. Adm. Code 1 and 23 Ill. Adm. Code 25.)
Adapted Physical Education	Professional Educator License Special Certificate endorsed for physical education with approval in adapted physical education (23 Ill. Adm. Code 25.43).
Assistive Technology	To the extent that a test is used in performing this assessment, qualification for administering the test according to the instructions provided by the test's publisher.
Audiological	License to practice as an Audiologist issued by the Department of Financial and Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].
Clinical Psychological	License issued pursuant to the Clinical Psychologist Licensing Act [225 ILCS 15].
Cultural Background Assessment	Professional Educator License with a School Support Service Personnel Endorsement Certificate endorsed for school psychologist psychology , school social worker work , or school counselor counseling .
Hearing Screening	License to practice as an Audiologist issued by the Department of Financial and Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]; Professional Educator License with a School Support Personnel Endorsement for speech and language pathologist or ; Special

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	<p>Preschool-Age 21 Endorsement Certificate endorsed for speech and language pathologist impairment (23 Ill. Adm. Code 25.43 or 25.52; 25.45), or certificate of training issued by the Department of Public Health (77 Ill. Adm. Code 675).</p>
Learning Processes Evaluation	<p>Professional Educator License with a School Support Service Personnel Endorsement Certificate endorsed for school psychologist psychology or Special Preschool-Age 21 Certificate endorsed for Learning Behavior Specialist I Endorsement.</p>
Medical Review	<p>Meet the requirements set forth in Section 226.160 of this Part, as applicable.</p>
Neurological Evaluation	<p>Licensure/registration issued by the Department of Financial and Professional Regulation pursuant to the Medical Practice Act of 1987 [225 ILCS 60].</p>
Occupational Therapy Evaluation	<p>Certificate/Registration issued by the Department of Financial and Professional Regulation pursuant to the Illinois Occupational Therapy Practice Act [225 ILCS 75].</p>
Orientation/Mobility	<p>Certification for orientation/mobility instruction and evaluation (Certified Certification for Orientation and Mobility Specialist, Academy for Certification of Vision Rehabilitation and Education Professionals, 4732 North Oracle Road, Suite 217, Tucson AZ 85705, or predecessor credential issued by the Orientation and Mobility Division, Association for Education and Rehabilitation of the Blind and Visually Impaired, 1703 North Beauregard Street, Suite 440, 4600 Duke Street, #430, P.O. Box 22397,</p>

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	Alexandria VA 22311 , Virginia 22304 ; 1984; no later amendments or editions are included).
Physical Therapy Evaluation	Certificate/registration issued by the Department of Financial and Professional Regulation pursuant to the Illinois Physical Therapy Act [225 ILCS 90].
Psychiatric Evaluation	Licensure/registration issued by the Department of Financial and Professional Regulation pursuant to the Medical Practice Act of 1987.
School Psychological	Professional Educator License with a School Support Service Personnel Endorsement Certificate endorsed for school psychologist psychology .
Social Developmental Study (Adaptive Behavior, Cultural Background, Family History)	Professional Educator License with a School Support Service Personnel Endorsement Certificate endorsed for social worker work, school counselor guidance, or school psychologist psychology (23 Ill. Adm. Code 25.215, 25.225, or, as applicable, 25.230 or 25.235).
Speech and Language Assessment	Professional Educator License with a Special Preschool-Age 21 Speech and Language Pathologist Endorsement Certificate endorsed for speech and language impairment or speech-language pathology (23 Ill. Adm. Code 25.4325.45), or School Support Service Personnel Endorsement Certificate endorsed for Speech and Language Pathologists speech language pathology (23 Ill. Adm. Code 25.25225.250).
Vision Screening	Certificate of training issued by the Department of Public Health (77 Ill. Adm. Code 675).

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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Section 226.850 List of Qualified Workers

The following table lists the work assignments and qualifications for qualified workers for whom reimbursement may be requested under Section 14-13.01 of the School Code. All requirements necessary for proper certification, educator or professional licensure, or approval in these work assignments are found in this Subpart I, unless otherwise noted.

WORK ASSIGNMENT	REQUIRED QUALIFICATIONS
Adapted Physical Education	A valid Illinois <u>professional educator licenseteaching certificate</u> endorsed for physical education and an adapted physical education approval encompassing the grade levels and age ranges of the students served.
Administrator of a Special School	Must meet the requirements of Section 226.800(i) of this Part .
Art Therapist	Registration from American Art Therapy Association or a master's degree in art therapy awarded by a regionally accredited institution of higher education.
Assistant Director	A <u>Must hold a</u> valid <u>professional educator licensadministrative certificate</u> with a director of special education endorsement issued pursuant to 23 Ill. Adm. Code 25.365 and 23 Ill. Adm. Code 1.705 and meets <u>meet</u> the requirements of Section 226.800(g) of this Part.
Audiologist	Licensed to practice as an audiologist by the Department of Financial and Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110] or Certificate of Clinical Competence in Audiology from the American Speech-Language-Hearing Association.
Autism	A valid Illinois <u>professional educator licenseteaching certificate</u> either with <u>an LBS I or early childhood special education a categorical or cross-categorical special education</u> endorsement or approval encompassing the grade levels and age ranges of the students served.

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Behavior Analyst	Board Certified Behavior Analyst (BCBA) as evidenced by a current valid certificate awarded by the Behavior Analyst Certification Board, Inc.
<u>Career and Technical Coordinator</u>	<u>Meets the requirements set forth in Section 226.800(c) of this Part and 23 Ill. Adm. Code 1.737(c)</u>
<u>Career and Technical Transition Specialist</u>	<u>Must hold a contract with the Illinois Department of Human Service-Division of Rehabilitation Services, under the Secondary Transition Experience Program (STEP).</u>
Cognitive Disability	A valid Illinois teaching certificate either with a cross-categorical special education endorsement or approval or intellectual disability endorsement or approval encompassing the grade levels and age ranges of the students served.
Cross-categorical	A valid Illinois teaching certificate with a cross-categorical special education endorsement or approval encompassing the grade levels and age ranges of the students served.
Daily Living Skills Specialist	Certificate from the Academy for Certification of Vision Rehabilitation and Education Professionals or its predecessor organization.
Diagnostic <u>Teacher</u>	A valid Illinois <u>professional educator license with an LBS I</u> prekindergarten through age 21 (PreK-21) teaching certificate either with a learning disability or cross-categorical special education endorsement or approval.
Early Childhood	A valid Illinois <u>professional educator license with an early childhood endorsement and certificate</u> either with an early childhood special education endorsement or early childhood special education approval or <u>with a valid Illinois professional educator license with an LBS I endorsement</u> PreK-21 certificate endorsed either for categorical or cross-categorical special education and early childhood special education approval.

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Emotional Disability	A valid Illinois <u>professional educator license</u> teaching certificate either with <u>an LBS I</u> a cross-categorical special education or a social-emotional disorders endorsement or approval encompassing the grade levels and age ranges of the students served.
Hearing Impairment	A valid Illinois <u>professional educator license</u> teaching certificate endorsed for teacher of students <u>who are deaf or hard of hearing with deafness/hard of hearing</u> pursuant to 23 Ill. Adm. Code 25.43.
Home/Hospital Instructor (see Section 226.300 of this Part)	A valid Illinois <u>professional educator license</u> teaching certificate either with <u>an LBS I</u> a cross-categorical special education endorsement or approval encompassing the area of student's disability (i.e., intellectual disability, physically handicapped, learning disabilities or social/emotional disorders), <u>professional educator license</u> or a valid Illinois teaching certificate endorsed in the area of <u>speech and language pathologists</u> speech language pathology , blind or visually impaired, or deaf or hard of hearing.
Infant/Toddler/Family Specialist	For federally funded programs serving infants and toddlers, birth through two years of age: Completion of a degree program with evidence of specific training in child development and family development specific for children ages birth to five years.
Inservice Coordinator	A valid Illinois <u>professional educator license with an LBS I endorsement</u> teaching certificate endorsed either for categorical or cross-categorical special education or a valid Illinois <u>professional educator license endorsed for school support</u> service personnel certificate (see 23 Ill. Adm. Code 25.Subpart D).
<u>Intellectual Disability</u>	<u>A valid Illinois professional educator license endorsed in a teaching field with an LBS I endorsement or approval encompassing the grade levels and age ranges of the students served.</u>
<u>LBS I</u>	<u>Meets the requirements of 23 Ill. Adm. Code 25.43 appropriate to the area of responsibility or holds a valid Illinois professional educator license with an LBS I endorsement or approval</u>

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encompassing the grade levels and age ranges of the students served.

Medical Services Personnel (Diagnostics and Evaluation)	Registration with the Illinois Department of Financial and Professional Regulation.
Music Therapist	Registration from the <u>National Music Therapy Registry</u> , <u>certification from the Certification Board for Music Therapists</u> , American Music Therapy Association or master's degree in music therapy from a regionally accredited institution of higher education.
Occupational Therapist	Licensed by the Illinois Department of Financial and Professional Regulation pursuant to the Illinois Occupational Therapy Practice Act [225 ILCS 75].
Orientation and Mobility Specialist	Certificate from the Academy for Certification of Vision Rehabilitation and Education Professionals or its predecessor organization or the Association for the Education and Rehabilitation of the Blind and Visually Impaired.
Orthopedic Impairment	A valid Illinois <u>professional educator licenseteaching certificate</u> either with a cross-categorical special education or physically handicapped endorsement or <u>with</u> approval encompassing the grade levels and age ranges of students served.
Physical Therapist	Licensed by the Illinois Department of Financial and Professional Regulation pursuant to the Illinois Physical Therapy Act [225 ILCS 90].
Recreational Therapist	Licensed by the National Council for Therapeutic Recreation or its predecessor organization.
Rehabilitation Counselor	Certificate from the Commission on Rehabilitation Counselor Certification (CRCC) or a master's degree in rehabilitation counseling awarded by a regionally accredited institution of higher education.

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School Counselor/ Guidance Counselor	Meets the requirements of 23 Ill. Adm. Code 25.43 appropriate to the area of responsibility or holds a valid Illinois <u>professional educator license endorsed for school supportservice personnel certificate endorsed for school counselor issued under 23 Ill. Adm. Code 25.225counseling.</u>
School Counselor Intern	Meets the requirements of 23 Ill. Adm. Code 25.227.
School Nurse	Meets the requirements of Section 10-22.23 of the School Code [105 ILCS 5/10-22.23] and 23 Ill. Adm. Code 25.245.
School Nurse (Grandfathered)	Employed as a registered school nurse prior to July 1, 1976 and continuing in the same position with the same district or joint agreement.
School Nurse Intern	Meets the requirements of Section 226.820(b) of this Part. Reimbursement for this position shall not be for a period of time that exceeds four months.
School Psychologist	Meets the requirements of Section 14-1.09 of the School Code [105 ILCS 5/14-1.09] and 23 Ill. Adm. Code <u>25.230 or 25.235, as applicable.</u>
School Psychologist Intern	Meets the requirements of Section 226.820(b) of this Part.
School Social Worker	Meets the requirements of Section 14-1.09a of the School Code [105 ILCS 5/14-1.09a], and Section 226.820(b) of this Part and 23 Ill. Adm. Code 25.215, as applicable.
School Social Work Intern	Meets the requirements of Section 226.820(b) of this Part.
Specific Learning Disability	A valid Illinois <u>professional educator licenseteaching certificate</u> either with <u>an LBS Ia cross-categorical special education or learning disability</u> endorsement or <u>with</u> approval encompassing the grade levels and age ranges of the students served.

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Speech-Language	<p>Non-teaching Position: Meets the requirements of Section 14-1.09b of the School Code [105 ILCS 5/14-1.09b] and 23 Ill. Adm. Code 25.252, as applicable, for <u>speech and language</u>speech-language pathologist.</p> <p>Teaching Position: Holds a valid Illinois <u>professional educator licenseteaching certificate</u> issued pursuant to 23 Ill. Adm. Code 25.43 endorsed <u>for speech and language pathologist</u>in speech-language pathology.</p>
Speech-Language Pathologist Intern (Interim)	Meets the requirements of 23 Ill. Adm. Code 25.255 and Section 226.820(b) of this Part.
State-Approved Director of Special Education (serving in a full-time capacity)	Meets the requirements of 23 Ill. Adm. Code 25.365 and Section 226.800(g) of this Part.
Supervisor	Meets the requirements of Section 226.800(h) of this Part and 23 Ill. Adm. Code 1.705(h), as applicable.
Support Teacher	A valid Illinois <u>professional educator licenseteaching certificate</u> either with <u>an LBS Ia-categorical or cross-categorical special education</u> endorsement or <u>with</u> approval encompassing the grade levels and age ranges of the students served.
Teacher Coordinator of Vocational Education	Meets the requirements of Section 226.800(d) of this Part .
Visual Impairment	A valid Illinois <u>professional educator licenseteaching certificate</u> issued pursuant to 23. Ill. Adm. Code 25.43 and endorsed for teacher of students <u>who are blind or visually impaired</u> with visual impairments .
Vocational Coordinator	Meets the requirements set forth in Section 226.800(c) of this Part and 23 Ill. Adm. Code 1.737(c)(3).

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~~Vocational Transition Specialist~~ ~~Must hold a contract with the Illinois Department of Human Services, Division of Rehabilitation Services, under the Secondary Transition Experience Program (STEP).~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 226.860 List of ~~Other Noncertified~~ Employees Qualifying for Reimbursement

The following table lists the work assignments and qualifications for ~~noncertified~~ employees considered to be "noncertified" for the purposes of requesting whom reimbursement ~~may be requested~~ under Section 14-13.01 of the School Code. In order to qualify for reimbursement, the noncertified employee shall provide direct services to students with IEPs. (See Section 14-13.01(h) of the School Code; also see Section 226.800(k) of this Part.)

WORK ASSIGNMENT

REQUIRED QUALIFICATIONS

Hearing Screening Technician	Must hold a certificate from the Illinois Department of Public Health pursuant to 77 Ill. Adm. Code 675.
Individual Student Aide (noninstructional duties)	Training specific to the needs of the students being served, as determined by the school district under Section 226.800(k) of this Part.
Interpreter for the Deaf or <u>Oral Transliteration</u> Cued Speech	Meets the requirements of 23 Ill. Adm. Code 25.550 for approval from the State Board of Education.
Noncertified Health Aide	Licensed by the Illinois Department of Financial and Professional Regulation pursuant either to Article 55 or 60 of the Nurse Practice Act [225 ILCS 65/Art. 55 or 60].
Occupational Therapy Assistant	Licensed by the Illinois Department of Financial and Professional Regulation pursuant to Section 9 of the Illinois Occupational Therapy Practice Act [225 ILCS 75/9] and 68 Ill. Adm. Code 1315.
Paraprofessional <u>Educator</u> Teacher Aide	<u>Holds a valid educator license with stipulations for paraprofessional educator and/or meets</u> Meets the requirements of 23 Ill. Adm. Code 25.510, <u>or holds</u> for approval <u>issued in</u>

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~~[accordance with 23 Ill. Adm. Code 25.15 \(Types of Licenses; Exchange\) from the State Board of Education.](#)~~

Physical Therapy Assistant	Licensed by the Illinois Department of Financial and Professional Regulation pursuant to Section 8.1 of the Illinois Physical Therapy Act [225 ILCS 90/8.1] and 68 Ill. Adm. Code 1340.
Speech-Language Pathology Assistant	Licensed by the Illinois Department of Financial and Professional Regulation pursuant to Section 8.5 of the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110/8.5] and 68 Ill. Adm. Code 1465.
Speech Language Paraprofessional	Holds a bachelor's degree in speech language pathology and approval from the State Board of Education.
Vision Screening Technician	Must hold a certificate from the Illinois Department of Public Health pursuant to 77 Ill. Adm. Code 685.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Special Education Facilities under Section 14-7.02 of the School Code
- 2) Code Citation: 23 Ill. Adm. Code 401
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
401.10	Amendment
401.145	Amendment
401.240	Amendment
- 4) Statutory Authority: 105 ILCS 5/14-7.02 and 14-8.01
- 5) A Complete Description of the Subjects and Issues Involved: Part 401 sets forth the requirements for providers that wish to become eligible to contract with Illinois public school districts to serve students with disabilities under Section 14-7.02 of the School Code. As part of the application process and for renewal of approval, providers currently are required to include a copy of the most recent inspection report of the Office of State Fire Marshal (OSFM), which may not be more than 24 months old at the time the application or renewal request is approved. The rules also provide other alternatives for out-of-state facilities and facilities subject to the agency's rules governing the Health/Life Safety Code for Public Schools (23 Ill. Adm. Code 180).

It came to staff's attention last summer that the OSFM is short-staffed at a time when the number of requests for fire inspections has been increasing. Consequently, it may take upwards of 36 months to complete an inspection and report for lower priority facilities, particularly in the five-county area near Chicago, according to a representative of the OSFM. Two remedies in response to this situation are being proposed in Section 401.10(a)(4).

The current requirement for an inspection and report from the OSFM will be increased from 24 months to 36 months. This relaxation in the requirement will help to ensure that the facility can schedule and receive an inspection within the required timeframe.

In instances when an inspection from the OSFM cannot be scheduled within the 36-month timeframe, a provider may choose to produce evidence of an inspection and a report from a local government agency. Such a report will be accepted provided it was done within 12 months of the application's or renewal's approval and the report provides evidence of no violations being noted.

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Other changes proposed in Part 401 result from recently enacted legislation. PA 98-972, effective August 15, 2014, revamped the State assessment system, repealing Section 2-3.64 of the School Code and replacing the requirements found there with new Section 2-3.64a-5, necessitating changes in Section 401.145. PA 97-607, effective August 26, 2011, changed the current system of teacher, administrator and school service personnel certification set forth in Article 21 of the School Code to a licensure system (Article 21B of the School Code). References to certification and related terms will be updated to align to the licensure system, which became effective July 1, 2013.

- 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 will not create or enlarge a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this Notice to:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777-0001

217/782-5270
rules@isbe.net
- 13) Initial Regulatory Flexibility Analysis:

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- 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 2015

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

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER 1: NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS

PART 401

SPECIAL EDUCATION FACILITIES UNDER

SECTION 14-7.02 OF THE SCHOOL CODE

SUBPART A: APPROVAL OF PROGRAMS

Section

- 401.5 Definitions
- 401.10 Application for Eligibility
- 401.20 Notification Requirements
- 401.30 Changes in Approval Status

SUBPART B: PLACEMENT AND EDUCATION OF STUDENTS

Section

- 401.110 Use by School Districts
- 401.120 Placement Procedures
- 401.130 Operating Schedule
- 401.140 Provision of Educational Program
- 401.145 Administration of State Assessment
- 401.150 Classroom Records

SUBPART C: OPERATIONAL REQUIREMENTS

Section

- 401.210 General Requirements
- 401.220 Health and Safety Requirements
- 401.230 Student Progress Reports and Reviews
- 401.240 Staffing Requirements
- 401.250 Staff Training
- 401.260 Staff Records
- 401.270 Student Records
- 401.280 Fiscal Provisions

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AUTHORITY: Implementing and authorized by Sections 14-7.02 and 14-8.01 of the School Code [105 ILCS 5/14-7.02 and 14-8.01].

SOURCE: Adopted July 25, 1973; emergency amendment at 4 Ill. Reg. 39, p. 323, effective September 15, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 4576, effective April 9, 1981; codified at 7 Ill. Reg. 14966; Part repealed, new Part adopted at 19 Ill. Reg. 7185, effective May 10, 1995; amended at 30 Ill. Reg. 8818, effective April 25, 2006; amended at 31 Ill. Reg. 14050, effective September 24, 2007; emergency amendment at 32 Ill. Reg. 4843, effective March 21, 2008, for a maximum of 150 days; emergency amendment suspended at 32 Ill. Reg. 9764, effective June 17, 2008; suspension withdrawn at 32 Ill. Reg. 13093, effective July 16, 2008; emergency amendments repealed by emergency rulemaking at 32 Ill. Reg. 13079, effective July 16, 2008, for the remainder of the 150 days; amended at 33 Ill. Reg. 15285, effective October 20, 2009; amended at 39 Ill. Reg. _____, effective _____.

SUBPART A: APPROVAL OF PROGRAMS

Section 401.10 Application for Eligibility

Each provider seeking to become eligible to contract with Illinois public school districts to serve students with disabilities under Section 14-7.02 of the School Code [105 ILCS 5/14-7.02] shall be subject to the program approval process described in this Section. Approval shall be specific to individual programs offered by a provider, and the same type of program conducted at two separate facilities shall be treated as two separate programs for purposes of approval. A program not approved in accordance with the requirements of this Part shall not be used by school districts to serve students with disabilities under Section 14-7.02 of the School Code.

- a) An application for initial approval of educational programs and/or residential programs, presented on forms supplied by the State Superintendent of Education and containing all the items enumerated in this subsection (a), shall be submitted to the State Superintendent. Each application shall include:
 - 1) An accurate, written description of each program for which approval is requested, which shall indicate the categories and ages of students with disabilities for whom it is specifically intended, the data that will be collected on the outcomes achieved by those students, which must reflect the students' learning goals as described in their respective IEPs, and the maximum number of students the program is intended to accommodate.
 - 2) A written plan for the administration and organization of the programs,

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including but not limited to:

- A) The stated purpose and scope of the facility and its programs;
 - B) A plan for the allocation of space solely for program purposes; and
 - C) An organizational chart that reflects the provider's governance, administrative, and educational structures.
- 3) The provider's proposed calendar for the program for which approval is sought, setting forth an operating schedule reflecting at least 176 days of operation, for at least five hours per school day during the regular school year and, with respect to a summer session, if any is to be offered, at least 120 hours of operation if the facility is located in Illinois or, if the facility is located in another state, the number of hours approved by the responsible authority in that state.
- 4) A copy of the State Fire Marshal's most recent inspection report for the facility, which shall be no more than ~~36~~24 months old at the time ~~the~~of application is approved, or, if the State Fire Marshal's report is unavailable, an inspection report for the facility from a local governmental agency that is no more than 12 months old, neither of which shall indicate ~~no~~violations, or, as applicable:
- A) for an Illinois facility that is subject to the provisions of 23 Ill. Adm. Code 180 (Health/Life Safety Code for Public Schools), the report of the regional superintendent's most recent inspection conducted pursuant to Section 3-14.21 of the School Code [105 ILCS 5/3-14.21]; or
 - B) for an out-of-state facility, equivalent, current documentation of compliance with applicable state fire codes, or if there is no state fire code the applicable local fire code, clearly identifying the issuing authority.
- 5) Assurances, signed by the facility's chief administrator, conveying such information as the State Superintendent of Education may require regarding the facility's compliance with other applicable federal, state, and local laws, ordinances, and regulations (such as public health and safety

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codes, building codes, and licensure requirements).

- 6) If the facility is located in Illinois and offers a residential component, evidence of the facility's current licensure or approval by the responsible agency of Illinois government, if applicable.
 - 7) If the facility is located outside Illinois, evidence of the facility's current licensure, certification, or approval to operate its educational and/or residential programs in the state where it is located, including a copy of the standards or criteria used by the responsible agency in that state.
 - 8) For instructional programs, summary information about all professional staff positions, and copies of the relevant credentials of persons employed in those positions, which demonstrate that the facility has sufficient staff available who are qualified pursuant to the requirements of Section 401.240 ~~of this Part~~ in order to operate the program.
 - 9) For instructional programs, summaries of related services provided by the facility's professional staff or available to the provider under contract, demonstrating that the provider has sufficient related services available to operate the program.
 - 10) For programs serving students for whom behavioral interventions may be appropriate, a description of the provider's formalized approach to the use of these interventions, subject to the limitation stated in Section 401.140(a) ~~of this Part~~.
- b) If the application is complete and the facility is located in Illinois or within 50 miles of Illinois, State Board staff shall conduct an on-site review and evaluate the facility and the programs offered for the purpose of verifying the accuracy of the application, evaluating their conformance with the other requirements of this Part, and recommending approval or disapproval of the programs.
- 1) An out-of-state program conducted more than 50 miles outside of Illinois shall be approved without a site visit from an Illinois representative if:
 - A) the educational program is an approved special education program in the state where the facility is located and this approval was

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granted in light of the information gathered during a site visit by a representative of the responsible agency;

- B) the residential component, if any, is licensed by the responsible agency in the state where the facility is located; and
 - C) the application provides evidence that the requirements of Section 410.140 ~~of this Part~~ will be met.
- 2) An out-of-state program conducted more than 50 miles outside of Illinois that was approved in the state where the facility is located without a site visit by the responsible agency shall be visited by a representative of the Illinois State Board of Education in order to verify the accuracy of the application and determine whether the requirements of this Part have been met so that Illinois approval can be granted.
- c) A program determined to comply with the requirements of this Part shall be designated as "Approved" and shall be available to Illinois public school districts to serve students with disabilities under Section 14-7.02 of the School Code beginning on the day the application is approved, provided that the other requirements of Section 401.110 ~~of this Part~~ have also been met. The provider operating the facility shall be notified in writing of the date of program approval.
- 1) Initial approval shall end on the last day of the program's approved calendar for the school year in question, unless approval is changed pursuant to Section 401.30 ~~of this Part~~.
 - 2) A program shall serve only the specific student populations described in the approved application.
- d) The nonapproval of an initial application shall include a notice of the specific deficiencies that caused the nonapproval and the opportunity for the provider to request a hearing pursuant to the Illinois Administrative Procedure Act [5 ILCS 100] and the State Board's rules for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475).
- e) An application for renewal of approval, consisting of all the components set forth in subsection (a) of this Section, must be submitted for any subsequent period in which a provider seeks to contract with Illinois public school districts to serve

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students with disabilities in the facility under Section 14-7.02 of the School Code. The submission deadline shall be the April 15 prior to the beginning of the school year in question. If April 15 is not a business day, the deadline shall fall on the next business day. The approval process for any ~~such~~-subsequent period may also involve on-site reviews, at the sole discretion of the State Superintendent of Education.

- 1) The denial of an application for renewal of approval shall cause the program approval status to change to "nonapproved" subject to the procedures set forth in Section 401.30(c)~~-of this Part~~.
- 2) Renewed approval granted for the 2006-2007 school year or later shall generally be valid for two school years, ending on the last day of the program's approved calendar for the second school year, unless approval is changed pursuant to Section 401.30~~-of this Part~~. However, the State Superintendent of Education shall approve approximately half the renewal applicants for the 2006-2007 school year for one year only, in order to stagger the two-year renewal process for subsequent periods.
 - A) Applications shall be selected at random, provided that, once one program offered by a particular provider has been selected, all that provider's programs will be placed on the same renewal schedule.
 - B) The first renewal of approval for a new program offered by a provider that already operates other approved programs shall be granted for the number of years that will place it on the cycle already established for that provider.
- 3) A program shall not be eligible for two-year renewed approval if it was not approved for the immediately preceding year, or if it was approved "pending further review" at any time during the immediately preceding period of approval. Applications for approval of ~~thesesuch~~ programs shall be treated as for initial approval.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART B: PLACEMENT AND EDUCATION OF STUDENTS

Section 401.145 Administration of State Assessment

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A facility approved under this Part and located in Illinois may serve as a testing site for the State assessments required pursuant to Section ~~2-3.64a-52-3.64~~ of the School Code [105 ILCS ~~5/2-3.64a-52-3.64~~] in accordance with the provisions of this Section. For purposes of this Section, a "testing site" is a facility at which responsible staff is permitted to order and receive test materials directly from the testing contractor according to the contractor's arrangement with the State Board of Education. A provider seeking designation of a facility as a testing site under this Section shall follow the specific communication procedures established by the State Superintendent of Education for making the request, supplying the necessary information, and receiving the designation, as applicable to the examinations to be administered. The provider and responsible staff shall abide by all technical specifications established by the State Superintendent of Education and test contractors to implement the requirements set forth at 23 Ill. Adm. Code 1.30 (State Assessment).

a) Required Conditions

If a provider operating an Illinois facility under this Part wishes to have the facility serve as a testing site for one or more State assessments, certain required conditions must exist at the facility that will ensure the security and confidentiality of test materials and the validity of the resulting scores. The specifics of these requirements will vary according to which of the State assessments will be involved ~~(the Illinois Standards Achievement Tests (ISAT), the Prairie State Achievement Examination (PSAE), the Illinois Alternate Assessment (IAA), or the accommodated State assessment for students of limited English proficiency).~~

- 1) Locked facilities and storage for secure test materials must exist, and access to these must be limited to authorized individuals.
- 2) There must be an adequate amount of space for the number of examinees, and each must have an appropriate space in which to work. The facility must provide an environment that will meet technical requirements for particular types of test administration, including accommodations for students with disabilities or limited English proficiency.
- 3) The facility must afford lighting, temperature, and quiet such that the test environment will be free from interruptions and distractions.

b) Required Personnel Assignments and Qualifications

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- 1) Each individual appointed to a role under this subsection (b) shall be an employee of the provider or facility. No volunteers or parents may serve in these positions.
- 2A) ~~ISAT, IAA, and Accommodated Assessment~~ The provider or chief administrator shall designate a testing coordinator for each assessment to be administered at a facility. An individual may serve as coordinator for more than one of the assessments. The responsibilities of the testing coordinator shall include:
 - Ai) ordering, distributing, collecting, and returning test materials;
 - Bii) training test administrators and proctors regarding their responsibilities;
 - Ciii) arranging for the accommodations called for in individual students' IEPs;
 - Div) ensuring that neither test security nor the purpose of testing is compromised by any accommodations afforded to students; and
 - E v) overall monitoring of testing activities to ensure that required procedures are followed.
- B) PSAE
~~The provider or chief administrator shall appoint a test supervisor, a back-up test supervisor, and a test accommodations coordinator. Each of these three individuals, when initially appointed, shall be required to participate in specific training made available by the State Superintendent of Education.~~
 - i) ~~The responsibilities of the test supervisor (or back-up test supervisor, if the test supervisor becomes unavailable) shall include those delineated in subsections (b)(1)(A)(i), (ii), and (v) of this Section with respect to "standard time testing" only.~~
 - ii) ~~The responsibilities of the test accommodations coordinator shall be all those delineated in subsection (b)(1)(A) of this~~

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~~Section with respect to testing that is administered with accommodations.~~

- 32) The ~~ISAT, IAA, and accommodated~~ assessment may be administered only by:
- A) administrators holding ~~educator licensure certification~~ appropriate to their positions (e.g., assistant principals, principals, chief administrators);
 - B) teachers holding ~~educator licensure with endorsement certification~~ appropriate to their positions (including holders of substitute ~~teaching licenses~~ and ~~educator licenses with stipulations for provisional educator provisional certificates~~) and employed by the provider as teachers at the facility;
 - C) school psychologists, school social workers, and school counselors holding ~~educator licensure certification~~ appropriate to their positions and employed by the provider at the facility in their respective professional capacities; and
 - D) ~~paraprofessional educators paraprofessionals~~, provided that constant, line-of-sight supervision by ~~an educator licensed a certificated~~ teacher employed by the provider as a teacher at the facility shall be required (including supervision for individuals employed as ~~paraprofessional educators paraprofessionals~~ who are also ~~educator licensed ecertified~~ teachers).
- c) Required Procedures
- Following procedures announced annually by the State Superintendent of Education and using the materials provided, the responsible individual at each testing site shall communicate with the testing contractors for the examinations to be administered at that site. The State Superintendent shall furnish to staff at each testing site the same technical guidance as is provided to the public schools regarding details of the test administration, and responsible staff at each testing site shall ensure that these technical specifications are followed, including, but not limited to:
- 1) the dates established as the testing window;

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- 2) the handling of test documents and other secure materials;
 - 3) permissible and impermissible objects in the testing environment;
 - 4) permissible and impermissible behavior on the part of test-takers;
 - 5) required, permissible, and impermissible actions on the part of staff at the testing site.
- d) The school district that has placed a student with a disability into a program approved under this Part remains responsible for determining, in accordance with the student's IEP, where the student will take the appropriate State assessment and whether the test materials for that student are to be ordered and handled by district or facility personnel, even if the facility where the student is placed serves as a testing site for that assessment.
- e) No State assessment shall be administered to any student who is not required to participate in the State assessment pursuant to Section ~~2-3.64a-52-3.64~~ of the School Code and 23 Ill. Adm. Code 1 (see Sections 1.30 (State Assessment) and 1.50 (Calculation of Participation Rate)).
- f) Any breach of test security or other testing irregularity shall be reported to the State Superintendent of Education or designee in accordance with instructions applicable to particular types of problems, using one of the methods identified by the State Superintendent. Responsible staff at the affected facility shall then follow the instructions provided by the State Superintendent or the relevant test contractor regarding the next steps to be taken in investigating the source of the problem, its implications, and its potential resolution.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART C: OPERATIONAL REQUIREMENTS

Section 401.240 Staffing Requirements

- a) The composition and qualifications of each facility's professional and paraprofessional staff shall be in accordance with the needs and requirements of the students with disabilities placed under Section 14-7.02 of the School Code.

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Each provider subject to this Part shall employ sufficient professional staff, including staff having professional expertise and training in the disability-related educational needs of the students served, to meet the applicable requirements of 23 Ill. Adm. Code 226, Subpart I (Personnel), as those requirements are affected by Section 10-21.4a of the School Code [105 ILCS 5/10-21.4a], if applicable, and ~~23 Ill. Adm. Code 25 (Educator Licensure), by the policies of the State Board of Education regarding the certification of personnel in special education that took effect on July 1, 2001, pursuant to a federal court order in the matter of Corey H., et al., v. Board of Education of the City of Chicago, et al.~~ A head teacher serving in place of a principal as permitted by Section 10-21.4a of the School Code shall be required to hold a supervisory endorsement. Paraprofessional educators~~Paraprofessionals~~ employed by facilities under this Part shall be subject to the requirements of 23 Ill. Adm. Code 25.510 (Endorsement for Paraprofessional Educators~~Paraprofessionals; Teacher Aides~~).

- b) ~~A substitute teacher~~Substitute teachers holding a valid professional educator license endorsed for early childhood, elementary, secondary, special K-12, special preschool-age 21, or holding a substitute teaching license~~certificates~~ shall be employed to replace absent teachers. Only teachers holding educator licensure~~certification~~ or teaching approval in special education, as applicable to the students to be taught, shall be used to open new classrooms, begin a school year, or meet the staffing requirements set forth in this Section for purposes of approval of an application for eligibility.
- c) Facilities located outside Illinois shall employ personnel who possess the specific qualifications comparable to those issued in Illinois in connection with the positions in question.
- d) If the State Superintendent determines that a program has been operated for more than 60 consecutive calendar days in noncompliance with the requirements of this Section, the State Superintendent shall change the provider's approval status accordingly, pursuant to the provisions of Section 401.30 ~~of this Part~~.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- a) Parts (Heading and Code Citation): Public Use of State Parks and Other Properties of the Department of Natural Resources (17 Ill. Adm. Code 110)
- 1) Rulemaking:
- A) Description: This Part will be amended to address the use of drones on DNR property as well as destruction of property and operation of vehicles.
- B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5] and by Section 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-515]
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: August 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Anne Mergen, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809
- G) Related rulemakings and other pertinent information: None
- b) Parts (Heading and Code Citation): General hunting and Trapping on Department-Owned or -Managed Sites (17 Ill. Adm. Code 510)
- 1) Rulemaking:

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- A) Description: This Part will be amended to include updates to the list of State-owned or -managed sites open for hunting and updates to site-specific regulations at these sites.
- B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5] and by Section 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-515]
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: December 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- c) Parts (Heading and Code Citation): Scientific Permits (17 Ill. Adm. Code 520)
- 1) Rulemaking:
- A) Description: This Part will be amended to exclude herptile's under the scientific permits since they are specifically governed under the Herptile Code administrative rule (17 Ill. Adm. Code 885)
- B) Statutory Authority: Implementing and authorized by Sections 1-120, 1-135 and 20-100 of the Fish and Aquatic Life Code [515

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ILCS 5/1-120, 1-135, 20-100] and Sections 1.2, 1.3, 2.1, 2.4, 3.22 and 3.26 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 2.1, 2.4, 3.22 and 3.26.

- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: September 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Craig Colbrook, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- d) Parts (Heading and Code Citation): Cock Pheasant, Hungarian Partridge, Bobwhite Quail and Rabbit Hunting (17 Ill. Adm. Code 530)
- 1) Rulemaking:
- A) Description: This Part will be amended to include updates to the list of State-owned or -managed sites open for hunting and updates to site-specific regulations at these sites.
- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29]
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: December 2015

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- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- e) Parts (Heading and Code Citation): Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting (17 Ill. Adm. Code 550)
- 1) Rulemaking:
- A) Description: This Part will be amended to include updates to the list of State-owned or –managed sites open for hunting and updates to site-specific regulations at these sites.
- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29]
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: December 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

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G) Related rulemakings and other pertinent information: None

f) Parts (Heading and Code Citation): Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, River Otter, Beaver and Woodchuck (Groundhog) Trapping (17 Ill. Adm. Code 570)

1) Rulemaking:

A) Description: This Part will be amended to include updates to the list of State-owned or -managed sites open for hunting and updates to site-specific regulations at these sites.

B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 2.30, 2.33 and 3.5]

C) Scheduled Meeting/Hearing Dates: None

D) Date Agency anticipates First Notice: December 2015

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency Contact Person for Information:

Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

g) Parts (Heading and Code Citation): Duck, Goose and Coot Hunting (17 Ill. Adm. Code 590)

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- 1) Rulemaking:
 - A) Description: This Part will be amended to make statewide program changes, open and close state-owned or –managed sites, and amend procedures at these sites.
 - B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7 and 3.8 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6 and 3.8] and Migratory Bird Hunting (50 CFR 20)
 - C) Scheduled Meeting/Hearing Dates: None
 - D) Date Agency anticipates First Notice: December 2015
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: None
 - F) Agency Contact Person for Information:

Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809
 - G) Related rulemakings and other pertinent information: None
- h) Parts (Heading and Code Citation): Large Carnivore Management (17 Ill. Adm. Code 600)
 - 1) Rulemaking:
 - A) Description: This new Part will be proposed to clarify protection and management for gray wolf, American black bear, and cougar.
 - B) Statutory Authority: Implementing and authorized by Sections 805-15, 805-100 and 805-105 of the Department of Natural Resources (Conservation) Law [20 ILCS 805/805-15, 805-100 and

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805-105] and Sections 1.3, 1.4, 1.10, 1.20, 2.1 and 2.2(a) of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.10, 1.20, 2.1 and 2.2(a)]

- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: December 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- i) Parts (Heading and Code Citation): White-Tailed Deer Hunting by Use of Muzzleloading Rifles (17 Ill. Adm. Code 660)
- 1) Rulemaking:
- A) Description: This Part will be amended to include updating open seasons and counties, sites and site-specific information, hunting regulations, permit requirements and harvest reporting requirements
- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36]
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: December 2015

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- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- j) Parts (Heading and Code Citation): White-Tailed Deer Hunting by Use of Bow and Arrow (17 Ill. Adm. Code 670)
- 1) Rulemaking:
- A) Description: This Part will be amended to include updating open seasons and counties, sites and site-specific information, hunting regulations, permit requirements and harvest reporting requirements
- B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36]
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: December 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelly Knuppel, Legal Counsel
One Natural Resources Way

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G) Related rulemakings and other pertinent information: Nonek) Parts (Heading and Code Citation): Special White-Tailed Deer Season for Disease Control (17 Ill. Adm. Code 675)1) Rulemaking:A) Description: This Part will be amended to include updating open seasons and counties, sites and site-specific information, hunting regulations, permit requirements and harvest reporting requirements.B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36]C) Scheduled Meeting/Hearing Dates: NoneD) Date Agency anticipates First Notice: December 2015E) Effect on small businesses, small municipalities or not-for-profit corporations: NoneF) Agency Contact Person for Information:Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

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G) Related rulemakings and other pertinent information: None

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- l) Parts (Heading and Code Citation): Late-Winter Deer Hunting Season (17 Ill. Adm. Code 680)
- 1) Rulemaking:
- A) Description: This Part will be amended to include updating Statewide requirements, permit requirements and hunting regulations.
- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36]
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: December 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- m) Parts (Heading and Code Citation): Youth Hunting Seasons (17 Ill. Adm. Code 685)
- 1) Rulemaking:
- A) Description: This Part will be amended to update the list of State-owned or -managed sites open for hunting and update site-specific regulations at these sites.

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- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.24, 2.25, 2.26 and 3.36].
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: December 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809
- G) Related rulemakings and other pertinent information: None
- n) Parts (Heading and Code Citation): Squirrel Hunting (17 Ill. Adm. Code 690)
- 1) Rulemaking:
- A) Description: This Part will be amended to include updates to the list of State-owned or –managed sites open for hunting and updates to site-specific regulations at these sites.
- B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.28 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.28 and 3.5]
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: December 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None

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F) Agency Contact Person for Information:

Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

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G) Related rulemakings and other pertinent information: Noneo) Parts (Heading and Code Citation): The Taking of Wild Turkeys – Spring Season
(17 Ill. Adm. Code 710)1) Rulemaking:

A) Description: This Part will be amended to update the list of State-owned or -managed sites open for hunting and update site-specific regulations at these sites.

B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11]

C) Scheduled Meeting/Hearing Dates: None

D) Date Agency anticipates First Notice: December 2015

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency Contact Person for Information:

Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

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- G) Related rulemakings and other pertinent information: None
- p) Parts (Heading and Code Citation): The Taking of Wild Turkeys – Fall Gun Season (17 Ill. Adm. Code 715)
- 1) Rulemaking:
- A) Description: This Part will be amended to update the list of State-owned or -managed sites open for hunting and update site-specific regulations at these sites.
- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11]
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: December 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809
- G) Related rulemakings and other pertinent information: None
- q) Parts (Heading and Code Citation): The Taking of Wild Turkeys – Fall Archery Season (17 Ill. Adm. Code 720)
- 1) Rulemaking:

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- A) Description: This Part will be amended to make statewide program changes, open and close State-owned or -managed sites, and amend procedures at these sites.
- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11]
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: December 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- r) Parts (Heading and Code Citation): Dove Hunting (17 Ill. Adm. Code 730)
- 1) Rulemaking:
- A) Description: This Part will be amended to update the list of State-owned or -managed sites open for hunting and update site-specific regulations at these sites.
- B) Statutory Authority: Implementing and authorized by Sections 1.3 and 1.4 of the Wildlife Code [520 ILCS 5/1.3 and 1.4]
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: December 2015

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- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelly Knuppel, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- s) Parts (Heading and Code Citation): Crow, Woodcock, Snipe, Rail and Teal Hunting (17 Ill. Adm. Code 740)
- 1) Rulemaking:
- A) Description: This Part will be amended to update the list of State-owned or -managed sites open for hunting and update site-specific regulations at these sites.
- B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5] and Migratory Bird Hunting (50 CFR 20, August 25, 1987)
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: December 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelly Knuppel, Legal Counsel
One Natural Resources Way

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- G) Related rulemakings and other pertinent information: None
- t) Parts (Heading and Code Citation): Sport Fishing Regulations for the Waters of Illinois (17 Ill. Adm. Code 810)
- 1) Rulemaking:
- A) Description: This Part will be amended to update site-specific fishing regulations.
- B) Statutory Authority: Implementing and authorized by Sections 1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5]
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: September 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Anne Mergen, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/785-8283
- G) Related rulemakings and other pertinent information: None

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- u) Parts (Heading and Code Citation): Falconry and the Captive Propagation of Raptors (17 Ill. Adm. Code 1590)
- 1) Rulemaking:
- A) Description: This Part will be amended to allow for the capture of passage peregrine falcons for use in falconry under Federal regulations and bring this rule up to date with proposed Federal regulations.
- B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.1, 2.2, 2.4, 2.6, 2.7, 2.13, 2.18, 2.20, 2.27, 2.28, 2.29, 2.30, 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.1, 2.2, 2.4, 2.6, 2.7, 2.13, 2.18, 2.20, 2.27, 2.28, 2.29, 2.30, 3.5 and 3.36] and Section 5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5]
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: July 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Craig Colbrook, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- v) Parts (Heading and Code Citation): Operation of Watercraft Carrying Passengers For Hire on Illinois Waters (17 Ill. Adm. Code 2080)
- 1) Rulemaking:

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- A) Description: This Part will be amended to update the education requirements for boat rental services.
- B) Statutory Authority: Implementing and authorized by Sections 2-1, 2-2, 7-1, 7-2, 7-3, 7-4, 7-5, 7-6, 7-7, 7-8, 7-9 and 8-3 of the Boat Registration and Safety Act [625 ILCS 45/2-1, 2-2, 7-1, 7-2, 7-3, 7-4, 7-5, 7-6, 7-7, 7-8, 7-9 and 8-3]
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: July 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Businesses that rent boats will be required to show a boating safety video prior to releasing boats.
- F) Agency Contact Person for Information:
- Robert Mool, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- w) Parts (Heading and Code Citation): Revocation Procedures for Conservation Offenses (17 Ill. Adm. Code 2530)
- 1) Rulemaking:
- A) Description: This Part will be amended to add the Herptile Act as another group of revocations.
- B) Statutory Authority: Implementing and authorized by Sections 1-125 and 20-105 of the Fish and Aquatic Life Code of 1971 [515 ILCS 5/1-125 and 20-105], Sections 1.4 and 3.36 of the Wildlife Code [520 ILCS 5/1.4 and 3.36], Sections 4 and 5 of the Illinois Endangered Species Protection Act [520 ILCS 10/4 and 5], Section

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3B-8 of the Boat Registration and Safety Act [625 ILCS 45/3B-8], Sections 10 and 13 of the Timber Buyers Licensing Act [225 ILCS 735/10 and 13], Section 6 of the Ginseng Harvesting Act [525 ILCS 20/6] and the Illinois Administrative Procedure Act [5 ILCS 100] and authorized by Sections 5-625, 805-518, 805-545 and 805-550 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625, 805-518, 805-545 and 805-550]

- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: September 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:

Craig Colbrook, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

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- G) Related rulemakings and other pertinent information: None

x) Parts (Heading and Code Citation): The Illinois Oil and Gas Act (62 Ill. Adm. Code 240)

1) Rulemaking:

- A) Description: This Part will be amended to streamline the permitting process, hearing requirements and procedures, well spacing requirements, underground liquid hydrocarbon storage facilities, produced water recycling and well site restoration.
- B) Statutory Authority: Implementing and authorized by the Illinois Oil and Gas Act [225 ILCS 725]
- C) Scheduled Meeting/Hearing Dates: None

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- D) Date Agency anticipates First Notice: October 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:

Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

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- G) Related rulemakings and other pertinent information: None
- y) Parts (Heading and Code Citation): General Definitions (62 Ill. Adm. Code 1701)
- 1) Rulemaking:
- A) Description: This Part will be amended to comply with the changes made to the Office of Surface Mining's regulations.
- B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720.
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: October 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:

Nick San Diego, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

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- G) Related rulemakings and other pertinent information: 62 Ill. Adm. Code Parts 1773, 1777, and 1848
- z) Parts (Heading and Code Citation): Areas Designated by Act of Congress (62 Ill. Adm. Code 1761)
- 1) Rulemaking:
- A) Description: This part will be amended to correct a reference to another part.
- B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: August 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Nick San Diego, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: 62 Ill. Adm. Code Parts 1773, 1777, and 1848
- aa) Parts (Heading and Code Citation): Requirements for Permits and Permit Processing (62 Ill. Adm. Code 1773)

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- 1) Rulemaking:
 - A) Description: This Part is being amended to comply with the changes made to the Office of Surface Mining's regulations.
 - B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]
 - C) Scheduled Meeting/Hearing Dates: None
 - D) Date Agency anticipates First Notice: August 2015
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: None
 - F) Agency Contact Person for Information:

Nick San Diego, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809
 - G) Related rulemakings and other pertinent information: 62 Ill. Adm. Code Parts 1773, 1777, and 1848
- bb) Parts (Heading and Code Citation): Permit Applications – Minimum Requirements for Legal, Financial, Compliance, and Related Information (62 Ill. Adm. Code 1778)
 - 1) Rulemaking:
 - A) Description: This Part is being amended to comply with changes made to the Office of Surface Mining's regulations.
 - B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]

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- C) Scheduled Meeting/Hearing Dates: None
 - D) Date Agency anticipates First Notice: August 2015
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: None
 - F) Agency Contact Person for Information:

Nick San Diego, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809
 - G) Related rulemakings and other pertinent information: 62 Ill. Adm. Code Parts 1773, 1777, and 1848
- cc) Parts (Heading and Code Citation): Small Operator Assistance (62 Ill. Adm. Code 1795)
- 1) Rulemaking:
 - A) Description: This part will be amended to correct a reference to another part.
 - B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]
 - C) Scheduled Meeting/Hearing Dates: None
 - D) Date Agency anticipates First Notice: August 2015
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: None
 - F) Agency Contact Person for Information:

DEPARTMENT OF NATURAL RESOURCES

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Nick San Diego, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

- G) Related rulemakings and other pertinent information: 62 Ill. Adm. Code Parts 1773, 1777, and 1848

dd) Parts (Heading and Code Citation): Department Inspections (62 Ill. Adm. Code 1840)

1) Rulemaking:

A) Description: This Part will be amended to be consistent with 30 CFR 778.9 a coal company to refer to information housed in the federal Applicant Violator System (AVS) when applying for a permit. The Department will also update references in the rule as necessary.

B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]

C) Scheduled Meeting/Hearing Dates: None

D) Date Agency anticipates First Notice: August 2015

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency Contact Person for Information:

Nick San Diego, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

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- ee) Parts (Heading and Code Citation): Administrative and Judicial Review (62 Ill. Adm. Code 1847)
- 1) Rulemaking:
- A) Description: This Part will be amended to implement amendments to 225 ILCS 7.20/2.11(c) authorizing a hearing officer to issue interim orders during the hearing process (PA 97-934). This rule will also be amended to implement terms of an agreed consent order.
- B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: August 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Nick San Diego, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: 62 Ill. Adm. Code Parts 1773, 1777, and 1848
- ff) Parts (Heading and Code Citation): General Rules Relating to Procedure and Practice (62 Ill. Adm. Code 1848)
- 1) Rulemaking:

DEPARTMENT OF NATURAL RESOURCES

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- A) Description: This Part will be amended to implement amendments to 225 ILCS 7.20/2.11(c) authorizing a hearing officer to issue interim orders during the hearing process (PA 97-934). This rule will also be amended to implement terms of an agreed consent order.
- B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: August 2015
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:

Nick San Diego, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809
- G) Related rulemakings and other pertinent information: 62 Ill. Adm. Code Parts 1773, 1777, and 1848

POLLUTION CONTROL BOARD

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- a) Parts (Heading and Code Citation): General Rules (35 Ill. Adm. Code 101)
- 1) Rulemaking: Docket Number R15-20
- A) Description: This rulemaking modifies procedures for motions by out-of-state attorneys and service of filings. Also amended are the Board's procedural rules for administrative citations filed pursuant to Section 23.1 of the Public Water Supply Operations (PWSO) Act (415 ILCS 45/23.1). P.A. 98-0856, eff. Aug. 4, 2014.
- B) Statutory Authority: Implementing and authorized by Sections 5, 26, and 28 of the Environmental Protection Act [415 ILCS 5/5, *et. al.*].
- C) Scheduled meeting/hearing dates: Hearings are not required for this procedural rulemaking, and none have been scheduled.
- D) Date agency anticipates First Notice: A Notice of Proposed Rulemaking was published in the *Illinois Register* on March 6, 2015. As substantive changes were made during the first notice period, a second Notice of Proposed Rulemaking was published in the *Illinois Register* on June 5, 2015.
- E) Effect on small businesses, small municipalities or not for profit corporations: This rule could affect any person or entity that appears before the Pollution Control Board.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Daniel Robertson
Pollution Control Board
100 W. Randolph St.

POLLUTION CONTROL BOARD

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Chicago, Illinois 60601

Daniel.Robertson@illinois.gov
312/814-6931

G) Related Rulemaking and other pertinent information: None

b) Part (Heading and Code Citation): Definitions and General Provisions (35 Ill. Adm. Code 211)

1) Rulemaking: Docket Number R16-3

A) Description: Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] mandates that the Board update the Illinois definition of volatile organic material (VOM) to reflect the additions made by the United States Environmental Protection Agency (USEPA) to the list of compounds exempt from regulation as ozone precursors. Those compounds are determined by USEPA to be exempt from regulation under the state implementation plan (SIP) for ozone in the federal "Recommended Policy on the Control of Volatile Organic Compounds" (Recommended Policy) due to their negligible photochemical reactivity. On February 3, 1992 (57 Fed. Reg. 3945), USEPA codified its definition of VOM at 40 CFR 51.100(s), which now embodies the former Recommended Policy. This codified definition now includes all the compounds and classes of compounds previously exempted in the former Recommended Policy. The Illinois definition of VOM is presently codified at 35 Ill. Adm. Code 211.7150.

The Board has reserved this docket number to accommodate any federal amendments to the 40 CFR 51.100(s) definition of VOM that USEPA may make in the period January 1, 2015 through June 30, 2015. At this time, the Board is unaware of any federal action during this update period that affected the federal definition of VOM.

The Board will verify the existence of any other federal actions that may affect the federal definition of VOM, and propose corresponding amendments to the Illinois definition of VOM as necessary and appropriate. Section 9.1(e) mandates that the Board complete amendments within one year of the date on which USEPA adopted the

POLLUTION CONTROL BOARD

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earliest action upon which the amendments are based.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 9.1(e), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 9.1(e) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. The Board will then schedule and conduct at least one public hearing, as required by Section 110(a) of the federal Clean Air Act (42 USC § 7410(a)) for amendment of the Illinois ozone SIP.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the emission of a chemical compound that is the subject of a proposed exemption or proposed deletion from the USEPA list of exempted compounds.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

John T. Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R16-3, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-6924
michael.mccambridge@illinois.gov

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- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 211 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- c) Parts (Heading and Code Citation): Sulfur Limitations (35 Ill. Adm. Code 214)
Nitrogen Oxides Emissions (35 Ill. Adm. Code 217)
Control of Emissions from Large Combustion Sources (35 Ill. Adm. Code 225)

1) Rulemaking: Docket Number R15-21

- A) Description: On April 28, 2015, the Illinois Environmental Protection Agency filed a rulemaking generally proposing to control emissions of sulfur dioxide in and around areas designated as nonattainment with respect to the 2010 sulfur dioxide National Ambient Air Quality Standard (NAAQS).
- B) Statutory Authority: Implementing and authorized by Sections 4, 10, 27, 28 and 28.2 of the Environmental Protection Act [415 ILCS 5/5, *et. al.*].
- C) Scheduled meeting/hearing dates: Hearings are scheduled for July 8, 2015 in Springfield, July 29, 2015 in Joliet, and August 4, 2015 in Pekin.
- D) Date agency anticipates First Notice: A Notice of Proposed Rulemaking was published in the *Illinois Register* on May 22, 2015.
- E) Effect on small businesses, small municipalities or not for profit corporations: This rule affects industries that are regulated by the Illinois Environmental Protection Agency for sulfur dioxide emissions.

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- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Daniel Robertson
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

Daniel.Robertson@illinois.gov
312/814-6931

- G) Related Rulemaking and other pertinent information: None

- d) Part (Heading and Code Citation): Air Quality Standards (35 Ill. Adm. Code 243)

- 1) Rulemaking: Docket number R16-2

- A) Description: P.A. 97-945 added Section 10(H) to the Environmental Protection Act [415 ILCS 5/10(H)] effective August 10, 2012. This provision mandates that the Board adopt ambient air quality standards that are identical-in-substance to the National Ambient Air Quality Standards (NAAQS) adopted by USEPA pursuant to section 109 of the federal Clean Air Act (42 USC § 7409). USEPA has codified the primary and secondary NAAQS at 40 CFR 50, including provisions relative to methods for monitoring ambient air quality for the several contaminants (particulate matter, nitrogen oxides, sulfur oxides, ozone, carbon monoxide, and lead). Various other federal regulations relate to aspects of the NAAQS, such as 40 CFR 53 prescribing the procedure for approval of equivalent and reference methods and 40 CFR 81 designating air quality monitoring regions and setting forth their attainment/non-attainment status.

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The Board has reserved this docket to accommodate any federal amendments to the NAAQS that USEPA may make during the period January 1, 2015 through June 30, 2015. At this time, the Board is aware of one action to the federal NAAQS that occurred during this update period:

March 6, 2015 (80 Fed. Reg. 12264)

Description of the USEPA action: USEPA adopted an implementation rule for the 2008 ozone NAAQS. One segment of the implementation rule revised the sunset and anti-backsliding provisions of the 1997 ozone NAAQS.

The Board will verify the existence of any other federal actions that may affect the federal NAAQS, and will amend the Illinois ambient air quality standards as necessary and appropriate. Section 10(H) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 10(H), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 10(H) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the emission of an air contaminant or precursor to an air contaminant that is the subject of an NAAQS.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R16-2, as follows:

John T. Therriault, Clerk

POLLUTION CONTROL BOARD

JULY 2015 REGULATORY AGENDA

Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R16-2, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-6924
michael.mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 243 is planned at this time. Section 10(H) of the Environmental Protection Act [415 ILCS 5/10(H)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.
- e) Parts (Heading and Code Citation): Water Quality Standards (35 Ill. Adm. Code 302)
- 1) Rulemaking: Docket Number R14-24
- A) Description: The Sanitary District of Decatur seeks a site specific rulemaking for its main sewerage treatment plant. The District seeks an alternative chronic water quality standard for nickel from the point of its discharge into the Sangamon River, and an alternative rule under certain flow conditions to allow mixing to be considered when determining a water quality based NPDES permit limit for nickel.
- B) Statutory Authority: Implementing and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/5, *et. al.*].

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- C) Scheduled meeting/hearing dates: A hearing has not yet been scheduled at the request of the District.
- D) Date agency anticipates First Notice: A Notice of Proposed Rulemaking is expected to be published in the *Illinois Register* within the next six months.
- E) Effect on small businesses, small municipalities or not for profit corporations: This rule will affect the Sanitary District of Decatur.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Daniel Robertson
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

Daniel.Robertson@illinois.gov
312/814-6931

- G) Related Rulemaking and other pertinent information: None
- f) Parts (Headings and Code Citations): Sewer Discharge Criteria (35 Ill. Adm. Code 307)
Pretreatment Programs (35 Ill. Adm. Code 310)
- 1) Rulemaking: Docket number R16-1
- A) Description: Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] mandates that the Board update the Illinois wastewater pretreatment regulations to reflect revisions made to the federal

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wastewater pretreatment rules made by the United States Environmental Protection Agency (USEPA).

The Board has reserved this docket to accommodate any amendments to the federal wastewater pretreatment rules, 40 CFR 400 through 499, that the USEPA may have made in the period January 1, 2015 through June 30, 2015. At this time, the Board is not aware of any federal amendments to the federal wastewater pretreatment regulations that occurred during this update period.

Section 13.3 of the Act mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3 & 27].
- C) Scheduled meeting/hearing dates: No hearings are scheduled.
- D) Date agency anticipates First Notice: The Board cannot project a date for publication at this time.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the discharge of pollutants into the collection system of a publicly-owned treatment works that is the subject of any federal amendments.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

POLLUTION CONTROL BOARD

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Michael J. McCambridge, Attorney
Pollution Control Board
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Chicago, Illinois 60601

312-814-6924

Michael.Mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other presently known proceeding would affect provisions of 35 Ill. Adm. Code 307 and 310. Section 13.3 of the Environmental Protection Act provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- g) Parts (Heading and Code Citation): Permits (35 Ill. Adm. Code 309)

- 1) Rulemaking: Docket Number R15-24

- A) Description: On June 1, 2015, the Illinois Environmental Protection Agency filed a rulemaking proposal to update rules pertaining to public water supplies. According to the Agency, one purpose of the proposed amendments is to update the rules to model federal regulations. The second purpose is to give the Agency flexibility when a permit renewal application has been filed late for just causes. The amendments would allow the Agency to grant permission for the permit holder to submit an NPDES permit renewal application less than 180 days before the permit is to expire. Additionally, there is a new proposal allowing lifetime operating permits for specified pretreatment works or wastewater sources. Other changes are intended to clarify and streamline the rules.
- B) Statutory Authority: Implementing and authorized by Sections 13, 13.3 and 27 of the Environmental Protection Act [415 ILCS 5/13, 13.3, 27].
- C) Scheduled meeting/hearing dates: Hearings have not been scheduled.

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- D) Date agency anticipates First Notice: A Notice of Proposed Amendments may be published in the *Illinois Register* within the next six months.
- E) Effect on small businesses, small municipalities or not for profit corporations: This rule will affect NPDES permit holders, as well as persons seeking permits for the construction, modification, and operation of treatment works, pretreatment works, sewers, wastewater sources, and other discharges that are not required to have NPDES permits.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Mark Powell
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

Mark.Powell@illinois.gov
312/814-6887

- G) Related Rulemaking and other pertinent information: None
- h) Parts (Heading and Code Citation): Introduction (35 Ill. Adm. Code 601)
Permits (35 Ill. Adm. Code 602)
Ownership and Responsible Personnel (35 Ill. Adm. Code 603)
- 1) Rulemaking: Docket Number R15-22
- A) Description: On May 8, 2015, the Illinois Environmental Protection Agency filed a rulemaking proposal to update rules pertaining to public water supplies. According to the Agency, the proposed amendments

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streamline permitting rules, and update the existing regulations to be consistent with recent statutory changes. The updates include adding a Responsible Operator in Charge (ROINC), a position that a community water supply must designate to the Agency that directly supervises the water treatment facilities or distribution facilities or both of the community water supply. The Agency further proposes a new concept: an administrative contact that a community water supply could designate to serve as agent of the owner or official custodian. Notice by the Agency on the administrative contact would be considered notice on the owner or official custodian.

- B) Statutory Authority: Implementing and authorized by Sections 17 and 27 of the Environmental Protection Act [415 ILCS 5/17, 27].
- C) Scheduled meeting/hearing dates: Hearings are scheduled for July 2, 2015 in Chicago, and August 17 in Springfield.
- D) Date agency anticipates First Notice: A Notice of Proposed Amendments may be published in the *Illinois Register* within the next six months.
- E) Effect on small businesses, small municipalities or not for profit corporations: This rule will affect public water suppliers.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Mark Powell
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

Mark.Powell@illinois.gov

POLLUTION CONTROL BOARD

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312/814-6887

- G) Related Rulemaking and other pertinent information: None
- i) Part (Heading and Code Citation): Primary Drinking Water Standards (35 Ill. Adm. Code 611)
- 1) Rulemaking: Docket Number R15-23
- A) Description: On May 1, 2015, the United States Department of Health and Human Services adopted a recommended fluoridation ion concentration of 0.7 mg/L. On May 20, 2015, the Illinois Environmental Protection Agency (IEPA) filed a new rulemaking to amend the fluoride water quality standard in response to this change. The change will result in a reduction of a community water supply's cost of having to meet the existing higher fluoridation levels. Additionally, the IEPA's proposal reinstates a secondary fluoride standard in Section 611.858 that was inadvertently repealed in 2001.
- B) Statutory authority: Implementing and authorized by Sections 7.2, 17, 17.5 and 27 of the Environmental Protection Act [415 ILCS 5/5, 7.2, 17, 17.5 & 27].
- C) Scheduled meeting /hearing date: Hearings are scheduled for July 30, 2015 in Springfield and August 19, 2015 in Chicago.
- D) Date agency anticipates First Notice: A Notice of Proposed Amendments had not been published in the *Illinois Register* at the time this regulatory agenda was filed, but is expected to be published within the next 30 days.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule will affect public water suppliers.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

POLLUTION CONTROL BOARD

JULY 2015 REGULATORY AGENDA

Address questions concerning this regulatory agenda to:

Marie Tipsord
Pollution Control Board
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601

312-814-4925
Marie.Tipsord@illinois.gov

- G) Related rulemaking and other pertinent information: For information regarding the Agency's development of this proposal, please contact:

Marie Tipsord
Division of Legal Counsel
Illinois Environmental Protection Agency
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601

312/814-4925
Marie.Tipsord@illinois.gov

- j) Part (Heading and Code Citation): Primary Drinking Water Standards (35 Ill. Adm. Code 611)

- 1) Rulemaking: Docket Number R16-4

- A) Description: Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] mandates that the Board update the Illinois drinking water regulations to reflect the USEPA amendments to the federal Safe Drinking Water Act (SDWA) primary drinking water regulations.

The Board has reserved this docket to accommodate any amendments to the SDWA national primary drinking water standards, 40 CFR 141 through 143, that the United States Environmental Protection Agency (USEPA) may make in the period January 1, 2015 through June 30, 2015. At this time, the Board is not aware of any federal amendments that occurred during this update period.

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Within the next month, the Board will verify the existence of any other federal actions that may affect the text of the federal primary drinking water standards and determine the Board action required in response.

Section 17.5 mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based.

- B) Statutory authority: Implementing and authorized by Sections 17, 17.5, and 27 of the Environmental Protection Act [415 ILCS 5/17, 17.5 & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation in Illinois that owns or operates a "public water supply," as defined by Section 3.28 of the Act, *i.e.*, it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, as follows:

POLLUTION CONTROL BOARD

JULY 2015 REGULATORY AGENDA

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601

312/814-6924
Michael.McCambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 611 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- k) Parts (Headings and Code Citations): RCRA and UIC Permit Programs (35 Ill. Adm. Code 702)
UIC Permit Program (35 Ill. Adm. Code 704)
Procedures For Permit Issuance (35 Ill. Adm. Code 705)
Hazardous Waste Management System: General (35 Ill. Adm. Code 720)
Underground Injection Control Operating Requirements (35 Ill. Adm. Code 730)
Hazardous Waste Injection Restrictions (35 Ill. Adm. Code 738)

- 1) Rulemaking: Docket Number R16-5

- A) Description: Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] mandates that the Board update the Illinois underground injection control (UIC) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UIC regulations.

The Board has reserved this docket to accommodate any amendments to the federal UIC regulations, 40 CFR 144 through 148, during the period

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January 1, 2015 through June 30, 2015. At this time, the Board is not aware of any federal amendments to the federal UIC rules that occurred during this update period.

Section 13(c) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Within the next month, the Board will verify the existence of any federal actions that may affect the text of these rules. The Board will then either propose corresponding amendments to the Illinois rules using the identical-in-substance procedure, or dismiss this docket if no action is needed.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 13(c) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13(c) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board expects to verify any federal actions within the next month. If amendments are required, the Board will publish notice in the *Illinois Register* approximately 90 days before adoption to allow time for a 45-day public comment period. If no amendment is needed, the Board will dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation in Illinois to the extent the affected entity engages in the underground injection of waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting this docket number, as follows:

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500

POLLUTION CONTROL BOARD

JULY 2015 REGULATORY AGENDA

Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting this docket number, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

312/814-6924

Michael.Mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: The reserved RCRA Subtitle C update docket for this reporting period and other, as yet unknown, unrelated Board proceedings may affect the text of 35 Ill. Adm. Code 702, 705, and 720. No other presently known proceeding would affect 35 Ill. Adm. Code 704, 730, 738.

Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- 1) Parts (Headings and Code Citations): RCRA AND UIC Permit Programs (35 Ill. Adm. Code 702)
RCRA Permit Program (35 Ill. Adm. Code 703)
Procedures For Permit Issuance (35 Ill. Adm. Code 705)
Hazardous Waste Management System: General (35 Ill. Adm. Code 720)
Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721)
Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722)
Standards Applicable to Transporters of Hazardous Waste (35 Ill. Adm. Code 723)
Standards For Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)
Interim Status Standards for Owners and Operators of Hazardous Waste Treatment,

POLLUTION CONTROL BOARD

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Storage, and Disposal Facilities (35 Ill. Adm. Code 725)
Standards for the Management of Specific Hazardous Waste and Specific Types of
Hazardous Waste Management Facilities (35 Ill. Adm. Code 726)
Land Disposal Restrictions (35 Ill. Adm. Code 728)
Standards for Universal Waste Management (35 Ill. Adm. Code 733)
Hazardous Waste Injection Restrictions (35 Ill. Adm. Code 738)
Standards for the Management of Used Oil (35 Ill. Adm. Code 739)

- 1) Rulemaking: Docket number R16-7
 - A) Description: Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] mandates that the Board update the Illinois rules implementing Subtitle C of the federal Resource Conservation and Recovery Act (RCRA) to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle C regulations.

The Board has reserved this docket number to accommodate any amendments to the federal RCRA Subtitle C program, 40 CFR 260 through 270, 273, and 279, that USEPA made in the period January 1, 2015 through June 30, 2015. At this time, the Board is aware of three federal actions during this update period.

January 13, 2015 (80 Fed. Reg. 1694): USEPA amended the Definition of Solid Waste Rule (DSWR). The amendments significantly revised the requirements that determine what materials are designated hazardous secondary materials that are not subject to regulation as hazardous waste. The determination that a material is hazardous secondary material subjects the material to significant management conditions.

April 8, 2015 (80 Fed. Reg. 18777): USEPA removed rules in response to the decision on comparable fuels in NRDC v. EPA, 755 F.3d 1010 (D.C. Cir. 2014), and the gasification rule in Sierra Club v. EPA, 755 F.3d 968 (D.C. Cir. 2014).

April 17, 2015 (80 Fed. Reg. 21302): USEPA adopted new rules to govern the disposal of coal combustion waste as non-hazardous solid waste. The rules also amend the exemption of residues from combustion of coal and other fossil fuels from regulation as hazardous waste to add eight

POLLUTION CONTROL BOARD

JULY 2015 REGULATORY AGENDA

categories of waste to the exclusion.

The Board will verify the existence of any other federal actions that affect the RCRA Subtitle C regulations, and will then propose corresponding amendments as necessary and appropriate. Section 22.4(a) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 22.4(a), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(a) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the generation, transportation, treatment, storage, or disposal of hazardous waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting this docket number, as follows:

John T. Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Michael J. McCambridge, Attorney
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POLLUTION CONTROL BOARD

JULY 2015 REGULATORY AGENDA

312/814-6924

michael.mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: The reserved UIC update docket for the period January 1, 2015 through June 30, 2015. Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.
- m) Part (Heading and Code Citation): Underground Storage Tanks (35 Ill. Adm. Code 731)
- 1) Rulemaking: Docket Number R16-8
- A) Description: Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] mandates that the Board update the Illinois underground storage tank (UST) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UST regulations. The mandate specifically excludes federal amendments relating to the design, construction, installation, general operation, release detection, release reporting, release investigation, release confirmation, out-of-service systems, and closure or financial responsibilities for USTs.
- The Board has reserved this docket to accommodate any amendments to 40 CFR 281 through 283 that USEPA may make in the period January 1, 2015 through June 30, 2015. At this time, the Board is not aware of any amendments to the federal UST regulations that occurred during this update period.
- Section 22.4(d) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Within the next month, the Board will verify the existence of any federal amendments that may require Board action. The Board will then propose corresponding amendments to the Illinois

POLLUTION CONTROL BOARD

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UST regulations using the identical-in-substance procedure or dismiss this docket if no action is needed.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 22.4(d), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(d) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board expects to verify any federal actions within the next month. If amendments are required, the Board will publish notice in the *Illinois Register* approximately 90 days before adoption to allow time for a 45-day public comment period. If no amendment is needed, the Board will dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that owns or operations USTs.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting this docket number, as follows:

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting this docket number, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
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POLLUTION CONTROL BOARD

JULY 2015 REGULATORY AGENDA

312/814-6924

Michael.Mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other presently known proceeding would impact the text of Part 731.

Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- n) Parts (Headings and Code Citations): Solid Waste (35 Ill. Adm. Code 807)
Solid Waste Disposal: General Provisions (35 Ill. Adm. Code 810)
Standards for New Solid Waste Landfills (35 Ill. Adm. Code 811)
Information to Be Submitted in a Permit Application (35 Ill. Adm. Code 812)
Procedural Requirements for Permitted Landfills (35 Ill. Adm. Code 813)
Standards for Existing Landfills and Units (35 Ill. Adm. Code 814)
Procedural Requirements for All Landfills Exempt from Permits (35 Ill. Adm. Code 815)

- 1) Rulemaking: Docket number R16-6

- A) Description: Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] mandates that the Board update the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF) regulations to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle D MSWLF rules.

The Board has reserved this docket to accommodate any amendments to the RCRA Subtitle D regulations, 40 CFR 258, that USEPA may make in the period January 1, 2015 through June 30, 2015. At this time, the Board is not aware of any federal amendments to the federal MSWLF rules that occurred during this update period.

POLLUTION CONTROL BOARD

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Section 22.40(a) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Within the next month, the Board will verify the existence of any additional federal actions that may affect the text of the federal primary drinking water standards. The Board will then propose corresponding amendments to the Illinois RCRA Subtitle D MSWLF regulations using the identical-in-substance procedure, or dismiss this docket if no action is needed.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 22.40(a) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.40(a) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board expects to verify any federal actions within the next month. If amendments are required, the Board will publish notice in the *Illinois Register* approximately 90 days before adoption to allow time for a 45-day public comment period. If no amendment is needed, the Board will dismiss this docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit that engages in the land disposal of municipal solid waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting this docket number, as follows:

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

POLLUTION CONTROL BOARD

JULY 2015 REGULATORY AGENDA

Address questions concerning this regulatory agenda, noting this docket number, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
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Chicago, Illinois 60601

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Michael.Mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.
- o) Parts (Heading and Code Citation): Site –Specific Closures of Coal Combustion Waste Surface Impoundments (35 Ill. Adm. Code 840)
- 1) Rulemaking: Docket number R13-19
- A) Description: On April 9, 2013, Ameren Energy Resources filed a rulemaking proposal to add a Subpart B to Part 840 of the Board's waste disposal regulations, which addresses the closure of coal combustion waste surface impoundments. Ameren states that it intends its proposal to allow it to close surface impoundments for management of coal combustion waste at eight coal-fired powered plants.
- B) Statutory Authority: Implementing and authorized by Section 8 of the Groundwater Protection Act and Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27, 28; 415 ICLS 55/8].
- C) Scheduled meeting/hearing dates: Hearings have not been scheduled. On August 7 2014, the Board granted the proponent's request to stay this

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proceeding for one year while a proposed generally-applicable rulemaking proposal is pending.

- D) Date agency anticipates First Notice: Due to the stay granted by the Board, a Notice of Proposed Amendments will not be published in the *Illinois Register* within the next six months.
- E) Effect on small businesses, small municipalities or not for profit corporations: As proposed, this rule would apply to surface impoundments located at eight electric generating stations.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Tim Fox
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

312/814-6085
Tim.Fox@illinois.gov

- G) Related Rulemaking and other pertinent information: Interested persons may contact the Board about its prospective rulemaking proposal as follows:

Tim Fox
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

Tim.Fox@illinois.gov

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312/814-6085

- p) Parts (Heading and Code Citation): Coal Combustion Waste Surface Impoundments at Power Generating Facilities (35 Ill. Adm. Code 841)
- 1) Rulemaking: Docket Number R14-10
- A) Description: On October 28, 2013, the Illinois Environmental Protection Agency filed a rulemaking proposal to add a Part 841 to the Board's waste disposal regulations. The Agency stated that it proposed a generally applicable rule for coal combustion waste (CCW) surface impoundments at power generating facilities.
- B) Statutory Authority: Implementing and authorized by Sections 12, 13, 22, 27, and 28 of the Environmental Protection Act [415 ILCS 5/12, 13, 22, 27, and 28].
- C) Scheduled meeting/hearing dates: Multiple hearings were held in Springfield and Chicago.
- D) Date agency anticipates First Notice: The Board anticipates that a Notice of Proposed Rules may be published in the *Illinois Register* within the next six months.
- E) Effect on small businesses, small municipalities or not for profit corporations: As proposed, this rule would apply to surface impoundments located at electric generating stations.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Tim Fox

POLLUTION CONTROL BOARD

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Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

312/814-6085
Tim.Fox@illinois.gov

- G) Related Rulemaking and other pertinent information: Interested persons may contact the Board about its prospective rulemaking proposal as follows:

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Chicago, Illinois 60601

Tim.Fox@illinois.gov
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- q) Part (Headings and Code Citations): Management of Used and Waste Tires (35 Ill. Adm. Code 848)

1) Rulemaking: Docket Number R15-19

- A) Description: On December 22, 2014, the Illinois Environmental Protection Agency (Agency) filed a rulemaking proposal to comply with Public Act 98-656. The rulemaking is intended to protect the State's residents from threats resulting from the inappropriate and illegal disposal of used and waste tires while simultaneously minimizing impacts on markets and businesses that diminish those threats by transforming used and waste tires into marketable commodities.
- B) Statutory authority: Sections 27 and 55.2 of the Environmental Protection Act [415 ILCS 5/27 and 55.2].
- C) Scheduled meeting/hearing dates: Hearings were held on March 5, 2015 in Springfield, and April 15, 2015 in Chicago. .
- D) Date Agency anticipates First Notice: The first-notice proposal was

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published in the *Illinois Register* on February 27, 2015.

- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking may affect any small business, small municipality or not-for-profit corporation that manages used or waste tires.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Chad Kruse
Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, Illinois 62794-9274

312/814-3665
chad.kruse@illinois.gov

- G) Related rulemakings and other pertinent information: For information regarding the development of these rules please contact:

Chad Kruse
Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, Illinois 62794-9274

312/814-3665
chad.kruse@illinois.gov

- r) Parts (Heading and Code Citation): Sound Emission Standards and Limitations for Property Line Noise Sources (35 Ill. Adm. Code 901)
- 1) Rulemaking: Docket number R14-22

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- A) Description: On June 2, 2014, Clifford-Jacobs Forging Company filed a rulemaking proposal to amend a previously promulgated site-specific noise rule to extend the allowable operational levels for its forging facility located in unincorporated Champaign County.
- B) Statutory Authority: Implementing and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27, 28].
- C) Scheduled meeting/hearing dates: A hearing was held in Urbana on September 23, 2014.
- D) Date agency anticipates First Notice: The proposed amendments were published in the *Illinois Register* on May 6, 2015.
- E) Effect on small businesses, small municipalities or not for profit corporations: This rule is site-specific to Clifford-Jacobs Forging Company.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Mark Powell
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

Mark.Powell@illinois.gov
312/814-6887

- G) Related Rulemaking and other pertinent information: This rulemaking is related to R83-25 Clifford-Jacobs Forging Company Petition for a Site-

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Specific Operation Pursuant to 35 Ill. Adm. Code 901.105(d).

- s) Part (Heading and Code Citation): Clean Construction or Demolition Debris Fill Operations and Uncontaminated Soil Fill Operations (35 Ill. Adm. Code 1100)
- 1) Rulemaking: Docket number R12-9 Subdocket B
- A) Description: At the recommendation of JCAR, the Board opens Subdocket B to continue to examine the issue of groundwater monitoring at CCDD or uncontaminated soil fill operations.
- B) Statutory authority: Implementing and authorized by Sections 5, 3.160, 22.51, 22.51a, and 27 of the Environmental Protection Act [415 ILCS 5/5, 3.160, 22.51, 22.51a & 27].
- C) Scheduled meeting /hearing date: A hearing was held on May 20, 2013.
- D) Date agency anticipates First Notice: The Board will consider this rulemaking for first notice publication in the *Illinois Register* within the next six months.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation operates CCDD or uncontaminated soil fill operations.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Marie Tipsord
Pollution Control Board
100 W. Randolph, Suite 11-500

POLLUTION CONTROL BOARD

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Chicago, Illinois 60601

312/814-4925

Marie.Tipsord@illinois.gov

- G) Related rulemaking and other pertinent information: For information regarding the Agency's development of this proposal, please contact:

Marie Tipsord

Division of Legal Counsel

Illinois Environmental Protection Agency

100 W. Randolph, Suite 11-500

Chicago, Illinois 60601

312/814-4925

Marie.Tipsord@illinois.gov

STATE BOARD OF EDUCATION

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a) Parts (Heading and Code Citation): Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)

1) Rulemaking:

A) Description: The Part 1 rulemaking will propose changes in response to the agency receiving approval to waive certain requirements of the federal Elementary and Secondary Education Act (contained in HB 2683), as well as to revamp criteria for schools and school districts to be placed on the Illinois Honor Roll, to enter into intervention (PA 98-1155), provide student discipline reporting (PA 98-1102), update the State assessment system (PA 98-972) and modify annual measurable achievement objectives for English learners. As final decisions are made about the school report card, a new Section will outline school district responsibilities in that regard (PA 97-671). Finally, the rulemaking will address the required physical education assessment and reporting (PA 98-859), as well as revisions to the Illinois Learning Standards for Social Science.

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

C) Scheduled Meeting/Hearing Date: To be announced

D) Date Agency anticipates First Notice: October 2, 2015

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency Contact Person for Information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777

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shelton@isbe.net
fax: 217/524-3911

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- G) Related rulemakings and other pertinent information:
- b) Parts (Heading and Code Citation): Educator Licensure (23 Ill. Adm. Code 25)
- 1) Rulemaking:
- A) Description: Subpart C of the rules will be redesigned to update and streamline the process for recognized institutions of higher education to have their educator preparation programs approved, as well as for the agency to monitor or sanction approved programs, as necessary. Additional changes will be made should the licensure bill be enacted (HB 2657).
- B) Statutory Authority: 105 ILCS 5/2-3.6
- C) Scheduled Meeting/Hearing Date: To be announced
- D) Date Agency anticipates First Notice: October 2, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelley Helton
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- G) Related rulemakings and other pertinent information:
- c) Parts (Heading and Code Citation): Early Childhood Teacher Preparation Assistance Grant (23 Ill. Adm. Code 70)

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1) Rulemaking:

- A) Description: References in the Part to certification need to be updated to reflect the new educator licensure system.
- B) Statutory Authority: 105 ILCS 5/1C-5
- C) Scheduled Meeting/Hearing Date: To be announced
- D) Date Agency anticipates First Notice: September 4, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency Contact Person for Information:

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G) Related rulemakings and other pertinent information:

- d) Parts (Heading and Code Citation): Health/Life Safety Code for Public Schools (23 Ill. Adm. Code 180)

1) Rulemaking:

- A) Description: Proposed revisions will update the various building standards contained in the rules to the most current version available; address storm shelter standards, per PA 98-883, effective January 1, 2015; and include other changes intended to make the rules clearer.

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- B) Statutory Authority: 105 ILCS 5/2-3.12, 2-3.25, 2-3.137 and 17-2.11
- C) Scheduled Meeting/Hearing Date: To be announced
- D) Date Agency anticipates First Notice: September 4, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelley Helton
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- G) Related rulemakings and other pertinent information:
- e) Parts (Heading and Code Citation): Special Education (23 Ill. Adm. Code 226)
- 1) Rulemaking:
- A) Description: Proposed revisions include clarifying Section 226.160, concerning qualifications of practitioners conducting medical reviews, and to address changes related to a number of recently enacted public acts: PA 98-219, implementation of Individualized Education Program; PA 98-383, complaint process; PA 98-517, transition planning; PA 98-705, dyslexia definition; and PA 98-868, surrogate parents.
- B) Statutory Authority: 105 ILCS 5/Art. 14

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- C) Scheduled Meeting/Hearing Date: To be announced
- D) Date Agency anticipates First Notice: July 3, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelley Helton
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fax: 217/524-3911
- G) Related rulemakings and other pertinent information:
- f) Parts (Heading and Code Citation): Vocational Education (23 Ill. Adm. Code 254)
- 1) Rulemaking:
- A) Description: Part 254 will be repealed and will be replaced with new Part 254.
- B) Statutory Authority: 105 ILCS 435
- C) Scheduled Meeting/Hearing Date: To be announced
- D) Date Agency anticipates First Notice: December 4, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency Contact Person for Information:

STATE BOARD OF EDUCATION

JULY 2015 REGULATORY AGENDA

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G) Related rulemakings and other pertinent information:

g) Parts (Heading and Code Citation): Career and Technical Education (23 Ill. Adm. Code 254)

1) Rulemaking:

A) Description: New Part 254 will set forth the criteria and standards, including the grant process, to be used to award funding under the Vocational Education Act and the federal Carl D. Perkins Vocational Education Act (20 USC 2301 et seq.).

B) Statutory Authority: 105 ILCS 435

C) Scheduled Meeting/Hearing Date: To be announced

D) Date Agency anticipates First Notice: December 4, 2015

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency Contact Person for Information:

Shelley Helton
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STATE BOARD OF EDUCATION

JULY 2015 REGULATORY AGENDA

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- G) Related rulemakings and other pertinent information:
- h) Parts (Heading and Code Citation): Reading Improvement Program (23 Ill. Adm. Code 260)
- 1) Rulemaking:
- A) Description: A technical change is needed in Section 260.55 to update the edition of the "Standards for Educational and Psychological Testing" to the most recent (i.e., 2014). Additionally, per PA 98-972, effective August 15, 2014, references to assessments authorized under the previous State testing system will be updated.
- B) Statutory Authority: 105 ILCS 5/2-3.51
- C) Scheduled Meeting/Hearing Date: To be announced
- D) Date Agency anticipates First Notice: October 2, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency Contact Person for Information:

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G) Related rulemakings and other pertinent information:i) Parts (Heading and Code Citation): School Food Service (23 Ill. Adm. Code 305)

- 1) Rulemaking: In accordance with rules of the U.S. Department of Agriculture regarding states' hiring criteria for state and local school nutrition directors and annual training requirements for all school nutrition program employees, the agency will address a variety of areas in which the federal rules direct states to provide clear instruction and guidance to participating school districts in federal food programs.

A) Description:

- B) Statutory Authority: Richard B. Russell National School Lunch Act (42 USC 1751 et seq.), Child Nutrition Act of 1966 (42 USC 1771 et seq.), and 105 ILCS 125

C) Scheduled Meeting/Hearing Date: To be announcedD) Date Agency anticipates First Notice: December 4, 2015E) Effect on small businesses, small municipalities, or not-for-profit corporations: NoneF) Agency Contact Person for Information:

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Agency Rules Coordinator
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G) Related rulemakings and other pertinent information:

STATE BOARD OF EDUCATION

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- j) Parts (Heading and Code Citation): Student Records (23 Ill. Adm. Code 375)
- 1) Rulemaking: In accordance to PA 98-885, the definition of "academic transcript" shall acknowledge an AP computer science class as qualifying as a mathematics course for graduation purposes under 105 ILCS 5/27-22.
- A) Description:
- B) Statutory Authority: 105 ILCS 5/2-3.13a
- C) Scheduled Meeting/Hearing Date: To be announced
- D) Date Agency anticipates First Notice: September 4, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelley Helton
Agency Rules Coordinator
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100 North First Street, S-493
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- 217/782-5270
shelton@isbe.net
fax: 217/524-3911
- G) Related rulemakings and other pertinent information:
- k) Parts (Heading and Code Citation): Special Education Facilities under Section 14-7.02 of the School Code (23 Ill. Adm. Code 401)
- 1) Rulemaking:
- A) Description: Minor changes will be proposed to allow for fire reports to be more than 24 months old in certain situations and to

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update statutory references to the State assessment system, as per PA 98-972.

- B) Statutory Authority: 105 ILCS 5/14-7.02 and 14-8.01
- C) Scheduled Meeting/Hearing Date: To be announced
- D) Date Agency anticipates First Notice: July 4, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency Contact Person for Information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
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shelton@isbe.net
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- G) Related rulemakings and other pertinent information:

- l) Parts (Heading and Code Citation): Voluntary Registration and Recognition of Nonpublic Schools (23 Ill. Adm. Code 425)

- 1) Rulemaking:

- A) Description: PA 98-795, effective August 1, 2014, amended Section 22-30 of the School Code, in part, to authorize (but not require) the administration of an epinephrine auto-injector by school nurses (as that term is defined in Section 22-30) or trained personnel to "any person (who) the school nurse or trained personnel in good faith believes is having an anaphylactic reaction". A cross-reference needs to be added in Part 425 to direct nonpublic schools to rules governing undesignated

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epinenphrine auto-injectors which will be placed at 23 Ill. Adm. Code 1.540 (39 Ill. Reg. 7413).

- B) Statutory Authority: 105 ILCS 5/2-3.6 and 2-3.51.5
- C) Scheduled Meeting/Hearing Date: To be announced
- D) Date Agency anticipates First Notice: September 4, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency Contact Person for Information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
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- G) Related rulemakings and other pertinent information:

m) Parts (Heading and Code Citation): Charter Schools (23 Ill. Adm. 650)

1) Rulemaking:

- A) Description: Section 650.40 will be revised to remove any references to "revision" and "renewal" since revisions and renewals are addressed in Section 650.50, and other changes will be proposed to more clearly state the rules' requirements and intent.
- B) Statutory Authority: 105 ILCS 5/Art. 27A
- C) Scheduled Meeting/Hearing Date: To be announced

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- D) Date Agency anticipates First Notice: November 6, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
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shelton@isbe.net
fax: 217/524-3911
- G) Related rulemakings and other pertinent information:
- n) Parts (Heading and Code Citation): Providers of Supplemental Educational Services (23 Ill. Adm. Code 675)
- 1) Rulemaking:
- A) Description: A technical change is needed in Section 675.20 to update the edition of the "Standards for Educational and Psychological Testing" to the most recent (i.e., 2014). Additionally, per PA 98-972, effective August 15, 2014, references to assessments authorized under the previous State testing system will be updated.
- B) Statutory Authority: 105 ILCS 5/2-3.6
- C) Scheduled Meeting/Hearing Date: To be announced
- D) Date Agency anticipates First Notice: October 2, 2015

STATE BOARD OF EDUCATION

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- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelley Helton
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Springfield IL 62777
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shelton@isbe.net
fax: 217/524-3911
- G) Related rulemakings and other pertinent information:
- o) Parts (Heading and Code Citation): Public Information, Rulemaking and Organization (2 Ill. Adm. Code 5000)
- 1) Rulemaking:
- A) Description: These rules will be updated to reflect the current organizational structure of the State Board of Education and agency, as would be codified in pending legislation.
- B) Statutory Authority: 5 ILCS 100/5-15
- C) Scheduled Meeting/Hearing Date: To be announced
- D) Date Agency anticipates First Notice: December 4, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelley Helton
Agency Rules Coordinator

STATE BOARD OF EDUCATION

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- G) Related rulemakings and other pertinent information:
- p) Parts (Heading and Code Citation): Access to Information of the State Board of Education under the Freedom of Information Act (2 Ill. Adm. Code 5001)

1) Rulemaking:

- A) Description: As per a directive of the Joint Committee on Administrative Rules, the fee structure for requests under the Freedom of Information Act that currently is on the agency's website will be placed as an appendix to the rules.
- B) Statutory Authority: 5 ILCS 140/3(h) and 5 ILCS 100/5-15
- C) Scheduled Meeting/Hearing Date: To be announced
- D) Date Agency anticipates First Notice: December 4, 2015
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency Contact Person for Information:

Shelley Helton
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STATE BOARD OF EDUCATION

JULY 2015 REGULATORY AGENDA

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G) Related rulemakings and other pertinent information:q) Parts (Heading and Code Citation): General Grantmaking (44 Ill. Adm. 7200)1) Rulemaking:

A) Description: This new Part will comply with PA 98-706 and 30 ILCS 708 regarding a standardized, statewide process for awarding and monitoring State and federal grants.

B) Statutory Authority: 30 ILCS 708/50

C) Scheduled Meeting/Hearing Date: To be announced

D) Date Agency anticipates First Notice: December 4, 2015

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency Contact Person for Information:

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Agency Rules Coordinator
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G) Related rulemakings and other pertinent information:

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

LISTINGS OF ADJUSTED STANDARDS AND COMBINED SEWER
OVERFLOW EXCEPTIONS GRANTED BY THE BOARD DURING FISCAL
YEAR 2015

Section 28.1(d)(3) of the Environmental Protection Act (Act) (415 ILCS 5/28.1(d)(3) (2006)) requires the Board to annually publish in the *Illinois Register* and *Environmental Register* a listing of all determinations made pursuant to Section 28.1 at the end of each fiscal year. This notice sets forth all adjusted standard and combine sewer overflow exception determinations made by the Board during the fiscal year 2015.

Final Actions Taken by the Pollution Control Board in Adjusted Standards Proceedings During
Fiscal Year 2015 (July 1, 2014 through June 30, 2015)Docket/Docket TitleFinal Determination

In the Matter of: Petition of Kramer Tree Specialists, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 830, AS 14-2 (August 21, 2014)

The petitioner produces and sells leaf mulch at a facility located in West Chicago, DuPage County. The petitioner stated that the precautions taken to minimize odors and dust meet or exceed the operational requirements of the compost regulations. While composting involves the decomposition of waste, mulching aims to prevent decomposition of leaves. The Board found that granting the request would require changing the meaning of several provisions of the Board's standards for compost facilities, thus setting an undesirable precedent. Accordingly, the Board denied the adjusted standard.

In the Matter of: Petition of Brickyard Disposal & Recycling, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 814.402(B)(3), 810.103, 811.318(b)(3) and 811.320, AS 14-3 (March 5, 2015)

The petitioner provides waste disposal and recycling services to Vermilion County and the surrounding east central Illinois region, at a facility located in Danville, Vermilion County. The petitioner requested an adjusted compliance boundary and the designation of a zone of attenuation as well as relief from specified groundwater monitoring

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

In the Matter of: Petition of Emerald Performance Materials LLC for an Adjusted Standard from 35 Ill. Adm. Code 304.122(b), AS 13-2
(April 2, 2015)

In the Matter of: Petition of Apex Material Technologies, LLC for an Adjusted Standard from portions of 35 Ill. Adm. Code 807.104 and 810.103, or in the alternative, a finding of inapplicability, AS 15-2
(June 18, 2015)

requirements of the Board's solid waste regulations. The Board granted the adjusted standard, with conditions, finding that petitioner sufficiently demonstrated site-specific factors. The Board further found that the requested standard will not result in environmental or health effects substantially and significantly more adverse than the effects considered by the Board in adopting the rule of general applicability.

The petitioner operates a chemical manufacturing facility in Henry, Marshall County. The petitioner requested an adjustment from the total ammonia nitrogen standard of the Board's effluent standards for the discharge from the facility's wastewater treatment plant. The Board granted the adjusted standard, with conditions, finding that petitioner provided sufficient justification for each of the factors at Section 28.1 of the Act. Petitioner remains subject to the water quality limits at 35 Ill. Adm. Code 304.105. The petitioner manufactures copper, cobalt, and nickel chemicals for the semiconductor, printed circuit board, catalyst, petrochemical, and battery industries at a facility located in Joliet, Will County. The petitioner requested a determination that copper ammonium etchant is not a "waste" subject to Parts 807 and 810 of the Board's regulations.

Alternatively, petitioner requested an adjusted standard from solid waste definitions and solid waste disposal definitions. The Board found that the etchant is a "waste", and denied the adjusted standard and the finding of inapplicability.

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

Final Actions Taken by the Pollution Control Board in Combine Sewer Overflow Exception Proceedings During Fiscal Year 2015 (July 1, 2014 through June 30, 2015)

The Board took no action in combined sewer overflow exception proceedings during fiscal year 2015, as none were filed with the Board or pending during fiscal year 2015.

Request copies, noting the appropriate docket number, to:

John Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

312/814-3629

Address questions concerning this notice, noting the appropriate docket number, to:

Carol Webb
Pollution Control Board
1021 North Grand Avenue East
Springfield IL 62794-9274

217/524-8509
Carol.webb@illinois.gov

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of June 16, 2015 through June 22, 2015. Rulemaking are scheduled for review at the Committee's July 14, 2015 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
7/31/15	<u>Department of Public Health</u> , Assisted Living and Shared Housing Establishment Code (77 Ill. Adm. Code 295)	4/10/15 39 Ill. Reg. 5339	7/14/15
8/1/15	<u>State Board of Education</u> , Evaluation of Educator Licensed Employees under Articles 24A and 34 of the School Code (23 Ill. Adm. Code 50)	4/3/15 39 Ill. Reg. 4881	7/14/15
8/1/15	<u>State Board of Education</u> , Transitional Bilingual Education (23 Ill. Adm. Code 228)	4/3/15 39 Ill. Reg. 4894	7/14/15
8/1/15	<u>State Board of Education</u> , Enrollment of and Payment for Nonresident Students at the Philip J. Rock Center and School (23 Ill. Adm. Code 600)	4/3/15 39 Ill. Reg. 4901	7/14/15
8/5/15	<u>Department of Revenue</u> , Use Tax (86 Ill. Adm. Code 150)	1/2/15 39 Ill. Reg. 273	7/14/15
8/5/15	<u>Department of Revenue</u> , Special County Retailers' Occupation Tax for Public Safety (86 Ill. Adm. Code 670)	1/9/15 39 Ill. Reg. 647	7/14/15

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

8/5/15	<u>Department of Revenue</u> , Special County Service Occupation Tax for Public Safety (86 Ill. Adm. Code 680)	1/9/15 39 Ill. Reg. 651	7/14/15
8/5/15	<u>Department of Revenue</u> , Non-Home Rule Municipal Retailers' Occupation Tax (86 Ill. Adm. Code 693)	1/9/15 39 Ill. Reg. 655	7/14/15
8/5/15	<u>Department of Revenue</u> , Non-Home Rule Municipal Service Occupation Tax (86 Ill. Adm. Code 694)	1/9/15 39 Ill. Reg. 659	7/14/15

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 39, Issue 27 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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