

TABLE OF CONTENTS

August 12, 2016 Volume 40, Issue 33

PROPOSED RULES

PUBLIC HEALTH, DEPARTMENT OF

Regionalized Perinatal Health Care Code

77 Ill. Adm. Code 640.....10728

Compassionate Use of Medical Cannabis Patient Registry

77 Ill. Adm. Code 946.....10751

SECRETARY OF STATE

Issuance of Licenses

92 Ill. Adm. Code 1030.....10754

ADOPTED RULES

CHILDREN AND FAMILY SERVICES, DEPARTMENT OF

Licensing Standards for Day Care Homes

89 Ill. Adm. Code 406.....10769

Licensing Standards for Group Day Care Homes

89 Ill. Adm. Code 408.....10808

COMMERCE AND ECONOMIC OPPORTUNITY, DEPARTMENT OF

Illinois Promotion Act Programs

14 Ill. Adm. Code 510.....10844

Enterprise Zone and High Impact Business Programs

14 Ill. Adm. Code 520.....10858

LABOR RELATIONS BOARD, ILLINOIS

General Procedures

80 Ill. Adm. Code 1200.....10892

OFFICE OF THE STATE FIRE MARSHAL

Carbon Monoxide Alarms and Detectors

41 Ill. Adm. Code 112.....10918

REVENUE, DEPARTMENT OF

Income Tax

86 Ill. Adm. Code 100.....10925

Tobacco Products Tax Act of 1995

86 Ill. Adm. Code 660.....10954

EMERGENCY RULES

PUBLIC HEALTH, DEPARTMENT OF

Compassionate Use of Medical Cannabis Patient Registry

77 Ill. Adm. Code 946.....10992

EXPEDITED CORRECTION

NATURAL RESOURCES, DEPARTMENT OF

The Illinois Oil and Gas Act

62 Ill. Adm. Code 240.....11042

NOTICE OF CORRECTIONS TO NOTICES ONLY

PUBLIC HEALTH, DEPARTMENT OF

Reports	
77 Ill. Adm. Code 2520.....	11061
Hospital Price Information	
77 Ill. Adm. Code 2530.....	11062
NOTICE OF FAILURE TO REMEDY JCAR OBJECTION	
POLLUTION CONTROL BOARD	
Permits	
35 Ill. Adm. Code 309.....	11063
OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN	
THE ILLINOIS REGISTER	
REVENUE, DEPARTMENT OF	
2016 Second Quarter Sales & Miscellaneous Tax Sunshine Index.....	11065
2016 First Quarter Sales & Miscellaneous Tax Sunshine Index.....	11070
ENVIRONMENTAL PROTECTION AGENCY, ILLINOIS	
Notice of Public Information.....	11076
SECOND NOTICES RECEIVED	
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
Second Notices Received.....	11078

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 2016

Issue#	Rules Due Date	Date of Issue
1	December 21, 2015	January 4, 2016
2	December 28, 2015	January 8, 2016
3	January 4, 2016	January 15, 2016
4	January 11, 2016	January 22, 2016
5	January 19, 2016	January 29, 2016
6	January 25, 2016	February 5, 2016
7	February 1, 2016	February 16, 2016
8	February 8, 2016	February 19, 2016
9	February 16, 2016	February 26, 2016
10	February 22, 2016	March 4, 2016
11	February 29, 2016	March 11, 2016
12	March 7, 2016	March 18, 2016
13	March 14, 2016	March 25, 2016
14	March 21, 2016	April 1, 2016
15	March 28, 2016	April 8, 2016
16	April 4, 2016	April 15, 2016
17	April 11, 2016	April 22, 2016
18	April 18, 2016	April 29, 2016
19	April 25, 2016	May 6, 2016
20	May 2, 2016	May 13, 2016
21	May 9, 2016	May 20, 2016
22	May 16, 2016	May 27, 2016

23	May 23, 2016	June 3, 2016
24	May 31, 2016	June 10, 2016
25	June 6, 2016	June 17, 2016
26	June 13, 2016	June 24, 2016
27	June 20, 2016	July 1, 2016
28	June 27, 2016	July 8, 2016
29	July 5, 2016	July 15, 2016
30	July 11, 2016	July 22, 2016
31	July 18, 2016	July 29, 2016
32	July 25, 2016	August 5, 2016
33	August 1, 2016	August 12, 2016
34	August 8, 2016	August 19, 2016
35	August 15, 2016	August 26, 2016
36	August 22, 2016	September 2, 2016
37	August 29, 2016	September 9, 2016
38	September 6, 2016	September 16, 2016
39	September 12, 2016	September 23, 2016
40	September 19, 2016	September 30, 2016
41	September 26, 2016	October 7, 2016
42	October 3, 2016	October 14, 2016
43	October 11, 2016	October 21, 2016
44	October 17, 2016	October 28, 2016
45	October 24, 2016	November 4, 2016
46	October 31, 2016	November 14, 2016
47	November 7, 2016	November 18, 2016
48	November 14, 2016	November 28, 2016
49	November 21, 2016	December 2, 2016
50	November 28, 2016	December 9, 2016
51	December 5, 2016	December 16, 2016
52	December 12, 2016	December 27, 2016
53	December 19, 2016	December 30, 2016

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Regionalized Perinatal Health Care Code
- 2) Code Citation: 77 Ill. Adm. Code 640
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
640.41	Amendment
640.42	Amendment
640.50	Amendment
- 4) Statutory Authority: Developmental Disability Prevention Act [410 ILCS 250]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking seeks to clarify the resource, personnel, and competence assessment requirements of the Regionalized Perinatal Health Care Code, provides for PAC members to participate remotely in hospital designation and redesignation site visits, and clarifies the number of members required to participate in a hospital designation or redesignation site visit.

The economic effect of this proposed rulemaking will likely be positive and is anticipated to reduce costs related to travel reimbursement.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.
- 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 poses no additional monetary obligation on units of local government.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Elizabeth Paton
Assistant General Counsel
Department of Public Health
Division of Legal Services
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
e-mail: dph.rules@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2016

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER I: MATERNAL AND CHILDCAREPART 640
REGIONALIZED PERINATAL HEALTH CARE CODE

Section	
640.10	Scope (Repealed)
640.20	Definitions
640.25	Incorporated and Referenced Materials
640.30	Perinatal Advisory Committee
640.40	Standards for Perinatal Care
640.41	Level I – Standards for Perinatal Care
640.42	Level II and Level II with Extended Neonatal Capabilities – Standards for Perinatal Care
640.43	Level III – Standards for Perinatal Care
640.44	Administrative Perinatal Center
640.45	Department of Public Health Action
640.50	Designation and Redesignation of Non-Birthing Center, Level I, Level II, Level II with Extended Neonatal Capabilities, Level III Perinatal Hospitals and Administrative Perinatal Centers
640.60	Application for Hospital Designation or Redesignation as a Non-Birthing Center Level I, Level II, Level II with Extended Neonatal Capabilities, Level III Perinatal Hospital and Administrative Perinatal Center, and Assurances Required of Applicants
640.70	Minimum Components for Letters of Agreement Between Non-Birthing Center, Level I, Level II, Level II with Extended Neonatal Capabilities, or Level III Perinatal Hospitals and Their Administrative Perinatal Center
640.80	Regional Perinatal Networks – Composition and Funding
640.85	Exceptions to Part 640
640.90	State Perinatal Reporting System
640.100	High-Risk Follow-up Program
640.APPENDIX A	Standardized Perinatal Site Visit Protocol
640.APPENDIX B	Outcome Oriented Data: Perinatal Facility Designation/Redesignation (Repealed)
640.EXHIBIT A	Outcome Oriented Data Form (Repealed)
640.EXHIBIT B	Data Collection Exception Form (Repealed)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 640.APPENDIX C Maternal Discharge Record (Repealed)
640.EXHIBIT A Maternal Discharge Record Form (Repealed)
640.EXHIBIT B Instructions for Completing Maternal Discharge Record (Repealed)
- 640.APPENDIX D Report of Local Health Nurse, Maternal – Prenatal (Repealed)
640.EXHIBIT A Local Health Nurse, Maternal – Prenatal Form (Repealed)
640.EXHIBIT B Instructions for Completing the Report of Local Health Nurse, Maternal – Prenatal (Repealed)
- 640.APPENDIX E Report of Local Health Nurse, Maternal – Postnatal (Repealed)
640.EXHIBIT A Local Health Nurse, Maternal – Postnatal Form (Repealed)
640.EXHIBIT B Instruction for Completing the Report of Local Health Nurse, Maternal – Postnatal (Repealed)
- 640.APPENDIX F Report of Local Health Nurse, Infant (Repealed)
640.EXHIBIT A Local Health Nurse, Infant Form (Repealed)
640.EXHIBIT B Instructions for Completing the Report of Local Health Nurse, Infant (Repealed)
- 640.APPENDIX G Sample Letter of Agreement
- 640.APPENDIX H Written Protocol for Consultation/Transfer/Transport
640.EXHIBIT A Level I: Patients for consultation with _____ (Level III hospital or Administrative Perinatal Center)
640.EXHIBIT B Level II: Patients for consultation with or transfer to _____ (Level III hospital or Administrative Perinatal Center)
640.EXHIBIT C Level I: Maternal and neonatal patients to be cared for at _____ hospital (Level III hospital or Administrative Perinatal Center)
640.EXHIBIT D Level II: Maternal and neonatal patients to be cared for at _____ hospital (Level III hospital or Administrative Perinatal Center)
- 640.APPENDIX I Perinatal Reporting System Data Elements
- 640.APPENDIX J Guideline for Application Process for Designation, Redesignation or Change in Designation
- 640.APPENDIX K Elements for Submission for Designation, Redesignation or Change in Designation
- 640.APPENDIX L Level I Resource Checklist
- 640.APPENDIX M Level II Resource Checklist
- 640.APPENDIX N Level II with Extended Neonatal Capabilities Resource Checklist
- 640.APPENDIX O Level III Resource Checklist

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Implementing and authorized by the Developmental Disability Prevention Act [410 ILCS 250].

SOURCE: Adopted at 5 Ill. Reg. 6463, effective June 5, 1981; amended at 6 Ill. Reg. 3871, effective March 29, 1982; emergency amendment at 8 Ill. Reg. 882, effective January 5, 1984, for a maximum of 150 days; amended and codified at 8 Ill. Reg. 19493, effective October 1, 1984; amended at 9 Ill. Reg. 2310, effective February 15, 1985; amended at 10 Ill. Reg. 5141, effective April 1, 1986; amended at 11 Ill. Reg. 1584, effective February 1, 1987; Part repealed and new Part adopted at 14 Ill. Reg. 12749, effective October 1, 1990; amended at 24 Ill. Reg. 12574, effective August 4, 2000; amended at 35 Ill. Reg. 2583, effective January 31, 2011; amended at 40 Ill. Reg. _____, effective _____.

Section 640.41 Level I – Standards for Perinatal Care

To be designated as Level I, a hospital shall apply to the Department as described in Section 640.60; shall comply with all the conditions described in Subpart O of the Hospital Licensing Requirements that are applicable to the level of care necessary for the patients served; and shall comply with the following provisions:

- a) Level I – General Provisions
 - 1) The Maternity and Neonatal Service Plan shall include:
 - A) A letter of agreement between the hospital and its APC establishing criteria for maternal and neonatal consultation; criteria for maternal and neonatal transports; standards of care of mothers and neonates; and support services to be provided. (Section 640.70 establishes the minimum components for the letter of agreement.);
 - B) Continuing education of staff in perinatal care; and
 - C) Participation in the CQI program implemented by the APC.
 - 2) The critical considerations in the care of patients anticipating delivery in these hospitals are as follows:
 - A) The earliest possible detection of the high-risk pregnancy (risk assessment); consultation with a maternal-fetal medicine subspecialist or neonatologist as specified in the letter of

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

agreement; and transfer to the appropriate level of care; and

- B) The availability of trained personnel and facilities to provide competent emergency obstetric and newborn care. Included in the functions of this hospital are the stabilization of patients with unexpected problems, initiation of neonatal and maternal transports, patient and community education, and data collection and evaluation.
- 3) The Level I hospital shall provide continuing education for medical, nursing, respiratory therapy, and other staff providing general perinatal services, with evidence of a yearly competence assessment appropriate to the patient population served.
- 4) The Level I hospital shall maintain a system of recording patient admissions, discharges, birth weight, outcome, complications, and transports to meet the requirement to support network CQI activities described in the hospital's letter of agreement with the APC. The hospital shall comply with the reporting requirements of the State Perinatal Reporting System.
- b) Level I – Standards for Maternal Care
- 1) The maternal patient with an uncomplicated current pregnancy and no previous history that suggests potential difficulties is considered appropriate for Level I hospitals; however, the hospital's letter of agreement shall establish the specific conditions for the Level I hospital.
- 2) Other than those maternal patients identified in subsection (b)(1), pregnancies of fewer than 36 weeks gestation constitute potentially high-risk conditions for which the attending health care provider shall consult with a board-certified obstetrician or maternal-fetal medicine subspecialist to determine whether a transport or transfer to a higher level of care is needed. The letter of agreement shall specify policies for consultation and the hospital's obstetric policies and procedures for each of, but not limited to, the pregnancy conditions listed in Section 640.Appendix H.Exhibit A.
- 3) Hospitals shall have the capability for continuous electronic maternal-fetal monitoring for patients identified at risk, with staff available 24 hours a

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

day, including physician and nursing, who are knowledgeable of electronic fetal monitoring use and interpretation. Physicians and nurses shall complete a competence assessment in electronic maternal-fetal monitoring every ~~24 months~~two years.

- 4) Hospitals shall provide caesarean section decision-to-incision capabilities within 30 minutes.
- c) Level I – Standards for Neonatal Care
- 1) Neonatal patients greater than 36 weeks gestation or greater than 2500 grams without risk factors and infants with physiologic jaundice are generally considered appropriate for Level I hospitals; however, the hospital's letter of agreement shall establish the specific conditions for Level I hospitals.
 - 2) For all neonatal patients other than those identified in subsection (c)(1), consultation with a neonatologist is required to determine whether a transport to a higher level of care is needed. Consultation shall be specified in the letter of agreement and outlined in the hospital's pediatric policies and procedures for conditions including, but not limited to:
 - A) Small-for-gestational age (less than 10th percentile)
 - B) Documented sepsis
 - C) Seizures
 - D) Congenital heart disease
 - E) Multiple congenital anomalies
 - F) Apnea
 - G) Respiratory distress
 - H) Neonatal asphyxia
 - I) Handicapping conditions or developmental disabilities that

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

threaten life or subsequent development

- J) Severe anemia
- K) Hyperbilirubinemia, not due to physiologic cause
- L) Polycythemia

- d) Level I – Resource Requirements
The following support services shall be available:
 - 1) Blood bank technicians shall be on call and available within 30 minutes for performance of routine blood banking procedures.
 - 2) General anesthesia services shall be on call and available within 30 minutes to initiate caesarean sections.
 - 3) Radiology services shall be available within 30 minutes.
 - 4) Clinical laboratory services shall include microtechnique for hematocrit, blood gases, and routine urinalysis within 15 minutes; glucose, blood urea nitrogen (BUN), creatinine, complete blood count (CBC), routine blood chemistries, type, cross, Coombs' test and bacterial smear within one hour; and capability for bacterial culture and sensitivity and viral culture.
 - 5) A physician for the program shall be designated to assume primary responsibility for initiating, supervising and reviewing the plan for management of distressed infants. Policies and procedures shall assign responsibility for identification and resuscitation of distressed neonates to individuals who have completed a nationally recognized neonatal resuscitation program and are both specifically trained and immediately available in the hospital at all times, such as another physician, a nurse with training and experience in neonatal resuscitation, or a respiratory care practitioner.
- e) Application for Designation, Redesignation or Change in Network
 - 1) To be designated or to retain designation, a hospital shall submit the required application documents to the Department. For information

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

needed to complete any of the processes, see Section 640.50 (Designation and Redesignation of Non-Birthing Center, Level I, Level II, Level II with Extended Neonatal Capabilities, Level III Perinatal Hospitals, and Administrative Perinatal Centers) and Section 640.60 (Application for Hospital Designation and Redesignation as Non-Birthing Center, Level I, Level II, Level II with Extended Neonatal Capabilities, Level III Perinatal Hospital, and Administrative Perinatal Center, and Assurances Required of Applicants).

- 2) The following information shall be submitted to the Department to facilitate the review of the hospital's application for designation or redesignation:
 - A) Appendix A (fully completed);
 - B) Resource Checklist (fully completed);
 - C) A proposed letter of agreement between the hospital and the APC (unsigned);
 - D) The curriculum vitae for all directors of patient care, i.e., obstetrics, neonatal, ancillary medical and nursing.
- 3) When the information described in subsection (e)(2) is submitted, the Department will review the material for compliance with this Part. This documentation will be the basis for a recommendation for approval or disapproval of the applicant hospital's application for designation.
- 4) The medical co-directors of the APC (or their designees), the medical directors of obstetrics and maternal and newborn care, and a representative of hospital administration from the applicant hospital shall be present during the PAC's review of the application for designation.
- 5) The Department will make the final decision and inform the hospital of the official determination regarding designation. The Department's decision will be based upon the recommendation of the PAC and the hospital's compliance with this Part, and may be appealed in accordance with Section 640.45. The Department will consider the following criteria to determine if a hospital is in compliance with this Part:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- A) Maternity and Neonatal Service Plan (Subpart O of the Hospital Licensing Requirements);
- B) Proposed letter of agreement between the applicant hospital and its APC in accordance with Section 640.70;
- C) Appropriate outcome information contained in Appendix A and the Resource Checklist (Appendices L, M, N and O);
- D) Other documentation that substantiates a hospital's compliance with particular provisions or standards of perinatal care; and
- E) Recommendation of Department program staff.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 640.42 Level II and Level II with Extended Neonatal Capabilities – Standards for Perinatal Care

To be designated as Level II or Level II with Extended Neonatal Capabilities, a hospital shall apply to the Department as described in Section 640.60 of this Part; shall comply with all of the conditions described in Subpart O of the Hospital Licensing Requirements that are applicable to the level of care necessary for the patients served; and shall comply with the following provisions (specifics regarding standards of care for both mothers and neonates as well as resource requirements to be provided shall be defined in the hospital's letter of agreement with its APC):

- a) Level II and Level II with Extended Neonatal Capabilities – General Provisions
A Level II or Level II with Extended Neonatal Capabilities hospital shall:
 - 1) Provide all services outlined for Level I (Section 640.41(a));
 - 2) Provide diagnosis and treatment of selected high-risk pregnancies and neonatal problems;
 - 3) Accept selected neonatal transports from Level I or other Level II hospitals as identified in the letter of agreement with the APC; and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 4) Maintain a system for recording patient admissions, discharges, birth weight, outcome, complications and transports to support network CQI activities described in the hospital's letter of agreement with the APC. The hospital shall comply with the reporting requirements of the State Perinatal Reporting System.
- b) Level II – Standards for Maternal Care
- 1) The following maternal patients are considered to be appropriate for management and delivery by the primary physician at Level II hospitals without requirement for a maternal-fetal medicine consultation; however, the hospital's letter of agreement shall establish the specific conditions for the Level II hospital:
 - A) Those listed for Level I (see Section 640.41(b));
 - B) Normal current pregnancy although obstetric history may suggest potential difficulties;
 - C) Selected medical conditions controlled with medical treatment such as, mild chronic hypertension, thyroid disease, illicit drug use, urinary tract infection, and non-systemic steroid-dependent reactive airway disease;
 - D) Selected obstetric complications that present after 32 weeks gestation, such as, mild pre-eclampsia/pregnancy induced hypertension, placenta previa, abruptio placenta, premature rupture of membranes or premature labor;
 - E) Other selected obstetric conditions that do not adversely affect maternal health or fetal well-being, such as, normal twin gestation, hyperemesis gravidium, suspected fetal macrosomia, or incompetent cervical os;
 - F) Gestational diabetes, Class A1 (White's criteria).
 - 2) The attending health care provider shall consult a maternal-fetal medicine subspecialist, as detailed in the letter of agreement with the APC and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

outlined in the hospital's obstetric department policies and procedures, for each of, but not limited to, the current pregnancy conditions listed in Section 640.Appendix H.Exhibit B. Subsequent patient management and site of delivery shall be determined by mutual collaboration between the patient's physician and the maternal-fetal medicine subspecialist.

- 3) Hospitals shall have the capability for continuous electronic maternal-fetal monitoring for patients identified at risk, with staff available 24 hours a day, including physician and nursing, who are knowledgeable of electronic maternal-fetal monitoring use and interpretation. Physicians and nurses shall complete a competence assessment in electronic maternal-fetal monitoring every two years.
- c) Level II – Standards for Neonatal Care
- 1) The following neonatal patients are considered appropriate for Level II hospitals without a requirement for neonatology consultation:
 - A) Those listed for Level I (see Section 640.41(c));
 - B) Premature infants at 32 or more weeks gestation who are otherwise well;
 - C) Infants with mild to moderate respiratory distress (not requiring assisted ventilation in excess of six hours);
 - D) Infants with suspected neonatal sepsis, hypoglycemia responsive to glucose infusion, and asymptomatic neonates of diabetic mothers; and
 - E) Infants with a birth weight greater than 1500 grams who are otherwise well.
 - 2) The attending physician shall consult a neonatologist for the following neonatal conditions. Consultation shall be specified in the letter of agreement with the APC and outlined in the hospital's pediatric department policies and procedures for conditions including, but not limited to:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- A) Birth weight less than 1500 grams;
 - B) 10 minute Apgar scores of 5 or less;
 - C) Handicapping conditions or developmental disabilities that threaten subsequent development in an otherwise stable infant.
- 3) Minimum conditions for transport shall be specified in the letter of agreement and outlined in the hospital's pediatric department policies and procedures for conditions including, but not limited to:
- A) Premature birth that is less than 32 weeks gestation;
 - B) Birth weight less than 1500 grams;
 - C) Assisted ventilation beyond the initial stabilization period of six hours;
 - D) Congenital heart disease associated with cyanosis, congestive heart failure or impaired peripheral blood flow;
 - E) Major congenital malformations requiring immediate comprehensive evaluation or neonatal surgery;
 - F) Neonatal surgery requiring general anesthesia;
 - G) Sepsis, unresponsive to therapy, associated with persistent shock or other organ system failure;
 - H) Uncontrolled seizures;
 - I) Stupor, coma, hypoxic ischemic encephalopathy Stage II or greater;
 - J) Double-volume exchange transfusion;
 - K) Metabolic derangement persisting after initial correction therapy;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- L) Handicapping conditions that threaten life for which transfer can improve outcome.
- d) Level II – Resource Requirements
Resources shall include all those listed for Level I (Section 640.41(d)) as well as the following:
- 1) Experienced blood bank technicians shall be immediately available in the hospital for blood banking procedures and identification of irregular antibodies. Blood component therapy shall be readily available.
 - 2) Experienced radiology technicians shall be immediately available in the hospital with professional interpretation available 24 hours a day. Ultrasound capability shall be available 24 hours a day. In addition, Level I ultrasound and staff knowledgeable in its use and interpretation shall be available 24 hours a day.
 - 3) Clinical laboratory services shall include microtechnique blood gases in 15 minutes and electrolytes and coagulation studies within one hour.
 - 4) Personnel skilled in phlebotomy and intravenous (IV) placement in the newborn shall be available 24 hours a day.
 - 5) Social work services provided by one social worker, with relevant experience and responsibility for perinatal patients, shall be available through the hospital social work department.
 - 6) Protocols for discharge planning, routine follow-up care, and developmental follow-up shall be established.
 - 7) A respiratory care practitioner with experience in neonatal care shall be available.
 - 8) One dietitian with experience in perinatal nutrition shall be available to plan diets to meet the needs of mothers and infants.
 - 9) Capability to provide neonatal resuscitation in the delivery room shall be satisfied by current completion of a nationally recognized neonatal resuscitation program by medical, nursing and respiratory care staff or a

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

hospital rapid response team.

- e) Application for Designation, Redesignation or Change in Network
- 1) To be designated or to retain designation, a hospital shall submit the required application documents to the Department. For information needed to complete any of the processes, see Section 640.50 and Section 640.60.
 - 2) The following information shall be submitted to the Department to facilitate the review of the hospital's application for designation or redesignation:
 - A) Appendix A (fully completed);
 - B) Resource Checklist (fully completed) (Appendices L, M, N and O);
 - C) A proposed letter of agreement between the hospital and the APC (unsigned); and
 - D) The curriculum vitae for all directors of patient care, i.e., obstetrics, neonatal, ancillary medical care and nursing (both obstetrics and neonatal).
 - 3) When the information described in subsection (e)(2) is submitted, the Department will review the material for compliance with this Part. This documentation will be the basis for a recommendation for approval or disapproval of the applicant hospital's application for designation.
 - 4) The medical co-directors of the APC (or their designees), the medical directors of obstetrics and maternal and newborn care, and a representative of hospital administration from the applicant hospital shall be present during the PAC's review of the application for designation.
 - 5) The Department will make the final decision and inform the hospital of the official determination regarding designation. The Department's decision will be based upon the recommendation of the PAC and the hospital's compliance with this Part and may be appealed in accordance with Section

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

640.45. The Department will consider the following criteria or standards to determine if a hospital is in compliance with this Part:

- A) Maternity and Neonatal Service Plan (Subpart O of the Hospital Licensing Requirements);
 - B) Proposed letter of agreement between the applicant hospital and its APC, in accordance with Section 640.70;
 - C) Appropriate outcome information contained in Appendix A and the Resource Checklist;
 - D) Other documentation that substantiates a hospital's compliance with particular provisions or standards of perinatal care set forth in this Part; and
 - E) Recommendation of Department program staff.
- f) Level II with Extended Neonatal Capabilities – Standards for Special Care Nursery Services
- 1) The following patients are considered appropriate for Level II with Extended Neonatal Capabilities hospitals with SCN services:
 - A) Those listed in subsection (c) of this Section;
 - B) Infants with low birth weight greater than 1250 grams;
 - C) Premature infants of 30 or more weeks gestation;
 - D) Infants on assisted ventilation.
 - 2) For each of the following neonatal conditions, consultation between the Level II with Extended Neonatal Capabilities attending physician and the APC or Level III neonatologist is required. The attending neonatologist at the Level II with Extended Neonatal Capabilities hospital and the attending neonatologist at the APC or Level III hospital shall determine, by mutual collaboration, the most appropriate hospital to continue patient care. The Level II hospital with Extended Neonatal Capabilities shall

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

develop a prospective plan for patient care for those infants who remain at the hospital. Both the letter of agreement with the APC and the hospital's department of pediatrics' policies and procedures shall identify conditions that might require transfer to a Level III hospital, including, but not limited to::

- A) Premature birth that is less than 30 weeks gestation;
 - B) Birth weight less than or equal to 1250 grams;
 - C) Conditions listed in subsections (c)(3)(C) through (L) of this Section.
- g) Level II with Extended Neonatal Capabilities – Resource Requirements
- 1) Resources shall include all those listed in Section 640.41(d) for Level I care and in Section 640.42(d) for Level II care, as well as the following:
 - A) Obstetric activities shall be directed and supervised by a full-time ~~board-certified~~ obstetrician certified by the American Board of Obstetrics and Gynecology or a licensed osteopathic physician with equivalent training and experience and certification by the American Osteopathic Board of Obstetrics and Gynecology. ~~Obstetricians and Gynecologists.~~
 - B) Neonatal activities shall be directed and supervised by a full-time pediatrician certified by the American Board of Pediatrics Sub-Board of Neonatal/Perinatal Medicine or a licensed ~~an~~ osteopathic physician with equivalent training and experience and certification by the American Osteopathic Board of Pediatricians.
 - C) The directors of obstetric and neonatal services shall ensure the back-up supervision of their services when they are unavailable.
 - D) The obstetric-newborn nursing services shall be directed by a full-time nurse experienced in perinatal nursing, preferably with a master's degree.
 - E) The pediatric-neonatal respiratory therapy services shall be

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

directed by a full-time respiratory care practitioner with at least three years experience in all aspects of pediatric and neonatal respiratory therapy, with a bachelor's degree and completion of the neonatal/pediatric specialty examination of the National Board for Respiratory Care.

- F) Preventive services shall be designated to prevent, detect, diagnose and refer or treat conditions known to occur in the high risk newborn, such as: cerebral hemorrhage, visual defects (retinopathy of prematurity), and hearing loss, and to provide appropriate immunization of high-risk newborns.
 - G) A person shall be designated to coordinate the local health department community nursing follow-up referral process, to direct discharge planning, to make home care arrangements, to track discharged patients, and to collect outcome information. The community nursing referral process shall consist of notifying the high-risk infant follow-up nurse in whose jurisdiction the patient resides. The Illinois Department of Human Services will identify and update referral resources for the area served by the unit.
 - H) Each Level II hospital with Extended Neonatal Capabilities shall develop, with the help of the APC, a referral agreement with a neonatal follow-up clinic to provide neuro-developmental assessment and outcome data on the neonatal population. Hospital policies and procedures shall describe the at-risk population and referral procedure to be followed.
 - I) If the Level II hospital with Extended Neonatal Capabilities transports neonatal patients, the hospital shall comply with Guidelines for Perinatal Care, American Academy of Pediatrics and American College of Obstetricians and Gynecologists.
- 2) To provide for assisted ventilation of newborn infants beyond immediate stabilization, the Level II hospital with Extended Neonatal Capabilities shall also provide the following:
- A) Effective July 1, 2011, a pediatrician or advanced practice nurse whose professional staff privileges granted by the hospital

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

specifically include the management of critically ill infants and newborns receiving assisted ventilation; or an active candidate or board-certified neonatologist shall be in the hospital the entire time the infant is receiving assisted ventilation. If infants are receiving on-site assisted ventilation care from an advanced practice nurse or a physician who is not a neonatologist, an active candidate or board-certified neonatologist shall be available on call to assist in the care of those infants as needed.

- B) Suitable backup systems and plans shall be in place to prevent and respond appropriately to sudden power outage, oxygen system failure, and interruption of medical grade compressed air delivery.
 - C) Nurses caring for infants who are receiving assisted ventilation shall have documented competence and experience in the care of those infants.
 - D) A respiratory care practitioner with documented competence and experience in the care of infants who are receiving assisted ventilation shall also be available to the nursery during the entire time that the infant receives assisted ventilation.
- h) Application for Designation, Redesignation or Change in Network
- 1) To be designated or to retain designation, a hospital shall submit the required application documents to the Department. For information needed to complete any of the processes, see Section 640.50 and Section 640.60.
 - 2) The following information shall be submitted to the Department to facilitate the review of the hospital's application for designation or redesignation:
 - A) Appendix A (fully completed);
 - B) Resource Checklist (fully completed) (Appendices L, M, N and O);

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- C) A proposed letter of agreement between the hospital and the APC (unsigned); and
 - D) The curriculum vitae for all directors of patient care, i.e., obstetrics, neonatal, ancillary medical, and nursing (both obstetrics and neonatal).
- 3) When the information described in subsection (h)(2) is submitted, the Department will review the material for compliance with this Part. This documentation will be the basis for a recommendation for approval or disapproval of the applicant hospital's application for designation.
- 4) The medical co-directors of the APC (or their designees), the medical directors of obstetrics and maternal and newborn care, and a representative of hospital administration from the applicant hospital shall be present during the PAC's review of the application for designation.
- 5) The Department will make the final decision and inform the hospital of the official determination regarding designation. The Department's decision will be based upon the recommendation of the PAC and the hospital's compliance with this Part, and may be appealed in accordance with Section 640.45. The Department shall consider the following criteria or standards to determine if a hospital is in compliance with this Part:
- A) Maternity and Neonatal Service Plan (Subpart O of the Hospital Licensing Requirements);
 - B) Proposed letter of agreement between the applicant hospital and its APC in accordance with Section 640.70;
 - C) Appropriate outcome information contained in Appendix A and the Resource Checklist;
 - D) Other documentation that substantiates a hospital's compliance with particular provisions or standards of perinatal care set forth in this Part; and
 - E) Recommendation of Department program staff.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 640.50 Designation and Redesignation of Non-Birthing Center, Level I, Level II, Level II with Extended Neonatal Capabilities, Level III Perinatal Hospitals and Administrative Perinatal Centers

- a) The hospital shall declare by means of a letter of intent to the Department and the affiliated APC that it seeks designation as a hospital with no OB services, or as a Level I, Level II, Level II with Extended Neonatal Capabilities, or Level III in a Regional Perinatal Network.
- b) The Department will acknowledge the letter of intent.
- c) The APC shall arrange a site visit to the applicant hospital. The hospital shall prepare the designation/redesignation documents in accordance with Section 640.60. The site visit team for Level I, II, II with Extended Neonatal Capabilities, and III perinatal hospitals shall consist of sixfive members: three from the APC of the hospital's Regional Perinatal Network, including the Directors of Neonatology and Maternal-Fetal Medicine or their designees and the Perinatal Network Administrator; a representative of nursing; one representative from the PAC; and one representative of the Department. When travel is not feasible, regardless of the reason, the PAC representative shall be permitted to participate in the site visit from a remote location via telephone, Voice over Internet Protocol (VoIP), or video conferencing. The site visit team shall review the capabilities of the applicant hospital based on the requirements outlined in the letter of agreement between the applicant hospital and the APC. The site visit team shall complete the Standardized Perinatal Site Visit Protocol (see Appendix A) and submit these materials to the medical directors of the hospital visited for their review and comment within 30 days after the date of the site visit. The APC shall collaborate with the Department to develop a summary site visit report within 60 days after the site visit. This report shall be sent to the hospital within 90 days after the site visit.
- d) The Department will coordinate the site visit for APCs. The team shall consist of five members: one Director of Neonatology, one Director of Maternal-Fetal Medicine and one Perinatal Network Administrator from a non-contiguous Center; one representative from the PAC; and one representative of the Department. When travel is not feasible, regardless of the reason, the PAC representative shall be permitted to participate in the site visit from a remote

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

location via telephone, Voice over Internet Protocol (VoIP), or video conferencing. The Department shall collaborate with the site visit team to develop a summary site visit report within 60 days after the site visit. This report shall be forwarded to the hospital within 90 days after the site visit.

- e) The Department will review the submitted materials, any other documentation that clearly substantiates a hospital's compliance with particular provisions or standards for perinatal care, and the recommendation of the PAC.
- f) The Department will make the final decision and inform the hospital of the official determination regarding designation. The Department's decision will be based upon the recommendation of the PAC and the hospital's compliance with this Part, and may be appealed in accordance with Section 640.45. A 12-month to 18-month follow-up review will be scheduled for any increase in hospital designation to assess compliance with the requirements of this Part that are applicable to the new level of designation. The Department shall consider the following criteria to determine if a hospital is in compliance with this Part:
 - 1) Maternity and Neonatal Service Plan (Subpart O of the Hospital Licensing Requirements);
 - 2) Proposed letter of agreement between the applicant hospital and its APC in accordance with Section 640.70;
 - 3) Appropriate outcome information contained in Appendix A and the Resource Checklist (Appendices L, M, N and O);
 - 4) Other documentation that substantiates a hospital's compliance with particular provisions or standards of perinatal care set forth in this Part; and
 - 5) Recommendation of Department program staff.
- g) The Department will review all designations at least every three years to assure that the designated hospitals continue to comply with the requirements of the perinatal plan. Circumstances that may influence the Department to review a hospital's designation more frequently than every three years could include:
 - 1) A hospital's desire to expand or reduce services;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 2) Poor perinatal outcomes;
 - 3) Change in APC or Network affiliation;
 - 4) Change in resources that would have an impact on the hospital's ability to comply with the required resources for the level of designation; or
 - 5) An APC finds and the Department concurs or determines that a hospital is not appropriately participating in and complying with CQI programs.
- h) Existing designations shall be effective until redesignation is accomplished.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Compassionate Use of Medical Cannabis Patient Registry
- 2) Code Citation: 77 Ill. Adm. Code 946
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
946.10	Amendment
946.25	New Section
946.30	Amendment
946.35	New Section
946.60	Amendment
946.200	Amendment
946.201	Amendment
946.205	Amendment
946.210	Amendment
946.220	Amendment
946.240	Amendment
946.290	Amendment
946.300	Amendment
946.310	Amendment
946.315	New Section
946.500	Amendment
- 4) Statutory Authority: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements PA 99-519, effective June 30, 2016, to set forth the requirements for qualifying patients to participate in the Department's Compassionate Use of Medical Cannabis Patient Registry Program. The amendments provide for additional debilitating conditions; add an eligibility category for persons diagnosed with a terminal illness; make changes in the physician written certification; change fees to correspond with the lengthened time frame for a valid registry identification card; add requirements for increasing the adequate supply of medical cannabis and make other changes.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Elizabeth Paton
Assistant General Counsel
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield IL 62761

217/782-2043
e-mail: dph.rules@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: A doctor of medicine or osteopathy who is licensed under the Medical Practice Act of 1987 and in good standing to practice medicine and who has a controlled substances license under Article III of the Illinois Controlled Substances Act
 - B) Reporting, bookkeeping or other procedures required for compliance: A physician completing a written certification for a qualifying patient who is

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

seeking to apply for a medical cannabis registry identification card shall establish a medical record for the qualifying patient with regard to his or her medical condition and his or her continued treatment for the condition or conditions under the physician's care. The physician shall maintain a record-keeping system for all patients for whom the physician has signed a written certification. These records shall be accessible to and subject to review by the Departments of Public Health and Financial and Professional Regulation upon request.

- C) Types of professional skills necessary for compliance: Understanding of HIPAA requirements, general recordkeeping and records retention.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas as the need for the rulemaking was not apparent when the regulatory agendas were prepared.

The full text of the Proposed Amendments is identical to that of the text of the Emergency Amendments and begins in this issue of the *Illinois Register* on page 10992.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1030.7	Amendment
1030.Appendix C	Amendment
- 4) Statutory Authority: 625 ILCS 5/6-105.1
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends the documents that must be presented by a non-visa TVDL holder at the time the applicant requests a renewal, duplicate or corrected TVDL.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will these rulemakings replace an 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? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citations:</u>
1030.5	Amendment	40 Ill. Reg. 8039; June 10, 2016
1030.6	Amendment	40 Ill. Reg. 8039; June 10, 2016
1030.7	Amendment	40 Ill. Reg. 8039; June 10, 2016
1030.17	Amendment	40 Ill. Reg. 8039; June 10, 2016
1030.25	Amendment	40 Ill. Reg. 8039; June 10, 2016
1030.89	Amendment	40 Ill. Reg. 8039; June 10, 2016
1030.90	Amendment	40 Ill. Reg. 10137; July 29, 2016
- 11) Statement of Statewide Policy Objective: The rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Text of the prepared amendments is posted on the Secretary of State's

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

website, www.sos.il.us/departments/index/home as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Jennifer Egizii
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield IL 62723

217/557-4462

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

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1030
ISSUANCE OF LICENSES

Section	
1030.1	Definitions
1030.5	Procedure for Obtaining a Driver's License
1030.6	Procedure for Obtaining a Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a)
1030.7	Procedure for Obtaining a Non-Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a-5)
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License/Temporary Visitor's Driver's License (Renumbered)
1030.12	Identification Cards for the Homeless
1030.13	Denial of License or Permit
1030.14	Emergency Contact Database
1030.15	Cite for Re-testing
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers – References (Repealed)
1030.22	Medical Examiner's Certificate – CLP or CDL Holders
1030.25	Safe Driver License Renewals
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers (Repealed)
1030.65	Instruction Permits
1030.66	Adult Driver Education
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lenses
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 1030.82 Charter Bus Driver Endorsement Requirements
- 1030.83 Hazardous Material Endorsement
- 1030.84 Vehicle Inspection
- 1030.85 Driver's License Testing/Road Test
- 1030.86 Multiple Attempts – Written and/or Road Tests
- 1030.88 Exemption of Facility Administered Road Test
- 1030.89 Temporary Driver's Licenses and Temporary Instruction Permits
- 1030.90 Requirement for Photograph and Signature of Licensee on Driver's License
- 1030.91 Person with a Disability Identification Card
- 1030.92 Restrictions
- 1030.93 Restricted Local Licenses
- 1030.94 Duplicate or Corrected Driver's License or Instruction Permit
- 1030.95 Consular Licenses (Repealed)
- 1030.96 Seasonal Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
- 1030.98 School Bus Endorsement or Learner's Permit
- 1030.100 Anatomical Gift Donor (Repealed)
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License
- 1030.140 Use of Captured Images
- 1030.150 Veteran Designation on Driver's License or Identification Card

- 1030.APPENDIX A Questions Asked of a Driver's License Applicant
- 1030.APPENDIX B Acceptable Identification Documents – Applicants for a Driver's License, Instruction Permit, Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a) or Visa Status Temporary Visitor's Instruction Permit
- 1030.APPENDIX C Acceptable Identification Documents – Applicants for a Non-Visa Status Temporary Visitor's Driver's License or Non-Visa Status Temporary Visitor's Instruction Permit Pursuant to IVC Section 6-105.1(a-5)

AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 15130, effective September 2, 1986; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4,

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; emergency expired June 29, 2005; amended at 29 Ill. Reg. 9488, effective June 17, 2005; amended at 29 Ill. Reg. 12519, effective July 28, 2005; amended at 29 Ill. Reg. 13237, effective August 11, 2005; amended at 29 Ill. Reg. 13580, effective August 16, 2005; amended at 30 Ill. Reg. 910, effective January 6, 2006; amended at 30 Ill. Reg. 5621, effective March 7, 2006; amended at 30 Ill. Reg. 11365, effective June 15, 2006; emergency amendment at 30 Ill. Reg. 11409, effective June 19, 2006, for a maximum of 150 days; emergency expired November 15, 2006; amended at 31 Ill. Reg. 4782, effective March 12, 2007; amended at 31 Ill. Reg. 5096, effective March 15, 2007; amended at 31 Ill. Reg. 5864, effective March 29, 2007; amended at 31 Ill. Reg. 6370, effective April 12, 2007; amended at 31 Ill. Reg. 7643, effective May 16, 2007; amended at 31 Ill. Reg. 11342, effective July 18, 2007; amended at 31 Ill. Reg. 14547, effective October 9, 2007; amended at 31 Ill. Reg. 14849, effective October 22, 2007; amended at 31 Ill. Reg. 16543, effective November 27, 2007; amended at 31 Ill. Reg. 16843, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 208, effective January 2, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6544, effective April 4, 2008; amended at 33 Ill. Reg. 2391, effective January 21, 2009; amended at 33 Ill. Reg. 8489, effective June 5, 2009; amended at 33 Ill. Reg. 9794, effective June 29, 2009; amended at 33 Ill. Reg. 11620, effective July 22, 2009; amended at 33 Ill. Reg. 14185, effective September 28, 2009; amended at 34 Ill. Reg. 563, effective December 22, 2009; amended at 34 Ill. Reg. 9457, effective June 23, 2010; amended at 34 Ill. Reg. 15418, effective September 22, 2010; amended at 34 Ill. Reg. 19071, effective November 22, 2010; amended at 35 Ill. Reg. 2197, effective January 21, 2011; amended at 35 Ill. Reg. 4692, effective March 3, 2011; amended at 35 Ill. Reg. 19664, effective November 23, 2011; amended at 36 Ill. Reg. 3924, effective February 27, 2012; amended at 36 Ill. Reg. 7255, effective April 26, 2012; amended at 36 Ill. Reg. 14755, effective September 18, 2012; amended at 37 Ill. Reg. 7776, effective May 22, 2013; amended at 37 Ill. Reg. 14176, effective September 1, 2013; amended at 37 Ill. Reg. 19342, effective November 28, 2013; amended at 38 Ill. Reg. 7946, effective March 28, 2014; emergency amendment at 38 Ill. Reg. 8429, effective April 4, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 12515, effective July 1, 2014;

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

amended at 38 Ill. Reg. 16366, effective July 21, 2014; amended at 38 Ill. Reg. 20039, effective October 1, 2014; amended at 39 Ill. Reg. 1182, effective January 5, 2015; amended at 39 Ill. Reg. 5083, effective March 23, 2015; amended at 39 Ill. Reg. 8028, effective May 21, 2015; amended at 39 Ill. Reg. 11531, effective July 28, 2015; amended at 39 Ill. Reg. 14930, effective October 29, 2015; amended at 40 Ill. Reg. 1882, effective January 12, 2016; amended at 40 Ill. Reg. 7330, effective May 2, 2016; amended at 40 Ill. Reg. _____, effective _____.

Section 1030.7 Procedure for Obtaining a Non-Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a-5)

- a) An applicant who wishes to obtain an original TVDL, renew a TVDL, or obtain a corrected TVDL, pursuant to IVC Section 6-105.1(a-5), must make an appointment, via telephone or the Secretary of State's official website, to visit one of the designated TVDL Secretary of State Driver Services Facilities located throughout the State. The Secretary of State will limit to 3 the number of appointments that may be made by any one individual or entity or from any one internet protocol address within a 24-hour period, except that the limit of 3 appointments may be waived by the Secretary of State for not-for-profit entities that assist the affected public in scheduling appointments. In the event the Secretary discovers appointments have been made in violation of a policy limiting the number of appointments within a 24-hour period, the Secretary may cancel the appointments exceeding the maximum number allowed. Based on the operational needs of the office, the Secretary may eliminate the requirement for appointments. An applicant who wishes to obtain a duplicate TVDL shall visit any TVDL facility located throughout the State. An application form, provided by the Secretary of State pursuant to IVC Section 6-106, shall be completed by the applicant. The questions contained on the application form are provided in Appendix A.
- b) An applicant for an original, ~~renewal, duplicate or corrected~~ TVDL shall provide acceptable forms of identification as defined in Appendix C to establish the applicant's name, date of birth, signature for comparison, current Illinois residence address, and residency in Illinois for a period in excess of one year. The applicant shall affirm under penalty of perjury that he/she is at the time of application ineligible to obtain a social security number and shall submit either a valid, unexpired passport for the applicant's country of citizenship or a valid, unexpired consular identification document, as defined by Section 5 of the Consular Identification Document Act [5 ILCS 230/5], issued by the consulate of the

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

applicant's country of citizenship and, ~~if a new applicant, must submit~~ a completed verification of residency form.

- c) An applicant for a duplicate or corrected TVDL must present one document from Group A and one document that satisfies Group B, C or D (two from Group D if requesting an address change to appear on the documents) (see Appendix B).
- d) An applicant renewing a TVDL need only present his/her current TVDL if no changes are required. If the applicant does not have his/her TVDL or changes are required, the applicant must present one document from Group A and one document that satisfies Group B, C or D (two from Group D if requesting an address change to appear on the documents).
- ee) The applicant shall take the following tests as required in IVC Section 6-109:
- 1) A vision test as provided in Sections 1030.70 and 1030.75;
 - 2) A road test, if required, as provided in Section 1030.85 (exemptions to the road test requirement are provided in Section 1030.88); and
 - 3) A written test, if required, as provided in Section 1030.80.
- f4) Applicants who are 16 or 17 years of age and not legally emancipated by marriage shall not be issued a TVDL without the written consent of the applicant's parent, legal guardian or other responsible adult, regardless of whether the required written consent also accompanied the person's previous application for an instruction permit and, in accordance with IVC Section 6-107(b), the applicant has:
- 1) Held a valid instruction permit for a minimum of 9 months;
 - 2) Passed an approved driver education course and submitted proof of having passed the course as may be required;
 - 3) Submitted, on a form prepared or approved by the Secretary of State, certification by the parent of the applicant, the legal guardian having custody of the applicant, or, in the event there is no parent or legal guardian, by another responsible adult, that the applicant has had a minimum of 50 hours, at least 10 hours of which have been at night, of

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

behind-the-wheel practice time and is sufficiently prepared and able to safely operate a motor vehicle. The 50 hours shall be in addition to the required hours spent with a driver education instructor. The person completing the certification shall, upon signing the certification, swear under penalty of perjury that everything contained within the certification is true and correct.

- ge) Applicants who are 18, 19 or 20 years of age who have not previously been licensed and who have not successfully completed an approved driver education course or the classroom portion of an approved driver education course shall not be issued a TVDL unless the applicant has successfully completed an adult driver education course offered by an adult driver education course provider and proof of that completion has been submitted to the Secretary by the adult driver education course provider.
- hf) A TVDL applicant shall have his/her photograph taken, unless exempted by Section 1030.90.
- ig) A TVDL shall only be issued in Class D, L or M, as established in Section 1030.30.
- jh) A TVDL shall not be issued to the applicant at the Secretary of State Driver Services facility, but shall be centrally issued and mailed to the applicant at the address provided on the TVDL application. A dated receipt shall be issued to the applicant.
- ki) Each original TVDL shall expire 3 years from the date of issuance, except that a TVDL issued to an applicant 81 years of age or older shall expire in accordance with IVC Section 6-115(g).
- lj) An applicant for a renewal TVDL shall be retested in accordance with IVC Section 6-109.
- mk) Each renewal TVDL shall expire no more than 3 years from the expiration date of the current license, except that a TVDL issued to an applicant 81 years of age or older shall expire in accordance with IVC Section 6-115(g).
- nl) The Secretary of State shall not send a renewal notice to the holder of a TVDL.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- ~~om~~) The design and content of a TVDL shall be in accordance with IVC Sections 6-105.1 and 6-110 and Section 1030.90. The license shall be distinctive in nature to identify it as a TVDL and shall contain the phrase "not valid for identification".
- ~~pn~~) The design and content of a TVDL issued to applicants under 21 years of age shall be in accordance with IVC Sections 6-107.3 and 6-110(e) and (e-1).
- ~~qo~~) The fees collected for the issuance of an original, renewal, duplicate or corrected TVDL shall be in accordance with IVC Section 6-118.
- ~~rp~~) An applicant for a TVDL that is male and is between the ages of 18 and 25 is not exempt from the requirement to register with the United States Selective Service System, in accordance with IVC Section 6-106.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

Section 1030.APPENDIX C Acceptable Identification Documents – Applicants for a Non-Visa Status Temporary Visitor's Driver's License or Non-Visa Status Temporary Visitor's Instruction Permit Pursuant to IVC Section 6-105.1(a-5)

- a) ~~Applicants~~Except as provided in subsection (c), applicants for an original, ~~renewal, duplicate or corrected~~ non-Visa status temporary visitor's driver's license (TVDL) pursuant to IVC Section 6-105.1(a-5) shall submit the following:
- 1) One document to prove written signature;
 - 2) One document to prove name and date of birth;
 - 3) Two documents to prove current Illinois residence address;
 - 4) One document to prove Illinois residency in excess of one year; ~~and~~
 - 5) Valid unexpired passport from the applicant's country of citizenship or a valid unexpired consular identification document issued by the applicant's country of citizenship pursuant to Section 5 of the Consular Identification Document Act [5 ILCS 230/5]; ~~and~~.
 - 6) Verification of residency form.
- b) An applicant applying for either a duplicate or corrected driver's license or identification card must present one form of identification from Group A and at least one form from Group B and C or two from Group D if requesting an address change to appear on the documents (see Appendix B).~~Applicants for an original non-Visa status TVDL shall be required to submit a verification of residency form.~~
- e) ~~Applicants for a renewal, duplicate or corrected TVDL do not have to submit a verification of residency form.~~
- cd) A TVDL holder who requests a change in name, date of birth or gender must provide acceptable identification to create a link pertaining to the change between the previous name, date of birth or gender and the new name, date of birth or gender.
- de) Documents that are acceptable for the purpose of obtaining a TVDL:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

- 1) Written Signature:
 - Consular Identification Document
 - Cooperative Driver Certificate
 - Court Order
 - Credit Card – Major Brand
 - Driver's License or Identification Card (issued by another state of the United States)
 - Foreign Passport (with complete date of birth: day, month and year)
 - Mexican Electoral Card
 - Mortgage or Installment Loan Agreement
 - United States Federal, State or Local Government ID Card
- 2) Name and Date of Birth:
 - Consular Identification Document
 - Foreign Passport (with complete date of birth: day, month and year)
- 3) Current Illinois Residence Address:
 - Bank Statement (dated within 90 days prior to application)
 - Certified Grade School/High School/College/University Transcript
 - Consular Identification Document
 - Credit Report Issued by Experian, Equifax or TransUnion (dated within 90 days prior to application)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

Deed/Title, Mortgage, Rental/Lease Agreement

Homestead Exemption Receipt

Insurance Policy (homeowner's or renter's)

Medical Claim or Statement of Benefits from Private Insurance Company or Public (government) Agency (dated within 90 days prior to application)

Official Mail from a State, County, City, Village or Federal Agency (that includes the applicant's first and last name and complete address)

Pension or Retirement Statement

Report Card from Grade School/High School/College/University

Selective Service Card

Tuition Invoice or Other Official Mail from a College or University (dated within 90 days prior to application)

Utility Bill (electric, water, refuse, telephone (land or cell), cable or gas; dated within 90 days prior to application)

- 4) Illinois Residency in Excess of One Year (all documents must be dated at least 12 months prior to the date of application):

Bank Statement

Certified Grade School/High School/College/University Transcript

Deed/Title, Mortgage, Rental/Lease Agreement

Homestead Exemption Receipt

Insurance Policy (homeowner's or renter's)

Medical Claim or Statement of Benefits from Private Insurance Company or Public (government) Agency

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

Official Mail from a State, County, City, Village or Federal Agency (that includes the applicant's first and last name and complete address)

Pension or Retirement Statement

Report Card from Grade School/High School/College/University

Tuition Invoice or Other Official Mail from a College or University

Utility Bill (electric, water, refuse, telephone (land or cell), cable or gas)

e) After review of all identification presented, Driver Services or Secretary of State management has the right to accept or refuse any document.

f) Unacceptable identification documents include, but are not limited to:

Bond Receipt or Bail/Bond Card

Business Cards

Check Cashing Cards

Club or Fraternal Membership Cards

College or University Identification Cards

Commercially Produced (non-State or unofficial) ID Cards

DHS (Department of Human Services) Cards

Fishing License

HFS (Healthcare and Family Services) Cards

Handwritten ID or Employment Cards

Hunting License

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

Instruction Permit/Receipts

Insurance Card

Library Card

Personal Mail

Temporary Driver's License

Traffic Citation (Arrest Ticket)

Video Club Membership Cards

Wallet IDs

Unlicensed Financial Institution Loan Papers

- g) All documents presented must be valid and unexpired. Photocopies of documents will not be accepted. Acceptance of documents not listed in this Appendix must be approved by the Director of Driver Services or his or her designee.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Licensing Standards for Day Care Homes
- 2) Code Citation: 89 Ill. Adm. Code 406
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
406.2	Amendment
406.4	Amendment
406.5	Amendment
406.7	Amendment
406.8	Amendment
406.9	Amendment
406.10	Amendment
406.Appendix D	Amendment
- 4) Statutory Authority: 225 ILCS 10
- 5) Effective Date of Rules: July 29, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 39 Ill. Reg. 10500; July 31, 2015
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The Department replaced the proposed definition of firearm with the statutory definition from the Firearm Owners Identification Card Act [430 ILCS 65]. Swimming pool use prohibited during day care hours will not be amended at this time as a result of comments received in opposition and Department consultation with IDPH. This may be re-evaluated at a later Rulemaking.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The definition of "firearm" is added for clarification. No Firearms signage has been added. This change implements Public Act 98-0817. Training requirements have been added. License applicants and assistants are required to complete SUID and Safe Sleep Training if caring for infants at initial licensure and license renewal. These changes implement Public Act 98-0817. Child Care Assistants are required to complete Mandated Reporter Training. This change implements Public Act 98-817. Licensees employment and work outside of the home during licensed hours has been amended for clarification.
- 16) Information and questions regarding these adopted rules shall be directed to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
TDD: 217/524-3715
e-mail: cfpolicy@idcfs.state.il.us

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 406

LICENSING STANDARDS FOR DAY CARE HOMES

Section

406.1	Purpose
406.2	Definitions
406.3	Effective Date of Standards (Repealed)
406.4	Application for License
406.5	Application for Renewal of License
406.6	Provisions Pertaining to the License
406.7	Provisions Pertaining to Permits
406.8	General Requirements for Day Care Homes
406.9	Characteristics and Qualifications of the Day Care Family
406.10	Qualifications for Assistants
406.11	Substitutes
406.12	Admission and Discharge Procedures
406.13	Number and Ages of Children Served
406.14	Health, Medical Care and Safety
406.15	Discipline of Children
406.16	Activity Requirements
406.17	Nutrition and Meals
406.18	Transportation of Children By Day Care Home
406.19	Swimming
406.20	Children with Special Needs
406.21	School Age Children
406.22	Children Under 30 Months of Age
406.23	Night Care
406.24	Records and Reports
406.25	Confidentiality of Records and Information
406.26	Cooperation with the Department
406.27	Severability of This Part
406.APPENDIX A	Meal Pattern Chart for Children 0 to 12 Months of Age
406.APPENDIX B	Meal Pattern Chart for Children Over One Year of Age
406.APPENDIX C	Background of Abuse, Neglect, or Criminal History Which May Prevent

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 406.APPENDIX D Licensure or Employment in a Day Care Home
Pre-Service and In-Service Training
- 406.APPENDIX E List of Items for Fire Safety Inspection

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3], Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/1 and 2], and Section 5 of the Missing Children Records Act [325 ILCS 50/5].

SOURCE: Adopted and codified at 7 Ill. Reg. 7855, effective July 1, 1983; amended at 8 Ill. Reg. 24951, effective January 1, 1985; amended at 9 Ill. Reg. 2454, effective March 1, 1985; emergency amendment at 15 Ill. Reg. 15088, effective October 8, 1991, for a maximum of 150 days; modified at 16 Ill. Reg. 2269; amended at 16 Ill. Reg. 7602, effective April 30, 1992; amended at 18 Ill. Reg. 5531, effective April 1, 1994; amended at 19 Ill. Reg. 2765, effective February 23, 1995; amended at 21 Ill. Reg. 4524, effective April 1, 1997; emergency amendment at 24 Ill. Reg. 4207, effective March 1, 2000, for a maximum of 150 days; emergency expired July 28, 2000; amended at 24 Ill. Reg. 17047, effective November 1, 2000; amended at 25 Ill. Reg. 5714, effective April 1, 2001; emergency amendment at 26 Ill. Reg. 13694, effective August 30, 2002, for a maximum of 150 days; emergency expired on January 26, 2003; amended at 27 Ill. Reg. 19180, effective December 15, 2003; amended at 30 Ill. Reg. 18280, effective November 13, 2006; amended at 32 Ill. Reg. 9137, effective June 20, 2008; amended at 34 Ill. Reg. 18358, effective December 15, 2010; amended at 36 Ill. Reg. 4103, effective March 5, 2012; amended at 36 Ill. Reg. 13057, effective August 15, 2012; amended at 36 Ill. Reg. 13388, effective August 15, 2012; amended at 37 Ill. Reg. 19127, effective November 30, 2013; amended at 40 Ill. Reg. 10769, effective July 29, 2016.

Section 406.2 Definitions

"Access to children" means an employee's job duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual or auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

"Adult" means any person who is 18 years of age or older.

"Applicant" means a person living in the residence to be licensed who will be the primary caregiver in the day care home.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type which complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal. (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])

"Assistant" or "child care assistant" means a person (whether a volunteer or an employee) who assists a licensed home caregiver in the operation of the day care home.

"Attendance" means the total number of children under the age of 12 present at any one time.

"Authorized representative of the Department" means the licensing representative or any person acting on behalf of the Director of the Department.

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate; and
- a check of the Statewide Automated Child Welfare Information System (SACWIS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Registry.

"Basement" means the story below the street floor where occupants must traverse a full set of stairs, 8 or more risers, to access the street floor.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Department. This system is being replaced by the Statewide Automated Child Welfare Information System (SACWIS).

"Caregiver" means the individual directly responsible for child care.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Children with special needs" means children who exhibit one or more of the following characteristics, confirmed by clinical evaluation:

- Visual impairment: the child's visual impairment is such that development to full potential without special services cannot be achieved.
- Hearing impairment: the child's residual hearing is not sufficient to enable him or her to understand the spoken word and to develop language, thus causing extreme deprivation in learning and communication, or a hearing loss is exhibited that prevents full awareness of environmental sounds and spoken language, limiting normal language acquisition and learning.
- Physical or health impairment: the child exhibits a physical or health impairment that requires adaptation of the physical plant.
- Speech and/or language impairment: the child exhibits deviations of speech and/or language processes that are outside the range of acceptable variation within a given environment and prevent full social development.
- Learning disability: the child exhibits one or more deficits in the essential processes of perception, conceptualization, language, memory, attention, impulse control or motor function.
- Behavioral disability: the child exhibits an effective disability and/or maladaptive behavior that significantly interferes with learning and/or social functioning.
- Mental impairment: the child's intellectual development, mental capacity, and/or adaptive behavior are markedly delayed. Such mental impairment may be mild, moderate, severe or profound.

"Consultants" means those individuals providing technical assistance or advice regarding any aspect of the operation of the day care home.

"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Corporal punishment" means hitting, spanking, swatting, beating, shaking, pinching, excessive exercise, exposure to extreme temperatures, and other measures that produce physical pain.

"Cot" means a comfortable, safe and child-sized alternative bed made of resilient, fire retardant, sanitizable fabric that is on legs or otherwise above the floor and can be stored to allow for air flow.

"Day care homes" means family homes which receive more than 3 up to a maximum of 12 children for less than 24 hours per day. The maximum of 12 children includes the family's natural, foster, or adopted children and all other persons under the age of 12. The term does not include facilities which receive only children from a single household. (Section 2.18 of the Child Care Act of 1969 [225 ILCS 10/2.18])

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Discipline" means the process of helping children to develop inner controls so that they can manage their own behavior in socially acceptable ways.

"Disinfect" means to eliminate virtually all germs from inanimate surfaces through the use of chemicals or physical agents (e.g., heat). In the child care environment, a solution of ¼ cup household liquid chlorine bleach added to one gallon of water (or one tablespoon bleach to one quart water) and prepared fresh daily is an effective disinfectant for environmental surfaces and other objects. A weaker solution of 1 tablespoon bleach to 1 gallon of cool water is effective for use on toys, eating utensils, etc. Commercial products may also be used.

"Family home" or "family residence" means the location or portion of a location where the applicant and his or her family reside, and may include basements and attics. It does not include other structures that are separate from the home but are considered part of the overall premises, such as adjacent apartments, unattached basements in multi-unit buildings, unattached garages, and other unattached buildings.

"Firearm" means any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

escape of gas; excluding, however:

any pneumatic gun, spring gun, paint ball gun, or BB gun that expels a single globular projectile not exceeding .18 inch in diameter or that has a maximum muzzle velocity of less than 700 feet per second;

any pneumatic gun, spring gun, paint ball gun, or BB gun that expels breakable paint balls containing washable marking colors;

any device used exclusively for signalling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission;

any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition; and

an antique firearm (other than a machine gun) that, although designed as a weapon, the Department of State Police finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon. [430 ILCS 65/1.1]

"Gateways to Opportunity Registry" means a program administered by the Department of Human Services to track and maintain education and training credentials of primary caregivers and assistants that allows them to establish a profile in the registry of their educational and training development.

"Ground level" means that a child can step directly from the exit onto the ground, a sidewalk, a patio, or any surface that is not above or below the ground.

"Guardian" means the guardian of the person of a minor. (Section 2.03 of the Child Care Act of 1969 [225 ILCS 10/2.03])

"Infant" means a child through 12 months of age.

"Initial background check" means fingerprints have been obtained for a criminal history check, and the individual has cleared a check of the Statewide Automated Child Welfare Information System (SACWIS) and the Illinois Sex Offender Registry.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"License" means a document issued by the Department that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant", for purposes of background checks, means the operator or persons with direct responsibility for daily operation of the facility to be licensed. (Section 4.4 of the Child Care Act of 1969 [225 ILCS 10/4.4])

"License study" means the review of an application for license, on-site visits, interviews, and the collection and review of supporting documents to determine compliance with the Child Care Act of 1969 and the standards prescribed by this Part.

"Licensed capacity" means the number of children the Department has determined the day care home can care for at any one time in addition to any children living in the home who are under the age of 12 years. Children age 12 and over on the premises are not considered in determining licensed capacity.

"Licensing representative" means a person authorized by the Department under Section 5 of the Child Care Act of 1969 to examine facilities for licensure.

"Licensing year" often called the anniversary year, means the period of time from the date a day care home license is issued until the same date of the following year.

"Member of the household" means a person who resides in a family home as evidenced by factors including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority in Illinois or another state or municipal authority that is punishable solely as a petty offense. (See Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601].)

"Parents", as used in this Part, means those persons assuming legal responsibility for care and protection of the child on a 24-hour basis; includes guardian or legal custodian.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Permit" means a one-time only document issued by the Department of Children and Family Services for a 2-month period to allow the individuals to become eligible for a license.

"Person" means any individual, group of persons, agency, association, or organization.

"Persons subject to background checks" means:

- the operators of the child care facility;
- all current and conditional employees of the child care facility;
- any person who is used to replace or supplement staff; and
- any person who has access to children, as defined in this Section.

If the child care facility operates in a family home, the license applicants and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Physician" means a person licensed to practice medicine in the State of Illinois or a contiguous state.

"Premises" means the location of the day care home wherein the family resides and includes the attached yard, garage, basement and any other outbuildings.

"Preschool age" means children under 5 years of age and children 5 years old who do not attend full day kindergarten.

"Program" means all activities provided for the children during their hours of attendance in the day care home.

"Protected exit from a basement" means an exit that is separated from the remainder of the day care home by barriers (such as walls, floors, or solid doors) providing one-hour fire resistance. The separation must be designed to limit the spread of fire and restrict the movement of smoke.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Related" means any of the following relationships by blood, marriage, civil union, or adoption: parent, grandparent, sibling, great-grandparent, great-uncle, great-aunt, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, nephew, niece, or first cousin. (Section 2.04 of the Child Care Act of 1969 [225 ILCS 10/2.04])

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that is replacing the Child Abuse and Neglect Tracking System (CANTS).

"School age" means children from 6 to 12 years of age and 5 year olds who are in full-day kindergarten.

"Special use areas" means areas of the home that may not be included in the measurements of the area used for child care. Special use areas include, but are not limited to, laundry rooms, furnace rooms, bathrooms, hazardous areas, and areas off-limits to children.

"Story" means that level of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

"Street floor" means a story or floor level accessible from the street or from outside a building at ground level, with the floor level at the main entrance located not more than 4 risers above or below the ground level and arranged and utilized to qualify as the main floor.

"Substantiated violation" means that the licensing representative has determined, during a licensing complaint investigation or a monitoring or renewal visit, that the licensee has violated a licensing standard of this Part or the Child Care Act.

"Supervising agency", as used in this Part, means a licensed child welfare agency, a licensed day care agency, or the Department.

"Swimming pool" means any natural or artificial basin of water intended for public swimming or recreational bathing that exceeds 2'6" in depth as specified in the Illinois Swimming Pool and Bathing Beach Code (77 Ill. Adm. Code 820). The term includes bathing beaches and pools at private clubs, health clubs, or private residences when used for children enrolled in a child care facility.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Wading pool" means any natural or artificial basin of water less than 2'6" in depth that is intended for recreational bathing, water play or similar activity. The term includes recessed areas less than 2'6" in depth in swimming pools that are designated primarily for children.

(Source: Amended at 40 Ill. Reg. 10769, effective July 29, 2016)

Section 406.4 Application for License

- a) A complete application shall be filed with the Department of Children and Family Services by the supervising agency on forms prescribed and provided by the Department.
- b) Contents of Application
 - 1) A complete application shall include:
 - A) a completed, signed and dated Application for Home License;
 - B) a list of persons who will be working in the day care home, including any substitutes and assistants, and members of the household age 13 and over;
 - C) completed, signed and dated authorizations to conduct the background check for the applicants, each employee or person used to replace or supplement staff, and each member of the household age 13 and over;
 - D) a completed, signed and dated Child Support Certification form;
 - E) the names, addresses and telephone numbers of at least 3 adults not related to the applicants, nor living in the household, who can attest to their character and suitability to provide child care;
 - F) a written hazard protection plan identifying potential hazards within the home and outdoor area accessible to the children in care. The written plan shall address the specific hazards and the adult supervision and physical means required to minimize the risks to

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

children. Conditions to be addressed include, but are not limited to, traffic construction, bodies of water accessible to the children, open stairwells, and neighborhood dogs;

- G) a copy of high school diploma, ~~or~~ equivalent certificate, or degree from a regionally accredited institution of higher education or vocational institution;
 - H) ~~for applications submitted on or after September 1, 2012,~~ proof of membership in the Gateways to Opportunity Registry by the primary caregiver and assistants in the home with all educational credentials and pre-service training entered into the Registry; and
 - I) *for an initial application effective January 1, 2014 or later, proof that the home has been tested within the last 3 years for radon, as established by rules of the Illinois Emergency Management Agency (32 Ill. Adm. Code 422) [225 ILCS 10/5.8].*
- 2) The applicants~~For initial applications submitted after January 1, 2011, the applicant, who shall be the primary caretaker,~~ shall have completed, not more than one year prior to the application date, at least 15 hours of pre-service training listed in Appendix D, which shall include the following topics for applicants and assistants who will care for infants:
- A) Sudden Infant Death Syndrome (SIDS);
 - B) Sudden Unexpected Infant Death (SUID);
 - C) Safe sleep recommendations from the American Academy of Pediatrics;
 - D) Shaken Baby Syndrome; and
 - E) Department approved Mandated Reporter Training for all licensees and assistants, regardless of the age of children in care~~training~~.
- c) The supervising agency shall study each day care home under its supervision before recommending issuance of a license. The licensing study shall be

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

conducted by a licensing representative and shall be reviewed and approved by his/her supervisor. Supervisory approval indicates recommendation for license or denial of a license and compliance or non-compliance with the standards prescribed by this Part. The study shall be in writing and shall be signed by the licensing representative performing the study and by his/her supervisor. A license may not be recommended without the receipt of at least 3 positive, written references, and a written study signed by the licensing representative and supervisor. The applicant shall receive a copy of the results of the on-site compliance review upon request.

- d) Fire Safety Inspection
 - 1) The Department shall request the Office of the State Fire Marshal (OSFM) to perform a fire safety inspection of homes when an initial application is being considered for licensure and when care will be provided on other than ground level and for homes in multi-housing units and submit a written recommendation of the inspection to the supervising agency of the day care home and to the applicant;
 - 2) The fire safety inspection on single floor homes, at ground level with no unusual or complex code considerations, shall be completed following the list of items for fire safety inspection in Appendix E by a licensing representative trained by OSFM to conduct that fire prevention inspection;
 - 3) Prior to the Department issuance of a permit or a license, the day care home shall have written approval by OSFM or staff trained by OSFM, indicating the home meets fire safety requirements.
- e) Licensed day care homes that fail to comply with all applicable local, municipal and State regulations may be prohibited from operating.
- f) New Applications
 - 1) A new application shall be filed when any of the following occurs:
 - A) When an application for a license has been withdrawn, surrendered or denied and the applicant or licensee seeks to reapply;
 - B) When there is a failure to submit a completed application within 14

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

days after a change of the location of the day care home;

- C) Not sooner than 12 months after the Department has revoked or refused to renew a license, after the previous license has been surrendered with cause, or refused to issue a full license to a permit holder, and a new license is sought.
- 2) For the application to be considered timely and sufficient, a new application shall be completed, signed by the licensee and submitted to the supervising agency within 30 days after the following changes:
- A) When there is a change in the name of the licensee, the supervising agency or the legal status from a social security number to Federal Employer Identification Number (FEIN); or
 - B) When there is a change in the status of joint licensees, such as separation, divorce or death.

(Source: Amended at 40 Ill. Reg. 10769, effective July 29, 2016)

Section 406.5 Application for Renewal of License

- a) Application forms for license renewal shall be mailed to day care home licensees by the supervising agency 6 months prior to the expiration date of the license.
- b) The completed application shall be signed by the licensees and submitted to the supervising agency at least 3 months prior to expiration of the current license, in order to be considered timely and sufficient.
- c) When a licensed day care home seeks to change its name, location, or supervising agency, a new application reflecting the changes must be completed, signed by the licensees and submitted to the supervising agency 30 days prior to the effective date of the changes for the application to be considered timely and sufficient.
- d) *When a licensee has made timely and sufficient application for renewal of a license or a new license with reference to any activity of a continuing nature and the Department fails to render a decision on the application for renewal of the license prior to the expiration date of the license, the existing license shall*

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

continue in full force and effect for up to 30 days until the final Department decision has been made. The Department may further extend the period in which such decision must be made in individual cases for up to 30 days, if good cause is shown. [225 ILCS 10/5(d)]

- e) Prior to renewal, the licensee shall be current with the annual 15 hours of required training in accordance with Appendix D that, for applicants and assistants licensed to care for newborns and infants, shall include the following topics:
- 1) Sudden Infant Death Syndrome (SIDS), Sudden Unexpected Infant Death (SUID) and safe sleep recommendations from the American Academy of Pediatrics; and
 - 2) Shaken Baby Syndrome.
- f) At the time of license renewal, the supervising agency shall review the fire emergency, tornado/severe weather emergency, and hazard protection written plans. Any revision or enhancement shall be part of the licensing renewal process. Licensed homes that do not have a written hazard plan (see Section 406.4(b)(1)(F)(6)) shall develop a plan and submit it to the supervising agency prior to renewal.
- g) Fire Safety Inspection
- 1) Fire safety inspections of homes licensed for multi-housing unit or single family dwelling in which care will be provided on other than grade level shall be completed by OSFM or its designee;
 - 2) Fire safety inspection of homes licensed for a single floor with no unusual or complex code considerations shall be completed by a licensing representative trained by OSFM;
 - 3) The fire safety inspection shall be conducted in accordance with the requirements of Appendix E.
- h) Upon receipt of the application for license renewal, the supervising agency shall conduct a license study in order to determine that the day care home continues to meet licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

performing the study. The licensees shall receive a copy of the results of the on-site compliance review upon request.

- i) *For a renewal application effective January 1, 2014 or later, proof the home that has been tested within the last 3 years for radon, as established by rules of the Illinois Emergency Management Agency (32 Ill. Adm. Code 422) [225 ILCS 10/5.8].*

(Source: Amended at 40 Ill. Reg. 10769, effective July 29, 2016)

Section 406.7 Provisions Pertaining to Permits

- a) A permit shall not be issued until:
- 1) The application for ~~license~~ licensure has been completed and signed by the applicants and all parts of the initial application requirements have been submitted to the Department;
 - 2) The background checks required by Section 406.9 have been completed and the results of the background check have been received for the operator of the day care home;
 - 3) Medical reports as required in Section 406.24(i) have been received by the Department for all caregivers and assistants;
 - 4) The applicant who is the primary caregiver has been certified in first-aid, the Heimlich maneuver, and infant/child cardiopulmonary resuscitation (CPR) in accordance with Section 406.9(n);
 - 5) ~~For initial applications submitted after January 1, 2011, the applicant for license shall have completed, not more than one year prior to application, at least 15 hours of pre-service training listed in Appendix D, which shall include the following topics:~~
 - A) ~~Sudden Infant Death Syndrome (SIDS);~~
 - B) ~~Shaken Baby Syndrome; and~~
 - C) ~~Department approved Mandated Reporter training;~~

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 56) Character references have been requested, and at least two favorable references have been received and the results of the background check have been received for the operator of the day care home;
- 67) A personal visit to the home by a licensing representative has been completed. The purpose of this visit is to determine compliance with all the licensing requirements except the requirements for remaining character references, medical examination reports, and well water tests compliance that may be complied with within the 2 month period covered by the permit. However, when well water tests are required, applicants must agree to boil all drinking and cooking water and to provide only bottled water for children under 15 months of age until the test results are received;
- 78) A written plan has been submitted to the licensing representative that indicates that requirements for a license shall be met within the 2 month permit period; and
- 89) A written fire safety inspection and approval of the home has been completed in accordance with Section 406.4(d)~~of this Part~~.
- b) A permit shall not be issued retroactively.
- c) Permits shall not be transferred to another person or other legal entity.
- d) Permits shall not be valid for a name or location different from the name and location shown on the issued permit.
- e) Permits shall not be renewable.
- f) A current permit shall be prominently displayed in the day care home at all times while the home is operating under a permit.
- g) A license shall be issued at any time within the 2 month period covered by the permit provided that the day care home achieves and maintains compliance with the Department's licensing standards.
- h) The day care home shall adhere to the provisions or restrictions specified on the

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

permit.

- i) There shall be no fee or charge for the permit.

(Source: Amended at 40 Ill. Reg. 10769, effective July 29, 2016)

Section 406.8 General Requirements for Day Care Homes

- a) The physical facilities of the home, both indoors and outdoors, shall meet the following requirements for safety to children.
 - 1) The home shall have a first aid kit consisting of adhesive bandages, scissors, thermometer, non-permeable gloves, Poison Control Center telephone number (1-800-222-1222 or 1-800-942-5969), sterile gauze pads, adhesive tape, tweezers and mild soap.
 - 2) The kitchen shall be equipped with a readily accessible and operable fire extinguisher rated for Class A, B, and C fires and a flashlight in working order.
 - 3) All electrical outlets that are in areas used by the day care children shall have protective coverings. There shall be no exposed or uninsulated wiring.
 - 4) The home shall be equipped with a minimum of one approved smoke detector in operating condition on every floor level, including basements and occupied attics.
 - A) A smoke detector in operating condition shall be within each room where children nap or sleep. *The detector shall be installed on the ceiling and at least 6 inches from any wall, or on a wall located between 4 and 6 inches from the ceiling.* In addition, there shall be at least one detector at the beginning and end of each separate corridor or hallway 200 feet or more in length in any occupied story.
 - B) *In any facility constructed after December 31, 1987, or which undergoes substantial remodeling of its structure or wiring system after that date, the smoke detectors shall be permanently wired*

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

into the structure's AC power line, and, if more than one detector is required to be installed, the detectors shall be wired so that the activation of one detector will activate all the detectors in the facility unit. For purposes of this subsection (a)(4), "substantial remodeling" represents more than 15% of the replacement cost of the day care home. For homes that did not have wired installation of smoke detectors in each room prior to December 15, 2011, the Department may allow the installation of a battery-operated smoke detector in each room where children nap or sleep and deem the home to be in compliance.

- C) *Compliance with any applicable federal, State or local law, rule or building code which requires the installation and maintenance of smoke detectors in a manner different from this Section, but providing a level of safety for occupants which is equal to or greater than that provided by this Section, shall be deemed to be compliance with this Section.* (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])
- D) For homes constructed after December 15, 2011, or that underwent substantial remodeling of structure or wiring systems after December 15, 2011, the smoke detectors shall be permanently wired into the structure's AC power line and, if more than one detector is required to be installed, the detectors shall be wired so that the activation of one detector will activate all the detectors in the facility unit.
- 5) Carbon Monoxide Detector
 - A) A home that has an attached garage and/or relies on combustion of fossil fuel for heating, ventilation, or hot water shall be equipped with a minimum of one approved carbon monoxide detector in operating condition within 15 feet of rooms where children nap or sleep.
 - B) *The carbon monoxide detector may be combined with smoke detector devices, provided that the combined unit complies with subsection (a)(4) and this subsection (a)(5).* [430 ILCS 135/10]

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 6) The home and indoor space shall be maintained in good repair and shall provide a safe, comfortable environment for the children.
- 7) A draft-free temperature of 65°F to 75°F shall be maintained during the winter months or heating season. For infants and toddlers, a temperature of 68°F to 82°F shall be maintained during the summer or air-conditioning months. When the temperature in the home exceeds 78°F, measures shall be taken to cool the children. Temperatures shall be measured at least 3 feet above the floor.
- 8) Fixed space heaters, fireplaces, radiators, and other heating sources in areas occupied by children shall be separated by partitions or a sturdy barrier to prevent contact. Portable space heaters may not be used in a day care home during the hours that child care is provided.
- 9) Facilities in which a wood-burning stove or fireplace has been installed and which is used during the hours that child care is provided shall provide a written plan of how the stove or fireplace will be used and what actions will be taken to ensure the children's safety when in use.
- 10) When the basement area may be used for child care, 2 exits shall be provided.
 - A) At least one exit shall be a basement exit via a door directly to the outside (without traversing any other level of the home) or a protected exit from a basement via a door or stairway that allows unobstructed travel directly to the outside of the building at street or ground level. The stairway may not be more than 8 feet high.
 - B) A second exit may be a window.
 - i) The window shall be operable from the inside without the use of tools and provide a clear opening not less than 20 inches in width, 24 inches in height, and 5.7 square feet in area.
 - ii) If the window is used as a second exit, the bottom of the window opening shall be no more than 44 inches above the floor.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- iii) When the bottom of the window opening used as a second exit is greater than 24 inches above the floor, there shall be a permanently affixed, sturdy ramp or stairs located below the window to allow speedy access in the event of an emergency.
 - C) If the basement area does not meet the requirements in subsections (a)(10)(A) and (B), the basement may be used for child care only with the prior written approval of OSFM.
- 11) All walls and surfaces shall be maintained free from lead paint and from chipped or peeling paint, ~~carpeting, fabric or plastic products. Flammable or combustible artwork attached to the walls shall not exceed 20% of the wall area.~~
 - 12) Walls of rooms that children use shall be ~~maintained~~ free of carpeting, fabric or plastic products. Inflammable or combustible artwork attached to the walls shall not exceed 20% of any wall area. ~~lead paint.~~
 - 13) Furniture and equipment shall be kept in safe repair.
 - 14) First aid supplies, medication, cleaning materials, poisons, sharp scissors, plastic bags, sharp knives, cigarettes, matches, lighters, flammable liquids, and other hazardous materials shall be stored in places inaccessible to children. Hazardous items for infants and toddlers also include items that can cause choking, including but not limited to: coins, balloons, safety pins, marbles, Styrofoam™ and similar products, and sponge, soft rubber or soft plastic toys that can be bitten or broken into small pieces.
 - 15) Tools and gardening equipment shall be stored in locked cabinets, if possible, or in places inaccessible to all children.
 - 16) An operable telephone shall be available on the premises of the licensee. The number of the Poison Control Center (1-800-222-1222 or 1-800-942-5969) and other emergency numbers shall be posted in an area that is readily available in an emergency.
 - 17~~16~~) *Handguns are prohibited on the premises of the day care home except in*

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

the possession of peace officers or other adults who must possess a handgun as a condition of employment and who reside in the day care home. The licensee shall post a "no firearms" sign, as described in Section 65(d) of the Firearm Concealed Carry Act [430 ILCS 66/65(d)], in a visible location where parents pick up children.

18)17) *Any firearm, other than a handgun in the possession of a peace officer or other person as provided in subsection (a)(~~1713~~), shall be kept in a disassembled state, without ammunition, in locked storage in a closet, cabinet, or other locked storage facility inaccessible to children.*

A) *Ammunition for such firearms shall be kept in locked storage separate from that of the disassembled firearms, inaccessible to children.*

B) *The operator of the home shall notify the parents or guardian of any child accepted for care that firearms and ammunition are stored on the premises. The operator shall also notify the parents or guardian that such firearms and ammunition are locked in storage inaccessible to children. (Section 7 of the Child Care Act of 1969 [225 ILCS 10/7]Act) ~~The~~Such notification need not disclose the location where the firearms and ammunition are stored.*

19)18) Written emergency preparedness~~There shall be written~~ plans shall be developed and shall specify the actions to be taken in the event of a fire, and tornado or other emergency emergencies. Caregivers and assistants in the home shall be familiar with these plans. The emergency preparedness plans shall include, but are not limited to:

A) A~~The~~ fire evacuation plan identifying~~shall identify~~ the exits from each area used for child care and specifying~~shall specify~~ the evacuation route;:-

B) A~~The~~ fire evacuation plan identifying~~shall identify~~ a safe assembly area outside of the home. It shall also identify a nearby indoor location for post-evacuation holding if needed;:-

C) A~~The~~ fire evacuation plan requiring~~shall require~~ that the home be

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

evacuated immediately and the children's safety insured before calling the local emergency number 911 or attempting to combat the fire;-

- D) ~~A~~The written tornado plan specifying~~shall specify what~~ actions that will be taken in the event of tornado or other severe weather warning, including designation of those areas of the home to be used as ~~the~~ safe spots;-
- E) Specific procedures for notifying parents if evacuation is necessary and how they will be reunited with their children;
- F) Specific procedures for evacuating children who are less than 30 months of age and/or for evacuating special needs children when applicable;
- G) Monthly fire drills to be conducted for the purpose of removing children from the home as quickly as possible; and
- H) Monthly tornado drills to be conducted for the purpose of getting children accustomed to moving to a position of safety in the event of a tornado.
- 2019) ~~The licensee shall hold monthly fire safety inspections of the day care home and maintain documentation on file for a period of 1 year. Monthly fire drills shall be conducted for the purpose of removing children from the home as quickly as possible.~~
- 20) ~~Tornado drills shall be conducted monthly for the purpose of getting children accustomed to moving to a position of safety in the event of a tornado.~~
- 21) Fire and tornado drills shall be ~~documented~~recorded on forms prescribed by the Department and that documentation shall be maintained on file for a period of 3 years.
- 22) Escape routes from the home shall be designed and maintained for swift and safe exiting in the event of an emergency.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- A) All corridors and escape routes from the home shall be kept clear of obstructions.
 - B) Dead-end paths or corridors within the home shall be a maximum of 20 feet in length.
 - C) All escape routes from the home shall have operable lighting. The lighting shall be activated during any hours of operation when natural lighting is reduced to a level that prohibits visibility within the escape route.
 - D) Bathroom doors in areas accessible to day care children shall allow a caregiver to open the door from outside of the bathroom if necessary.
 - E) All closet doors accessible to children shall be able to be opened from inside of the closet without the use of a key.
 - F) There shall be no more than 2 releasing devices (door knobs, hand-operated deadbolts, thumb-turn locks, etc.) on any exit door or exit window.
 - G) Exit doors and exit windows shall be operable without the use of a key, a tool or special knowledge to open for exit to the outside.
 - H) Exit doors and exit windows shall be kept clear of equipment and debris at all times.
- 23) The licensee shall inspect the home daily, prior to arrival of children, ensuring that escape routes are clear and that exit doors and exit windows are operable. A log of these daily inspections shall be maintained for at least one year, and shall be available for review. The log shall reflect, at minimum, the date and time of each inspection and the full name of the person who conducted it.
- ~~24) The licensee shall hold monthly fire inspections of the day care home.~~
- ~~25) In the event of a fire, the day care home shall be evacuated immediately and the children's safety insured before calling the fire department or~~

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~attempting to combat the fire.~~

- ~~26)~~ ~~There shall be an operable telephone available on the premises of the licensee. The number of the Poison Control Center (1-800-222-1222 or 1-800-942-5969) and other emergency numbers shall be posted in an area that is readily available in an emergency.~~
- ~~2427)~~ All in-ground swimming pools located in areas accessible to children shall be fenced. The fence shall be at least 5 feet in height and secured by a locked gate. Day care homes that have a license or a permit on April 1, 2001 and are in compliance with the requirement for a 3½ foot fence shall be considered in compliance with the fence requirement.
- ~~2528)~~ All above-ground pools shall have non-climbable sidewalls that are at least 4 feet high or shall be enclosed with a 5 foot fence that is at least 36 inches away from the pool's side wall and secured with a locked gate. When the pool is not in use, steps shall be removed from the pool or otherwise protected to insure the pool cannot be accessed. Day care homes that have a license or a permit on April 1, 2001 and are in compliance with the requirement for a 3½ foot fence shall be considered in compliance with the fence requirement.
- ~~2629)~~ Portable wading pools shall be emptied daily and disinfected before being air-dried.
- ~~2730)~~ All hot tubs shall have securely locked covers or otherwise be inaccessible to children.
- ~~2831)~~ Free hanging cords on blinds, shades and drapes shall be tied or otherwise kept out of reach of children.
- ~~2932)~~ ~~Radon Test~~Effective January 1, 2013, the home shall be tested for radon at least once every 3 years. The most current radon measurements shall be posted next to the license in the home, on a form provided by the Department, containing the required informative statement from Section 5.8(d) of the Child Care Act of 1969 [225 ILCS 10].
- b) The kitchen shall be clean, equipped for the preservation, storage, preparation and serving of food, and reasonably safe from hazards.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- c) Garbage and refuse containers used to discard diapering supplies, food products or disposable meal service supplies in areas for child care shall be disinfected daily unless plastic liners are used and disposed of daily.
- d) A safe and sanitary water supply shall be maintained. If a private water supply is used instead of an approved public water supply, the applicant shall supply written records of current test results indicating the water supply is safe for drinking. New test results must be provided prior to renewal of license. If nitrate content exceeds 10 parts per million, bottled water must be used for children under 15 months of age.
- e) Hot and cold running water shall be provided. When children under age 10 or who are developmentally disabled are cared for, the maximum hot water temperature from all faucets of sinks designated for children washing hands shall be no more than 115° Fahrenheit. Caregivers shall always test the hot water before allowing children less than 5 years of age to use the water.
- f) Insect and rodent control shall be maintained.
 - 1) All outside doors except those with operable self-closing devices, operable windows, and other openings used for ventilation shall be screened.
 - 2) Chemicals for insect and rodent control shall be applied in minimum amounts and shall not be used when children are present. Over-the-counter products may be used only according to package instructions. Commercial chemicals, if used, shall be applied by a licensed pest control operator and shall meet all standards of the Department of Public Health (Structural Pest Control Code, 77 Ill. Adm. Code 830). A record of any pesticides used shall be maintained.
- g) Healthy household pets that present no danger to children are permitted.
 - 1) A licensed veterinarian shall certify that the animals are free of diseases that could endanger the children's health and that dogs and cats have been inoculated for rabies.
 - 2) If certification is not available, animals shall be confined at all times in an area inaccessible to children.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 3) There shall be careful supervision of children who are permitted to handle and care for the animals.
 - 4) Immediate treatment shall be available to any child who is bitten or scratched by an animal.
 - 5) The presence of monkeys, ferrets, turtles, iguanas, psittacine birds (birds of the parrot family) or any wild or dangerous animal is prohibited in areas accessible to children during the hours the day care home is in operation. Wild and dangerous animals include, but are not limited to, venomous and constricting snakes, undomesticated cats and dogs, raccoons, and other animals determined to be dangerous by local public health authorities.
- h) Indoor space shall consist of a clean, comfortable environment for children.
- 1) The day care home shall be well-ventilated, free from observable hazards, properly lighted and heated, and free of fire hazards.
 - 2) The dwelling shall be kept clean, sanitary, and in good repair.
 - 3) There shall be provision for isolating a child who becomes ill or who is suspected of having a contagious disease.
 - 4) When used for child care, floors shall have protective covering such as, but not limited to, tile, carpet or linoleum. Paint or sealer alone is not acceptable as a protective covering.
 - 5) When children under 30 months of age are in care, stairs leading to second levels, attics or basements shall be fitted with a sturdy gate, door or other barrier to prevent the children's access to stairs without adult supervision. Such a barrier shall be moveable enough so as not to impede evacuation, if necessary.
- i) The licensee shall identify those areas in the home used for child care. The identified areas minus any special use areas shall be measured to calculate the square footage available for child care. When the licensed capacity of the home exceeds 8 children, there shall be:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) A minimum of 35 square feet of floor space per each child in care; and
 - 2) An additional 20 square feet of floor space for each child under 30 months of age when the play area is the same as the sleep area. However, if portable bedding is used for napping, then removed, the licensing representative shall approve the use of only 35 square feet of space for each child if the applicant/licensee has adequate storage for the bedding materials and the bedding materials are removed before and after naptime.
- j) *No person may smoke tobacco in any area of the day care home in which day care services are being provided to children, while those children are present on the premises. In addition, no person may smoke tobacco while providing transportation, in either an open or enclosed motor vehicle, to children who are receiving child care services. Nothing in this subsection prohibits smoking in the home in the presence of a person's own children or in the presence of children to whom day care services are not then being provided. [225 ILCS 10/5.5]*
- k) There shall be safe outdoor space for active play.
- 1) Space shall be provided for play in yards, nearby parks or playgrounds under adult supervision.
 - 2) Space shall be protected by physical means (e.g., fence, tree line, chairs, ropes, etc.) against all water hazards, including, but not limited to, pools, ponds, standing water, ornamental bodies of water, and retention ponds, regardless of the depth of the water, and by adult caregiver supervision at times when children in care are present. Other hazards, such as, but not limited to, heavy traffic and construction, shall be inaccessible to children in care through a physical barrier and adult supervision.
 - 3) Play areas shall be well drained and safely maintained.
 - 4) All pieces of outdoor equipment used by children 5 years of age and younger on the day care home premises that is purchased or installed on or after April 1, 2001 shall meet the following standards to guard against entrapment or situations that may cause strangulation.
 - A) Openings in exercise rings shall be smaller than 4½ inches or larger than 9 inches in diameter.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- B) There shall be no openings in a play structure with a dimension between 3½ inches and 9 inches (except for exercise rings). Side railings, stairs and other locations that a child might slip or climb through shall be checked for appropriate dimensions.
 - C) Distances between vertical slats or poles, where used, must be 3½ inches or less (to prevent head entrapment).
 - D) No opening shall form an angle of less than 55 degrees unless one leg of the angle is horizontal or slopes downward.
 - E) No openings shall be between ¾ inch and one inch in size (to prevent finger entrapment).
- 5) The use of a trampoline by children in care is prohibited.
- 6) Children shall be closely supervised by the caregiver when public parks or playgrounds are used for play, during play and while traveling to and from the area.
- 7) Supervision shall be provided during outdoor play by caregivers who meet the requirements of Section 406.9.
- l) Operation of other business on the premises must not interfere with the care of children.
- m) A day care home may not house bedridden or chronically ill persons except by permission of the supervising agency. The supervising agency shall grant such permission unless the person has a contagious or a reportable communicable disease or requires care that adversely affects the ability of the caregiver to supervise children.
- n) ~~By December 28, 2012, the~~ day care home shall ~~have~~obtain certification that all cribs used by the home meet or exceed the federal safety standards in 16 CFR 1219 or 1220 (2011). This certification from the manufacturer shall be available for inspection by the licensing representative. In the absence of a manufacturer's certificate, proof that the crib was manufactured on or after June 28, 2011 will meet the required standard.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 40 Ill. Reg. 10769, effective July 29, 2016)

Section 406.9 Characteristics and Qualifications of the Day Care Family

- a) No individual may receive a license from the Department when the applicant, a member of the household age 13 and over, or any individual who has access to the children cared for in a day care home, or any employee of the day care home, has not authorized the background check required by 89 Ill. Adm. Code 385 (Background Checks) and been cleared in accordance with the requirements of Part 385.
- b) Employees subject to background checks may begin employment on a conditional basis while awaiting the results of the background check. Such employees may not be alone with children until the results of the initial background check have been received.
- c) Persons who have been the perpetrator of certain types of child abuse or neglect or who have committed or attempted to commit certain crimes may not be licensed to operate a day care home, be a member of the household of a family home in which a day care home operates, or be an employee or volunteer in a day care home. These allegations/criminal convictions are listed in Appendix C of this Part.
- d) Day care homes shall be responsible for ensuring that persons subject to criminal background checks make themselves available for fingerprinting when scheduled by the Department or its authorized representatives. Failure of a person subject to criminal background checks to appear for scheduled fingerprinting may result in the denial of a license application or refusal to renew or revocation of an existing license unless the child care facility can demonstrate that it took reasonable measures to insure cooperation with the fingerprinting process. Adequate cause for failure to appear for fingerprinting includes, but is not limited to:
 - 1) death in the family of the person;
 - 2) serious illness of the person or illness in the person's immediate family; or
 - 3) weather or transportation emergencies.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- e) As a condition of licensure, each licensee or license applicant must *certify under penalty of perjury that he or she is current or not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license.* (Section 10-65(c) of the Illinois Administrative Procedure Act [5 ILCS 100/10-65(c)])
- f) If the licensees or license applicants acknowledge that they are more than 30 days delinquent in complying with an order for child support or, upon completion of the background check, the licensees or license applicants are found to be delinquent despite their certification, the Department shall deny the application for license, refuse to renew the license, or revoke the license unless the licensees or license applicants arrange for payment of past due and current child support and pay child support in accordance with that agreement.
- g) Members of the household who have contact with the children in care shall treat them with respect, courtesy, and patience.
- h) The caregiver is responsible for the day-to-day operation of the day care home in accordance with the standards prescribed in this Part.
- i) The licensee shall be present in the home when day care children are in attendance unless a qualified substitute caregiver per Section 406.11 is present.
- j) The licensee and other adult members of the household in contact with day care children shall be stable, law abiding, responsible, mature individuals.
- k) The caregivers in a day care home shall be at least 18 years of age.
- l) Caregivers licensed after January 1, 2011 shall have proof of a high school diploma, ~~or~~ equivalent certificate, or degree from a regionally accredited institution of higher education or vocational institution.
- m) The caregivers and all members of the household shall provide medical evidence as required by Section 406.24(i) that they are free of reportable communicable disease, and, in the case of caregivers, free of physical or mental conditions that could interfere with the child care responsibilities.
- n) The licensee who is the primary caregiver shall be certified in first aid, the

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Heimlich maneuver and infant/child cardiopulmonary resuscitation (CPR) by the American Red Cross, the American Heart Association or other entity approved by the Illinois Department of Public Health.

- o) During the hours of operation of the day care home, there shall be at least one person on the premises certified in first aid, the Heimlich maneuver and infant/child cardiopulmonary resuscitation (CPR) by the American Red Cross or the American Heart Association, or other entity approved by the Illinois Department of Public Health. The caregivers shall have on file current certificates attesting to the training.
- p) The caregiver shall successfully complete a Department approved basic training course of 6 or more clock hours in providing care to children with disabilities. Refer to Appendix D for basic course requirements. The licensee shall have on file a certificate attesting to the successful completion of the training.
 - 1) New licensee shall complete this training within 36 months from the issue date of the initial license.
 - 2) A licensee who has completed training prior to November 15, 2003 may have that training approved as meeting the provisions of this Section. A certificate of training completion and a description of the course content must be submitted to the Department for approval.
- q) Through interaction with the licensing representative, children, parents or guardian of children in care and operation of the day care home in accordance with standards prescribed by this Part, caregivers shall exhibit competence in the following specific areas:
 - 1) Knowledge of basic hygiene, safety, and nutrition.
 - 2) The ability to relate comfortably with parents and to communicate with them on differences in caregiving methods, values, and goals.
 - 3) The ability to communicate with children.
 - 4) The ability to set realistic controls for children and to enforce these without harshness or physical abuse.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 5) Knowledge of the child's need to explore and manipulate and the willingness to provide and maintain a home where children can enjoy living and learning.
- 6) Using developmentally appropriate behavior management techniques that do not constitute corporal punishment of children.
- r) The caregivers may not work or be employed outside the home during the hours ~~the day care home is licensed~~~~that child care is being provided~~. Outside employment during hours that child care is not being provided shall not interfere with child care.
- s) The caregiver shall be awake, alert, and able to supervise the children when providing care, except as allowed by Section 406.23(h), night care.
- t) The caregivers shall complete 15 clock hours of in-service training per licensing year in accordance with the requirements in Appendix D.
 - 1) Such training may be derived from programs offered by any of the entities identified in Appendix D.
 - 2) Courses or workshops to meet this requirement include, but are not limited to, those listed in Appendix D.
 - 3) The records of the day care home shall document the training in which the caregiver has participated, and these records shall be available for review by the Department.
 - 4) Caregivers obtaining clock hours in excess of the required 15 clock hours per year may apply up to 5 clock hours to the next year's training requirements.
- u) Licensees or applicants shall not provide false or misleading information regarding their compliance with the applicable regulations.

(Source: Amended at 40 Ill. Reg. 10769, effective July 29, 2016)

Section 406.10 Qualifications for Assistants

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- a) Assistants shall have passed the background check in Section 406.9(a).
- b) Assistants shall be at least 14 years of age and at least 5 years older than the oldest child they supervise. Minor assistants shall be employed in accordance with 56 Ill. Adm. Code 250 (Illinois Child Labor Law).
- c) Assistants under age 18 shall work under the direct personal supervision of the caregiver at all times. Direct personal supervision means the caregiver maintains audible or visual contact with the assistant and children on the premises at all times.
- d) An assistant 18 years of age or older may accompany children playing outdoors, and may transport children, if the assistant possesses a valid driver's license for the vehicle classification that is being used to transport children and insurance.
- e) Assistants shall provide medical evidence as required by Section [406.24\(i\)](#)~~406.24(h)~~ that they are free of reportable communicable disease and physical or mental conditions that could interfere with child care responsibilities.
- f) The assistant shall be compatible with the caregiver, capable of following directions, and responsive to supervision.
- g) The child care assistant shall be able to relate well with children.

(Source: Amended at 40 Ill. Reg. 10769, effective July 29, 2016)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 406.APPENDIX D Pre-Service and In-Service Training

- a) Entities that may provide pre-service and in-service training to meet the requirements of this Part include, but are not limited to:
 - 1) colleges and universities
 - 2) child care resource and referral agencies
 - 3) Illinois Department of Public Health or local health departments
 - 4) Office of the State Fire Marshal or local fire department
 - 5) Illinois Department of Children and Family Services
 - 6) Illinois Department of Human Services
 - 7) state or national child care or child advocacy organizations
 - 8) national, state or local family day care home associations
 - 9) Child and Adult Care Food Program sponsors
 - 10) Healthy Child Care Illinois nurses
 - 11) American Red Cross, American Heart Association and other providers of first aid and CPR training that have been approved by the Illinois Department of Public Health
- b) Topics or courses to meet the in-service training requirements include, but are not limited to:
 - 1) child care and child development
 - 2) guidance and discipline
 - 3) first aid and CPR
 - 4) symptoms of common childhood illness

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 5) food preparation and nutrition
 - 6) health and sanitation
 - 7) small business management
 - 8) child abuse and neglect
 - 9) working with parents and families
 - 10) caring for children with disabilities
 - 11) information about asthma and its management
 - 12) [Sudden Infant Death Syndrome \(SIDS\) education \(training is required for new applicants and assistants to care for newborns and infants, and every three years thereafter for the life of the license\)](#)
 - 13) service obligations under the federal Americans With Disabilities Act (ADA)
 - 14) [Shaken Baby Syndrome \(training is required for new applicants and assistants licensed to care for newborns and infants, and every three years thereafter for the life of the license\)](#)
 - 15) [Department-approved Mandated Reporter Training \(available on the Department's website; training is required for new applicants and assistants\)](#)
 - 16) [Sudden Unexpected Infant Death \(SUID\) \(training is required for new applicants and assistants licensed to care for newborns and infants, and every three years thereafter for the life of the license\)](#)
- c) [Training](#)
- 1) Pre-service and in-service training may be acquired through the following:
 - [A4](#)) attending college or university or vocational school classes

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~(clock~~Clock hours spent in the classroom are counted.)

- ~~B2)~~ attending conferences or workshops (~~certificate~~Certificate or other proof of attendance, clock hours and subject matter is required.)
 - ~~C3)~~ attending state or local child care association meetings when a specific training program is provided by a guest speaker or group member (~~documentation~~Documentation of attendance, subject matter and clock hours is required.)
 - ~~D4)~~ in-home training by a Child and Adult Care Food Program sponsor representative, nurse or other trainer (documentation ~~Documentation~~ must include the topic and the clock hours.)
 - ~~E5)~~ self-study materials provided by a child care resource and referral (CCR&R) agency (~~certificate~~Certification of clock hours must be secured from the CCR&R.)
 - ~~F6)~~ internet home study programs if the internet site provides documentation of use and number of clock hours
 - ~~G7)~~ Mandated Reporter Training~~mandated-reporter-training~~ may be acquired through the Department's website at <https://www.dcfstraining.org/manrep/index.jsp>
 - ~~H8)~~ viewing of the approved video offered by the National Institutes of Health Back to Sleep Campaign for SIDS and sleeping position of infants
- 2) The training instructor, speaker or president of the child care organization sponsoring the training may sign the documentation of completion. The child care resource and referral (CCR&R) agency must sign and provide documentation of completion for self-study materials, and the internet site must provide documentation for home study programs.
- d) Licensed providers shall complete 15 clock hours of in-service training per period of the licensing year. Caregivers obtaining clock hours in excess of the required 15 clock hours per year may apply up to 5 clock hours to the next year's training requirements.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- e) Courses/training approved by the Department in caring for children with disabilities must include the following components:
- Introduction to Inclusive Child Care
 - Understanding Child Development in Relation to Disabilities
 - Building Relationships with Families
 - Preparing for and Including Young Children in the Child Care Setting
 - Community Services for Young Children with Disabilities (including Early Intervention services)

(Source: Amended at 40 Ill. Reg. 10769, effective July 29, 2016)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Licensing Standards for Group Day Care Homes
- 2) Code Citation: 89 Ill. Adm. Code 408
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
408.5	Amendment
408.10	Amendment
408.15	Amendment
408.25	Amendment
408.30	Amendment
408.Appendix G	Amendment
- 4) Statutory Authority: 225 ILCS 10
- 5) Effective Date of Rules: July 29, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 39 Ill. Reg. 10540; July 31, 2015
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Swimming pool use prohibited during day care hours will not be amended at this time as a result of comments received in opposition and Department consultation with IDPH. This may be re-evaluated at a later Rulemaking.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: The definition of "firearm" is added to for clarification. No Firearms signage has been added. This change implements Public Act 98-0817. Training requirements have been added. License applicants and assistants are required to complete SUID and Safe Sleep Training if caring for infants at initial licensure and license renewal. These changes implement PA 98-817. Child Care Assistants are required to complete Mandated Reporter Training. This change implements PA 98-817
- 16) Information and questions regarding these adopted rules shall be directed to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
TDD: 217/524-3715
e-mail: cfpolicy@idcfs.state.il.us

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 408

LICENSING STANDARDS FOR GROUP DAY CARE HOMES

Section

408.1	Purpose
408.5	Definitions
408.7	Effective Date of Standards (Repealed)
408.10	Application for For License
408.15	Application for Renewal of License
408.20	Provisions Pertaining to the License
408.25	Provisions Pertaining to Permits
408.30	General Requirements for Group Day Care Homes
408.35	General Requirements for Group Day Care Home Family
408.40	Background Checks
408.45	Caregivers
408.50	Child Care Assistants
408.55	Substitutes
408.60	Admission and Discharge Procedures
408.65	Number and Ages of Children Served
408.70	Health, Medical Care and Safety
408.75	Discipline of Children
408.80	Nutrition and Meals
408.85	Program
408.90	Transportation of Children
408.95	Swimming
408.100	Children with Special Needs
408.105	Children Under 30 Months of Age
408.110	School Age Children
408.115	Night Care
408.120	Records and Reports
408.125	Confidentiality of Records and Information
408.130	Cooperation with the Department
408.135	Severability of This Part

408.APPENDIX A Meal Pattern Chart for Children 0 to 12 Months of Age

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

408.APPENDIX B	Meal Pattern Chart for Children Over One Year of Age
408.APPENDIX C	Minimum Equipment and Supplies – Preschool Programs
408.APPENDIX D	Minimum Equipment and Supplies – Infant and Toddler Programs
408.APPENDIX E	Background of Abuse, Neglect, or Criminal History Which May Prevent Licensure or Employment in a Group Day Care Home
408.APPENDIX F	Early Childhood Teacher Credentialing Programs
408.APPENDIX G	Pre-Service and In-Service Training
408.APPENDIX H	Chart of Number and Ages of Children Served
408.APPENDIX I	List of Items for Fire Safety Inspection

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3], Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/1 and 2] and Section 5 of the Missing Children Records Act [325 ILCS 50/5].

SOURCE: Adopted at 13 Ill. Reg. 14828, effective October 1, 1989; emergency amendment at 15 Ill. Reg. 15104, effective October 8, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 8950, effective May 30, 1992; amended at 18 Ill. Reg. 5540, effective April 1, 1994; amended at 19 Ill. Reg. 2784, effective February 23, 1995; amended at 21 Ill. Reg. 4563, effective April 1, 1997; emergency amendment at 24 Ill. Reg. 4212, effective March 1, 2000, for a maximum of 150 days; emergency expired July 28, 2000; amended at 24 Ill. Reg. 17057, effective November 1, 2000; amended at 25 Ill. Reg. 5281, effective April 1, 2001; amended at 27 Ill. Reg. 19232, effective December 15, 2003; amended at 30 Ill. Reg. 18310, effective November 13, 2006; amended at 32 Ill. Reg. 9164, effective June 20, 2008; amended at 34 Ill. Reg. 18411, effective December 15, 2010; amended at 36 Ill. Reg. 4114, effective March 5, 2012; amended at 36 Ill. Reg. 13105, effective August 15, 2012; amended at 36 Ill. Reg. 13403, effective August 15, 2012; amended at 37 Ill. Reg. 19149, effective November 30, 2013; amended at 40 Ill. Reg. 10808, effective July 29, 2016.

Section 408.5 Definitions

"Access to children" means an employee's job duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual or auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

"Accredited college or university" means a college or university that has been

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

accredited by a regional or national institutional accrediting association recognized by the U.S. Department of Education or a non-governmental recognition counterpart.

"Adult" means a person who is 18 years of age or older.

"Applicant" means a person living in the residence to be licensed who will be the primary caregiver in the group day care home.

"Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type which complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal. (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])

"Assistant" or "child care assistant" means a person (whether a volunteer or an employee) who assists a licensed home caregiver in the operation of the group day care home.

"Attendance" means the total number of children under the age of 12 present at any one time.

"Authorized representative of the Department" means the licensing representative or any person acting on behalf of the Director of the Department.

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate; and
- a check of the Statewide Automated Child Welfare Information System (SACWIS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and
- a check of the Statewide Child Sex Offender Registry.

"Basement" means the story below the street floor where occupants must traverse

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

a full set of stairs, 8 or more risers, to access the street floor.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Department. This system is being replaced by the Statewide Automated Child Welfare Information System (SACWIS).

"Caregiver" means the individual directly responsible for child care.

"Children with special needs" means children who exhibit one or more of the following characteristics, confirmed by clinical evaluation:

- Visual impairment: the child's visual impairment is such that development to full potential without special services cannot be achieved.
- Hearing impairment: the child's residual hearing is not sufficient to enable him or her to understand the spoken word and to develop language, thus causing extreme deprivation in learning and communication, or a hearing loss is exhibited that prevents full awareness of environmental sounds and spoken language, limiting normal language acquisition and learning.
- Physical or health impairment: the child exhibits a physical or health impairment that requires adaptation of the physical plant.
- Speech and/or language impairment: the child exhibits deviations of speech and/or language processes that are outside the range of acceptable variation within a given environment and prevent full social development.
- Learning disability: the child exhibits one or more deficits in the essential processes of perception, conceptualization, language, memory, attention, impulse control or motor function.
- Behavioral disability: the child exhibits an affective disability and/or maladaptive behavior that significantly interferes with learning and/or social functioning.
- Mental impairment: the child's intellectual development, mental capacity, and/or adaptive behavior are markedly delayed. Such mental impairment may be mild, moderate, severe or profound.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

"Corporal punishment" means hitting, spanking, swatting, beating, shaking, pinching, excessive exercise, exposure to extreme temperatures, and other measures that produce physical pain.

"Cot" means a comfortable, safe and child-sized alternative bed made of resilient, fire retardant, sanitizable fabric that is on legs or otherwise above the floor and can be stored to allow for air flow.

"Department" means the Illinois Department of Children and Family Services. (Section 2.18 of the Child Care Act of 1969 [225 ILCS 10/2.18])

"Discipline" means the process of helping children to develop inner controls so that they can manage their own behavior in socially acceptable ways.

"Disinfect" means to eliminate virtually all germs from inanimate surfaces through the use of chemicals or physical agents (e.g., heat). In the child care environment, a solution of ¼ cup household liquid chlorine bleach added to one gallon of water (or one tablespoon bleach to one quart of water) and prepared fresh daily is an effective disinfectant for environmental surfaces and other objects. A weaker solution of 1 tablespoon bleach to 1 gallon of cool water is effective for use on toys, eating utensils, etc. Commercial products may also be used.

"Extended capacity" means an addition of 4 school age children who may be accepted in accordance with 408.65(c). This allows the maximum capacity in a group day care home to reach 16.

"Family home" or "family residence" means the location or portion of a location where the applicant and his or her family reside, and may include basements and attics. It does not include other structures that are separate from the home but are considered part of the overall premises, such as adjacent apartments, unattached basements in multi-unit buildings, unattached garages, and other unattached buildings.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Firearm" means any device, by whatever name known, that is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas; excluding, however:

any pneumatic gun, spring gun, paint ball gun, or BB gun that expels a single globular projectile not exceeding .18 inch in diameter or that has a maximum muzzle velocity of less than 700 feet per second;

any pneumatic gun, spring gun, paint ball gun, or BB gun that expels breakable paint balls containing washable marking colors;

any device used exclusively for signalling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission;

any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition; and

an antique firearm (other than a machine gun) that, although designed as a weapon, the Department of State Police finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon. [430 ILCS 65/1.1]

"Gateways to Opportunity Registry" means a program administered by the Department of Human Services to track and maintain education and training credentials of primary caregivers and assistants that allows them to establish a profile in the registry of their educational and training development.

"Ground level" means that a child can step directly from the exit onto the ground, a sidewalk, a patio, or any other surface that is not above or below the ground.

"Group day care home" means a family home which receives more than 3 up to 16 children for less than 24 hours per day. The number counted includes the family's natural, foster, or adopted children and all other persons under the age of 12. (Section 2.20 of the Child Care Act of 1969 [225 ILCS 10/2.20])

"Guardian" means the guardian of the person of a minor. (Section 2.03 of the

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Child Care Act of 1969 [225 ILCS 10/2.03])

"Infant" means a child through 12 months of age.

"Initial background check" means fingerprints have been obtained for a criminal history check, and the individual has cleared a check of the Statewide Automated Child Welfare Information System (SACWIS) and the Illinois Sex Offender Registry.

"License" means a document issued by the Department that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant", for purposes of background checks, means the operator or persons with direct responsibility for daily operation of the facility to be licensed. (Section 4.4 of the Child Care Act of 1969 [225 ILCS 10/4.4])

"License study" means the review of an application for license, on-site visits, interviews, and the collection and review of supporting documents to determine compliance with the Child Care Act of 1969 and the standards prescribed by this Part.

"Licensed capacity" means the number of children the Department has determined the group day care home can care for at any one time, in addition to any children living in the home who are under the age of 12 years. Children age 12 and over on the premises are not considered in determining licensed capacity.

"Licensing representative" means a person authorized by the Department under Section 5 of the Child Care Act of 1969 to examine facilities for licensure.

"Licensing year", often called the anniversary year, means the period of time from the date a group day care home license is issued until the same date of the following year.

"Member of the household" means a person who resides in a family home as evidenced by factors including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority that is punishable solely as a petty offense. (See Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601].)

"Parents", as used in this Part, means those persons assuming legal responsibility for care and protection of the child on a 24-hour basis; includes guardian or legal custodian.

"Permit" means a one-time only document issued by the Department of Children and Family Services for a 6-month period to allow the individuals to become eligible for a license.

"Persons subject to background checks" means:

- the operators of the child care facility;
- all current and conditional employees of the child care facility;
- any person who is used to replace or supplement staff; and
- any person who has access to children, as defined in this Section.

If the child care facility operates in a family home, the license applicants and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Physician" means a person licensed to practice medicine in the State of Illinois or a contiguous state.

"Premises" means the location of the group day care home wherein the family resides and includes the attached yard, garage, basement and any other outbuildings.

"Preschool age" means children under 5 years of age and children 5 years old who do not attend full day kindergarten.

"Program" means all activities provided for the children during their hours of

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

attendance in the group day care home.

"Protected exit from a basement" means an exit that is separated from the remainder of the group day care home by barriers (such as walls, floors, or solid doors) providing one-hour fire resistance. The separation must be designed to limit the spread of fire and restrict the movement of smoke.

"Resource personnel" means physicians, nurses, psychologists, social workers, speech therapists, physical and occupational therapists, educators and other technical and professional persons whose expertise is utilized in providing specialized services to children with special needs.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that is replacing the Child Abuse and Neglect Tracking System (CANTS).

"School age" means children 6 to 12 years of age and 5 year olds who are in full-day kindergarten.

"Special use areas" means areas of the home that may not be included in the measurement of the area used for child care. Special use areas include, but are not limited to, laundry rooms, furnace rooms, bathrooms, hazardous areas, and areas off-limits to children.

"Story" means that level of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

"Street floor" means a story or floor level accessible from the street or from outside a building at ground level, with the floor level at the main entrance located not more than 4 risers above or below the ground level and arranged and utilized to qualify as the main floor.

"Substantiated violation" means that the licensing representative has determined, during a licensing complaint investigation or a monitoring or renewal visit, that the licensee has violated a licensing standard of this Part or the Child Care Act.

"Swimming pool" means any natural or artificial basin of water intended for public swimming or recreational bathing which exceeds 2'6" in depth as specified in the Illinois Swimming Pool and Bathing Beach Act and Code (77 Ill. Adm.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Code 820). The term includes bathing beaches and pools at private clubs, health clubs, or private residences when used for children enrolled in a child care facility.

"Wading pool" means any natural or artificial basin of water less than 2'6" in depth that is intended for recreational bathing, water play or similar activity. The term includes recessed areas less than 2'6" in depth in swimming pools that are designated primarily for children.

(Source: Amended at 40 Ill. Reg. 10808, effective July 29, 2016)

Section 408.10 Application ~~for~~ License

- a) A complete application shall be filed with the Department of Children and Family Services on forms prescribed and provided by the Department.
- b) Contents of Application
 - 1) A complete application shall include:
 - A) a completed, signed and dated Application for Home License;
 - B) a list of persons who will be working in the group day care home, including any substitutes and assistants, and members of the household age 13 and over;
 - C) completed, signed and dated authorizations to conduct the background check for the applicant, each employee or person used to replace or supplement staff, and each member of the household age 13 and over;
 - D) a completed, signed and dated Child Support Certification form;
 - E) documentation that the applicant meets the qualifications for a caregiver in Section 408.45(e);
 - F) the names, addresses and telephone numbers of at least 3 adults not related to the applicants, nor living in the household, who can attest to their character and suitability to provide child care;

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- G) a written hazard protection plan identifying potential hazards within the home and outdoor area accessible to the children in care. The written plan shall address the specific hazards and the adult supervision and physical means required to minimize the risks to children. Conditions to be addressed include, but are not limited to, traffic, construction, bodies of water accessible to the children, open stairwells, and neighborhood dogs;
- H) a copy of high school diploma, ~~or~~ equivalent certificate, or degree from a regionally accredited institution of higher education or vocational institution;
- D) ~~for applications submitted on or after September 1, 2012,~~ proof of membership in the Gateways to Opportunity Registry by the primary caregiver and assistants in the group day care home with all educational credentials and pre-service training entered into the Registry~~registry~~; and
- J) *for an initial application effective January 1, 2014 or later, proof that the home has been tested within the last 3 years for radon, as established by rules of the Illinois Emergency Management Agency (32 Ill. Adm. Code 422) [225 ILCS 10/5.8].*
- 2) The applicants~~For initial applications submitted after January 1, 2011, the applicant~~ shall have completed, not more than one year prior to the application date, at least 15 hours of pre-service training listed in Appendix G, which shall include the following topics for applicants and assistants who will care for infants:
- A) Sudden Infant Death Syndrome (SIDS);
- B) Sudden Unexpected Infant Death (SUID);
- C) Safe sleep recommendations from the American Academy of Pediatrics;
- D) Shaken Baby Syndrome; and

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~E~~) Department approved Mandated Reporter ~~Training~~training for all licensees and assistants regardless of the age of children in care.

- c) Fire Safety Inspection
- 1) For initial applications of group day care homes in multi-housing units, or single family dwellings in which care will be provided on other than ground level, the Department shall request a fire safety inspection from the Office of the State Fire Marshal (OSFM). OSFM shall submit its written recommendation to the supervising agency of the group day care home and to the applicant;
 - 2) The fire safety inspection on single floor homes at ground level with no unusual or complex code considerations shall be completed following the list of items for fire safety inspection in Appendix I by a licensing representative trained by OSFM to conduct that fire prevention inspection;
 - 3) Prior to Department issuance of a permit or a license, the group day care home shall have written approval by OSFM or staff trained by OSFM, indicating the home meets fire safety requirements.
- d) Licensed group day care homes that fail to comply with all applicable local, municipal and State regulations may be prohibited from operating.
- e) The license shall be issued when the standards prescribed by this Part have been met. Upon receipt of an application for a license, the Department shall conduct a license study to determine if the group day care home meets licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative performing the study. A license may not be recommended without the receipt of at least three positive, written references, and a written study signed by the licensing representative and supervisor. The applicant shall receive a copy of the results of the on-site compliance review upon request.
- f) New Applications
- 1) A new application shall be filed when any of the following occurs:
 - A) When an applicant or licensee seeks to reapply for a license after it

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

has been withdrawn, surrendered or denied and the applicant or licensee seeks to reapply;

- B) When there is a failure to submit a completed application within 14 days after a change of residence or location of the group day care home;
 - C) When 12 months have elapsed and the applicant seeks to reapply for a license after:
 - i) the Department has revoked or refused to renew a license;
 - ii) the previous license has been surrendered with cause; or
 - iii) The Department has refused to issue a full license to a permit holder.
- 2) For the application to be considered timely and sufficient, a new application shall be completed, signed by the licensee and submitted to the supervising agency within 30 days after the following changes:
- A) When there is a change in the name of the licensee, the supervising agency or the legal status from a social security number to Federal Employer Identification Number (FEIN); or
 - B) When there is a change in the status of joint licensees, such as separation, divorce or death.

(Source: Amended at 40 Ill. Reg. 10808, effective July 29, 2016)

Section 408.15 Application for Renewal of License

- a) Application forms for license renewal shall be mailed to group day care home licensees by the Department 6 months prior to the expiration date of the license.
- b) The completed application shall be signed by the licensees and submitted to the Department at least 3 months prior to expiration of the current license, in order to be considered timely and sufficient.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- c) When a licensed group day care home seeks to change its name or location, a new application reflecting the changes must be completed, signed by the licensees and submitted to the Department at least 30 days prior to the effective date of the changes for the application to be considered timely and sufficient.
- d) *When a licensee has made timely and sufficient application for renewal of a license or a new license with reference to any activity of a continuing nature and the Department fails to render a decision on the application for renewal of the license prior to the expiration date of the license, the existing license shall continue in full force and effect for up to 30 days until the final Department decision has been made. The Department may further extend the period in which such decision must be made in individual cases for up to 30 days, if good cause is shown.* [225 ILCS 10/5(d)]
- e) Prior to renewal, the licensee shall be current with the annual 15 hours of required training in accordance with Appendix G that, for applicants and assistants licensed to care for newborns and infants, shall include the following topics:-
- 1) Sudden Infant Death Syndrome (SIDS), Sudden Unexpected Infant Death (SUID) and safe sleep recommendations from the American Academy of Pediatrics; and
 - 2) Shaken Baby Syndrome.
- f) At the time of license renewal, the supervising agency shall review the fire emergency, tornado/severe weather emergency, and hazard protection written plans. Any revision or enhancement shall be part of the licensing renewal process. Licensed homes that do not have a written hazard plan (see Section 408.10(b)(1)(G)(7)) shall develop a plan and submit it to the supervising agency prior to renewal.
- g) Fire Safety Inspection
- 1) Fire safety inspections of homes licensed for multi-housing units or single family dwelling in which care will be provided on other than grade level shall be completed by OSFM or its designee;

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 2) Fire safety inspection of homes licensed for a single floor with no unusual or complex code considerations shall be completed by a licensing representative trained by OSFM;
- 3) The fire safety inspection shall be conducted in accordance with the requirements of Appendix I.
- h) Upon receipt of the application for license renewal, the Department shall conduct a license study in order to determine that the group day care home continues to meet licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative performing the study. The licensees shall receive a copy of the results of the on-site compliance review upon request.
- i) *For a renewal application effective January 1, 2014 or later, proof that the home has been tested within the last 3 years for radon as established by rules of the Illinois Emergency Management Agency (32 Ill. Adm. Code 422) [225 ILCS 10/5.8].*

(Source: Amended at 40 Ill. Reg. 10808, effective July 29, 2016)

Section 408.25 Provisions Pertaining to Permits

- a) A permit shall not be issued until:
 - 1) The application for ~~licensure~~license has been completed and signed by the applicants and all parts of the initial application requirements have been submitted to the Department;
 - 2) The background checks required by Section 408.40 have been completed and the results of the background check have been received for the operator of the group day care home;
 - 3) Character references have been requested regarding the primary caregivers, and at least 2 favorable references have been received;
 - 4) Medical reports as required in Section 408.35(f) have been received by the Department for all caregivers and assistants;

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- ~~5)~~ For initial applications submitted after January 1, 2011, the applicant shall have completed, not more than one year prior to the application date, at least 15 hours of pre-service training listed in Appendix G, which shall include:
- ~~A) Sudden Infant Death Syndrome (SIDS);~~
 - ~~B) Shaken Baby Syndrome; and~~
 - ~~C) Department approved Mandated Reporter training;~~
- ~~56)~~ The applicant who is the primary caregiver has been certified in first-aid, the Heimlich maneuver, and infant/child cardiopulmonary resuscitation (CPR) in accordance with Section 408.35(i);
- ~~67)~~ A personal visit to the home by a licensing representative has been completed. The purpose of this visit is to determine compliance with all the licensing requirements except the requirements for remaining character references, medical examination reports, and well water tests compliance that may be complied with within the 6 month period covered by the permit. However, when well water tests are required, applicants must agree to boil all drinking and cooking water and to provide only bottled water for children under 15 months of age until the test results are received;
- ~~78)~~ Proof of public liability insurance as required by Section 408.35(j) (such proof may consist of, but is not limited to, a copy of an insurance policy, binder or certificate; or a letter from the insurance carrier);
- ~~89)~~ Plan developed for emergency medical care as required by Section 408.70;
- ~~910)~~ Furnishings and equipment have been acquired for the number of children to be served during the 6 month permit period in accordance with ~~Appendices~~Appendix C and D;
- ~~1011)~~ Medical reports and character references are on file for employed staff at the home;
- ~~1112)~~ A written fire safety inspection and approval has been completed in

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

accordance with Section 408.10(c); and

- ~~1213~~) A written plan has been submitted to the licensing representative that indicates that requirements for a license shall be met within the 6 month permit period.
- b) A permit shall not be issued retroactively.
 - c) A permit shall not be transferred to another person or other legal entity.
 - d) A permit shall not be valid for a name or address different from the name and address shown on the issued permit.
 - e) A permit shall not be renewable.
 - f) A current permit shall be prominently displayed in the group day care home at all times while the home is operating under a permit.
 - g) A license shall be issued at any time within the 6 month period covered by the permit provided that the group day care home achieves and maintains compliance with the Department's licensing standards.
 - h) The group day care home shall adhere to the provisions or restrictions specified on the permit.
 - i) There shall be no fee or charge for the permit.

(Source: Amended at 40 Ill. Reg. 10808, effective July 29, 2016)

Section 408.30 General Requirements for Group Day Care Homes

- a) The physical facilities of the home, both indoors and outdoors, shall meet the following requirements for safety to children.
 - 1) The home shall have a first aid kit consisting of adhesive bandages, scissors, non-permeable gloves, Poison Control Center telephone number (1-800-222-1222 or 1-800-942-5969), thermometer, sterile gauze pads, adhesive tape, tweezers, first aid cream and mild soap.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 2) The kitchen shall be equipped with a readily accessible and operable fire extinguisher rated for Class A, B, and C fires and a flashlight in working order.
- 3) All electrical outlets that are in areas used by the day care children shall have protective coverings. There shall be no exposed or uninsulated wiring.
- 4) The home shall be equipped with a minimum of one approved smoke detector in operating condition on every floor level, including basements and occupied attics.
 - A) A smoke detector in operating condition shall be within each room where day care children nap or sleep. *The detector shall be installed on the ceiling and at least 6 inches from any wall, or on a wall located between 4 and 6 inches from the ceiling.* In addition, there shall be at least one detector at the beginning and end of each separate corridor or hallway 200 feet or more in length in any occupied story.
 - B) *In any facility constructed after December 31, 1987, or which undergoes substantial remodeling of its structure or wiring system after that date, the smoke detectors shall be permanently wired into the structure's AC power line, and, if more than one detector is required to be installed, the detectors shall be wired so that the activation of one detector will activate all the detectors in the facility unit.* For purposes of this subsection (a)(4), "substantial remodeling" represents more than 15 percent of the replacement cost of the group day care home. For homes that did not have wired installation of smoke detectors in each room prior to December 15, 2011, the Department may allow the installation of a battery-operated smoke detector in each room where children nap or sleep and deem the home to be in compliance.
 - C) *Compliance with any applicable federal, State or local law, rule or building code which requires the installation and maintenance of smoke detectors in a manner different from this Section, but providing a level of safety for occupants which is equal to or greater than that provided by this Section, shall be deemed to be*

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

compliance with this Section. (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])

- D) For homes constructed after December 15, 2011, or that underwent substantial remodeling of structure or wiring systems after December 15, 2011, the smoke detectors shall be permanently wired into the structure's AC power line and, if more than one detector is required to be installed, the detectors shall be wired so that the activation of one detector will activate all the detectors in the facility unit.
- 5) Carbon Monoxide Detector
 - A) A home that has an attached garage and/or relies *on combustion of fossil fuel for heating, ventilation, or hot water shall be equipped with a minimum of one approved carbon monoxide detector in operating condition within 15 feet of rooms where children nap or sleep.*
 - B) *The carbon monoxide detector may be combined with smoke detector devices, provided that the combined unit complies with subsection (a)(4) and this subsection (a)(5). [430 ILCS 135/10]*
- 6) The home and indoor space shall be maintained in good repair and shall provide a safe, comfortable environment for the children.
- 7) A draft-free temperature of 65°F to 75°F shall be maintained during the winter months or heating season. For infants and toddlers, a temperature of 68°F to 82°F shall be maintained during the summer or air-conditioning months. When the temperature in the home exceeds 78°F, measures shall be taken to cool the children. Temperatures shall be measured at least 3 feet above the floor.
- 8) Fixed space heaters, fireplaces, radiators, and other heating sources in areas occupied by children shall be separated by partitions or a sturdy barrier to prevent contact. Portable space heaters may not be used in a group day care home during the hours that child care is provided.
- 9) A facility in which a wood-burning stove or fireplace has been installed

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

and that is used during the hours that child care is provided, shall provide a written plan of how the stove or fireplace will be used and what actions will be taken to ensure the children's safety when in use.

- 10) In one and 2 family dwellings, children under 30 months of age shall be housed and cared for on the second floor or below. In other residential buildings, children under 30 months of age shall be housed and cared for only in areas in which OSFM states, in writing, that the combination of remote exits, fire detection, fire suppression, and/or automatic sprinkler systems render the residence safe for the care of infants and toddlers.
- 11) No area accessible only by a ladder or folding stairs or through a trap door shall be used for sleeping or napping.
- 12) When the basement area may be used for child care, 2 exits shall be provided.
 - A) At least one exit shall be a basement exit via a door directly to the outside (without traversing any other level of the home) or a protected exit from a basement via a door or stairway that allows unobstructed travel directly to the outside of the building at street or ground level. The stairway may not be more than 8 feet high.
 - B) A second exit may be a window.
 - i) The window shall be operable from the inside without the use of tools and provide a clear opening not less than 20 inches in width, 24 inches in height, and 5.7 square feet in area.
 - ii) If the window is used as a second exit, the bottom of the window opening shall be no more than 44 inches above the floor.
 - iii) When the bottom of the window opening used as a second exit is more than 24 inches from the floor, there shall be a permanently affixed, sturdy ramp or stairs located below the window to allow speedy access in the event of an emergency.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- C) If the basement area does not meet these existing requirements, the basement may be used for child care only with the prior written approval of OSFM.
- 13) All walls and surfaces shall be maintained free from lead paint and chipped or peeling paint.
- 14) Walls of rooms that children use shall be maintained free of lead paint, carpeting, fabric or plastic products. Inflammable~~Flammable~~ or combustible artwork attached to the walls shall not exceed 20% of any~~the~~ wall area.
- 15) Furniture and equipment shall be kept in safe repair.
- 16) First aid supplies, medication, cleaning materials, poisons, sharp scissors, plastic bags, sharp knives, cigarettes, matches, lighters, flammable liquids, and other hazardous materials shall be stored in places inaccessible to children. Hazardous items for infants and toddlers also include items that can cause choking, including but not limited to: coins, balloons, safety pins, marbles, Styrofoam (trademark) and similar products, and sponge, soft rubber or soft plastic toys that can be bitten or broken into small pieces.
- 17) Tools and gardening equipment shall be stored in locked cabinets, if possible, or in places inaccessible to all children.
- 18) ~~An~~~~There shall be an~~ operable telephone shall be available on the premises of the licensee. The number of the Poison Control Center (1-800-222-1222 or 1-800-942-5969) and other emergency numbers shall be posted in an area that is readily available in an emergency.
- 19) Free hanging cords on blinds, shades and drapes shall be tied or otherwise kept out of reach of children.
- 20) Radon Test
Effective January 1, 2013, the home shall be tested for radon at least once every 3 years. The most current radon measurements shall be posted next to the license in the home, on a form provided by the Department

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

containing the required informative statement from Section 5.8(d) of the Child Act of 1969 [225 ILCS 10].

- b) Escape routes from the group day care home shall be designed and maintained for swift and safe exiting in the event of an emergency.
- 1) All corridors and escape routes from the group day care home shall be kept clear of obstructions.
 - 2) Dead-end paths or corridors within the group day care home shall be a maximum of 20 feet in length.
 - 3) All escape routes from the group day care home shall have operable lighting. The lighting shall be activated during any hours of operation when natural lighting is reduced to a level that prohibits visibility within the escape route.
 - 4) Bathroom doors in areas accessible to day care children shall allow staff to open the door from the outside of the bathroom if necessary.
 - 5) All closet doors shall be able to be opened from inside of the closet without the use of a key.
 - 6) There shall be no more than 2 releasing devices (door knobs, hand-operated deadbolts, thumb-turn locks, etc.) on any exit door or exit window.
 - 7) Exit doors and exit windows shall be operable without the use of a key, a tool or special knowledge to open the door from the inside and exit to the outside.
 - 8) Exit doors and exit windows shall be kept clear of equipment and debris at all times.
 - 9) The licensee shall hold monthly fire safety inspections of the group day care home.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 10) The licensee or staff in the home shall inspect the group day care home daily, prior to arrival of children, ensuring that escape routes are clear and that exit doors and exit windows are operable.
 - 11) A log of these monthly and daily inspections shall be maintained for at least one year, and shall be available for review by the licensing representative. The log shall reflect, at minimum, the date and time of each inspection and the full name of the person who conducted it.
- c) The licensee shall identify those areas in the home used for child care. The identified areas minus any special use areas shall be measured to calculate the square footage available for child care. There shall be:
- 1) A minimum of 35 square feet of floor space for each child in care; and
 - 2) An additional 20 square feet of floor space for each child under 30 months of age when the play area is the same as the sleep area. However, if portable bedding is used for napping, then removed, the licensing representative shall approve the use of only 35 square feet of space for each child if the applicant/licensee has adequate storage space for the bedding materials and the bedding materials are removed before and after nap time.
- d) *No person may smoke tobacco in any area of the group day care home in which day care services are being provided to children, while those children are present on the premises. In addition, no person may smoke tobacco while providing transportation, in either an open or enclosed vehicle, to children who are receiving child care services. Nothing in this subsection prohibits smoking in the home in the presence of a person's own children or in the presence of children to whom day care services are not then being provided. [225 ILCS 10/5.5]*
- e) Indoor space shall consist of a clean, comfortable environment for children.
- 1) The group day care home shall be well-ventilated, free from observable hazards, properly lighted and heated, and free of fire hazards.
 - 2) The dwelling shall be kept clean, sanitary, and in good repair.
 - 3) There shall be provision for isolating a child who becomes ill or who is

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

suspected of having a communicable, infectious or contagious disease.

- 4) When used for child care, floors shall have protective covering such as, but not limited to, tile, carpet or linoleum. Paint or sealer alone is not acceptable as a protective covering.
- 5) When children under 30 months of age are in care, stairs leading to second levels, attics or basements shall be fitted with a sturdy gate, door or other barrier to prevent the children's access to the stairs without adult supervision. Such a barrier shall be moveable enough so as not to impede evacuation, if necessary.
- f) The kitchen shall be clean, equipped for the preservation, storage, preparation and serving of food, and reasonably safe from hazards.
- g) Garbage and refuse containers used to discard diapering supplies, food products or disposable meal service supplies in areas for child care shall be disinfected daily unless plastic liners are used and disposed of daily.
- h) A safe and sanitary water supply shall be maintained. If a private water supply is used instead of an approved public water supply, the applicant shall supply written records of current test results indicating the water supply is safe for drinking. New test results must be provided prior to renewal of license. If nitrate content exceeds 10 parts per million, bottled water must be used for children under 15 months of age.
- i) Hot and cold running water shall be provided. When children under age 10 or who are developmentally disabled are cared for, the maximum hot water temperature from all faucets of sinks designated for children washing hands shall be no more than 115° Fahrenheit. Caregivers shall always test the hot water before allowing children less than 5 years of age to use the water.
- j) The group day care home shall provide one toilet for each 10 persons or portion thereof who are present during the hours the group day care home is in operation. These 10 persons include caregivers, child care assistants, members of the household and children other than those under 30 months of age for whom a potty chair is provided.
- k) There shall be a minimum of 75 square feet of outdoor space per child for the

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

total number of children using the area at any one time. At least 25% of the required space shall be on the premises of the group day care home. The remainder may be a public park, playground or other outdoor recreation area within walking distance (1000 feet) of the group day care home provided the caregiver or an adult assistant accompanies children to this outdoor area.

- 1) There shall be safe outdoor space for active play.
 - 1) Space shall be provided for play in yards, nearby parks or playgrounds under adult supervision.
 - 2) Space shall be protected by physical means (e.g., fence, tree line, chairs, ropes, etc.) against all water hazards, including, but not limited to, pools, ponds, standing water, ornamental bodies of water, and retention ponds, regardless of the depth of the water, and by adult caregiver supervision at times when children in care are present. Other hazards, such as, but not limited to, heavy traffic and construction, shall be inaccessible to children in care through a physical barrier and adult supervision. Further, outdoor space shall be partitioned or supervised in such a manner that young children are not endangered by the activities of older children.
 - 3) Play areas shall be well drained and safely maintained.
 - 4) All pieces of outdoor equipment used by children 5 years of age and younger on the day care premises that is purchased or installed on or after April 1, 2001 shall meet the following standards to guard against entrapment or situations that may cause strangulation.
 - A) Openings in exercise rings shall be smaller than 4½ inches or larger than 9 inches in diameter.
 - B) There shall be no openings in a play structure with a dimension between 3½ inches and 9 inches (except for exercise rings). Side railings, stairs and other locations that a child might slip or climb through shall be checked for appropriate dimensions.
 - C) Distances between vertical slats or poles, where used, must be 3½ inches or less (to prevent head entrapment).

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- D) No opening shall form an angle of less than 55 degrees unless one leg of the angle is horizontal or slopes downward.
 - E) No opening shall be between $\frac{3}{8}$ inch and one inch in size (to prevent finger entrapment).
- 5) The use of a trampoline by children in care is prohibited.
 - 6) In-ground swimming pools located in areas accessible to children shall be fenced. The fence shall be at least 5 feet in height and secured by a locked gate. Group day care homes that are licensed or have a permit on April 1, 2001 and are in compliance with the requirement for a 3½ foot fence shall be considered in compliance with the fence requirement.
 - 7) All above-ground pools shall have non-climbable sidewalls that are at least 4 feet high or shall be enclosed with a 5 foot fence that is at least 36 inches away from the pool's side wall and secured with a locked gate. When the pool is not in use, steps shall be removed from the pool or otherwise protected to insure the pool cannot be accessed. Group day care homes that are licensed or have a permit on April 1, 2001 and are in compliance with the requirement for a 3½ foot fence shall be considered in compliance with the fence requirement.
 - 8) Portable wading pools shall be emptied daily and disinfected before being air-dried.
 - 9) All hot tubs shall have securely locked covers or otherwise be inaccessible to children.
 - 10) Children shall be closely supervised by the caregiver when public parks or playgrounds are used for play, during play and while traveling to and from the area.
 - 11) Supervision shall be provided during outdoor play by caregivers who meet the requirements of Section 408.45 ~~of this Part~~.
- m) A caregiver who relies upon outdoor space shared with other residents in a multiple family dwelling shall have a written agreement with the other residents or the owners of the outdoor area authorizing the use of the space by the group

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

day care home and the children cared for.

- n) Insect and rodent control shall be maintained.
 - 1) All outside doors except those with operable self-closing devices, operable windows, and other openings used for ventilation shall be screened.
 - 2) Chemicals for insect and rodent control shall be applied in minimum amounts and shall not be used when children are present. Over-the-counter products may be used only according to package instructions. Commercial chemicals, if used, shall be applied by a licensed pest control operator and shall meet all standards of the Department of Public Health (Structural Pest Control Code, 77 Ill. Adm. Code 830). A record of any pesticides used shall be maintained.
- o) Healthy household pets that present no danger to children are permitted.
 - 1) A licensed veterinarian shall certify that the animals are free of diseases that could endanger the children's health and that dogs and cats have been inoculated for rabies.
 - 2) If certification is not available, animals shall be confined at all times in an area inaccessible to children.
 - 3) There shall be careful supervision of children who are permitted to handle and care for the animals.
 - 4) Immediate treatment shall be available to any child who is bitten or scratched by an animal.
 - 5) The presence of monkeys, ferrets, turtles, iguanas, psittacine birds (birds of the parrot family) or any wild or dangerous animal is prohibited in areas accessible to children during the hours the group day care home is in operation. Wild and dangerous animals include, but are not limited to, venomous and constricting snakes, undomesticated cats and dogs, raccoons, and other animals determined to be dangerous by local public health authorities.
- p) The Department shall request that the Illinois Department of Public Health or a

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

local health department authorized by it and/or the Office of the State Fire Marshal or the local fire department authorized by it inspect the group day care home and its premises whenever the Department has reason to believe that conditions in the home or its premises pose potential health or safety hazards to the children cared for in the home.

- q) Written~~There shall be written~~ emergency preparedness plans~~response shall be developed and shall~~ plans specify the actions to be taken in the event of a fire, and tornado or other emergency. All~~These plans shall be familiar to all~~ caregivers and assistants in the group day care home shall be familiar with these plans. The emergency preparedness plans shall include, but are not limited to:
- 1) A~~The~~ fire evacuation plan identifying~~shall identify the~~ exits from each area used for child care and specifying~~shall specify~~ the evacuation route.
 - 2) A~~The~~ fire evacuation plan identifying~~shall identify~~ a safe assembly area outside of the home. It shall also identify a nearby indoor location for post-evacuation holding if needed.
 - 3) A~~The~~ fire evacuation plan requiring~~shall require~~ that the home be evacuated immediately and the children's safety insured before calling the local emergency number 911 or attempting to combat the fire.
 - 4) Monthly fire~~Fire~~ drills to ~~shall~~ be conducted monthly for the purpose of removing children from the group day care home as quickly as possible during an emergency.
 - 5) Monthly tornado~~Tornado~~ drills to ~~shall~~ be conducted monthly for the purpose of getting children accustomed to moving to a position of safety in event of a tornado. The alphabetic card file required by Section 408.120(a)(2) shall accompany the caregiver during the drills.
 - 6) A~~The written~~ tornado plan specifying~~shall specify what~~ actions that will be taken in the event of tornado or other severe weather warning, including designation of those areas of the group day care home to be used as safe spots.
 - 7) Specific procedures for notifying parents if evacuation is necessary and how they will be reunited with their children.~~Fire and tornado drills shall~~

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~be recorded on forms prescribed by the Department and maintained for a period of 3 years.~~

- 8) Specific procedures for evacuating children who are less than 30 months of age and/or for evacuating special needs children, when applicable.
- r) Fire and tornado drills shall be documented and that documentation shall be maintained on file for a period of 3 years. The licensee shall hold monthly fire safety inspections of the group day care home and maintain documentation on file for a period of 1 year. In the event of a fire, the group day care home shall be evacuated immediately and the children's safety insured before calling the fire department or attempting to combat the fire.
- s) *Handguns are prohibited on the premises of the group day care home except in the possession of peace officers or other adults who must possess a handgun as a condition of employment and who reside in the group day care home. The licensee shall post a "no firearms" sign, as described in Section 65(d) of the Firearm Concealed Carry Act [430 ILCS 66/65(d)] in a visible location where parents pick up children.*
- t) *Any firearm, other than a handgun in the possession of a peace officer or other person as provided in subsection (s), shall be kept in a disassembled state, without ammunition, in locked storage in a closet, cabinet, or other locked storage facility inaccessible to children.*
- 1) *Ammunition for such firearms shall be kept in locked storage separate from that of the disassembled firearms, inaccessible to children.*
- 2) *The operator of the group home shall notify the parents or guardian of any child accepted for care that firearms and ammunition are stored on the premises. The operator shall also notify the parents or guardian that such firearms and ammunition are in locked storage inaccessible to children (Section 7 of the Child Care Act of 1969 [225 ILCS 10/7]Act). The ~~Such~~ notification need not disclose the location where the firearms and ammunition are stored.*
- u) A group day care home operator relying upon a cooperative or lending arrangement to meet the equipment requirements of this Part shall provide a copy of a written agreement specifying which equipment required by this Part is

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

covered by the agreement. Further, the operator shall demonstrate to the satisfaction of the Department that the equipment covered by the agreement is both available and utilized by the group day care home as required by this Part.

- v) Operation of other business on the premises must not interfere with the care of children.
- w) A group day care home may not house bedridden or chronically ill persons except by permission of the Department. The Department shall grant such permission unless the person has a reportable contagious or communicable disease or requires care that adversely affects the ability of the caregiver to supervise children.
- x) ~~By December 28, 2012, the~~ group day care home shall ~~have~~~~obtain~~ certification that all cribs used by the group home meet or exceed the federal safety standards in 16 CFR 1219 or 1220 (2011). This certification from the manufacturer shall be available for inspection by the licensing representative. In the absence of a manufacturer's certificate, proof that the crib was manufactured on or after June 28, 2011 will meet the required standard.

(Source: Amended at 40 Ill. Reg. 10808, effective July 29, 2016)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 408.APPENDIX G Pre-Service and In-Service Training

- a) Entities that may provide pre-service and in-service training to meet the requirements of this Part include, but are not limited to:
 - 1) colleges and universities
 - 2) child care resource and referral agencies
 - 3) Illinois Department of Public Health or local health departments
 - 4) Office of the State Fire Marshal or local fire department
 - 5) Illinois Department of Children and Family Services
 - 6) Illinois Department of Human Services
 - 7) state or national child care or child advocacy organizations
 - 8) national, state or local family day care home associations
 - 9) Child and Adult Care Food Program sponsors
 - 10) Healthy Child Care Illinois nurses
 - 11) American Red Cross, American Heart Association and other providers of first aid and CPR training that have been approved by the Illinois Department of Public Health

- b) Topics or courses to meet the in-service training requirements include, but are not limited to:
 - 1) child care and child development
 - 2) guidance and discipline
 - 3) first aid and CPR
 - 4) symptoms of common childhood illness

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 5) food preparation and nutrition
 - 6) health and sanitation
 - 7) small business management
 - 8) child abuse and neglect
 - 9) working with parents and families
 - 10) caring for children with disabilities
 - 11) information about asthma and its management
 - 12) [Sudden Infant Death Syndrome \(SIDS\) education \(training is required for new applicants to care for newborns and infants, and every three years thereafter for the life of the license\)](#)
 - 13) service obligations under the federal Americans With Disabilities Act (ADA)
 - 14) [Shaken Baby Syndrome \(training is required for new applicants and assistants licensed to care for newborns and infants, and every three years thereafter for the life of the license\)](#)
 - 15) [Department approved Mandated Reporter Training \(available on the Department's website; training is required for new applicants and assistants\)](#)
 - 16) [Sudden Unexpected Infant Death \(SUID\) \(training is required for new applicants and assistants licensed to care for newborns and infants, and every three years thereafter for the life of the license\)](#)
- c) [Training](#)
- 1) Pre-service and in-service training may be acquired through the following:
 - [A4](#) attending college or university or vocational school classes (clock

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

hours spent in the classroom are counted)

- B2) attending conferences or workshops (~~certificate~~Certificate or other proof of attendance, clock hours and subject matter is required.)
 - C3) attending state or local child care association meetings when a specific training program is provided by a guest speaker or group member (~~documentation~~Documentation of attendance, subject matter and clock hours is required.)
 - D4) in-home training by a Child and Adult Care Food Program sponsor representative, nurse or other trainer (~~documentation~~Documentation must include the topic and the clock hours.)
 - E5) self-study materials provided by a child care resource and referral (CCR&R) agency (~~certification~~Certification of clock hours must be secured from the CCR&R.)
 - F6) internet home study programs if the internet site provides documentation of use and number of clock hours
 - G7) Mandated Reporter Training~~mandated reporter training~~ may be acquired through the Department's website at:
<https://www.dcfstraining.org/manrep/index.jsp>
 - H8) viewing of the approved video offered by the National Institutes of Health Back to Sleep Campaign for SIDS and sleeping position of infants
- 2) The training instructor, speaker or president of the child care organization sponsoring the training, may sign the documentation of completion. The child care resource and referral (CCR&R) agency must sign and provide documentation of completion for self-study materials, and the internet site must provide documentation for home study programs.
- d) Licensed providers shall meet the 15 ~~Hrs.~~ clock hour requirements for in-service training per period of licensing year. Caregivers obtaining clock hours in excess of the required 15 clock hours per year may apply up to 5 clock hours to the next

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

year's training requirements.

- e) Courses/training approved by the Department in carrying for children with disabilities must include the following component:
- Introduction to Inclusive Child Care
 - Understanding Child Development in Relation to Disabilities
 - Building Relationships with Families
 - Preparing for and Including Young Children in the Child Care Setting
 - Community Services for Young Children with Disabilities (including Early Intervention services)

(Source: Amended at 40 Ill. Reg. 10808, effective July 29, 2016)

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Illinois Promotion Act Programs
- 2) Code Citation: 14 Ill. Adm. Code 510
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
510.20	Amendment
510.30	Amendment
510.80	Amendment
510.410	New Section
510.420	New Section
510.430	New Section
510.440	New Section
510.450	New Section
510.460	New Section
- 4) Statutory Authority: Implementing and authorized by the Illinois Promotion Act [20 ILCS 665]
- 5) Effective Date of Rules: July 29, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 6907; May 6, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Grammatical and stylistic changes were made. Text for 510.50 was inadvertently included when filing this amendment. No changes are being made to that Section. In 510.80(d), "2007" was changed to "2015" as it was determined that 2015 is the most current edition of the publication entitled "AICPA Professional Standards, American Institute of Certified Public Accountants".
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The purpose of this rulemaking is to implement a new statute, PA 99-476
- 16) Information and questions regarding these adopted rules shall be directed to:

Ms. Jolene Clarke
Rules Administrator
Illinois Department of Commerce and Economic Opportunity
500 East Monroe
Springfield IL 62701

217/557-1820

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 14: COMMERCE

SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 510

ILLINOIS PROMOTION ACT PROGRAMS

SUBPART A: GENERAL PROGRAM PROVISIONS

Section	
510.10	Authority
510.20	Definitions
510.30	Form of Application
510.40	Application Procedures
510.50	Grant Agreement
510.60	Computation of Time
510.70	Severability (Repealed)
510.80	Administrative Requirements for Grants

SUBPART B: TOURISM MARKETING PARTNERSHIP PROGRAM

Section	
510.110	Purpose
510.120	Eligible Uses of Grant Funds
510.130	Allocation of Appropriations
510.140	Funding Limitation
510.150	Matching Funds
510.160	Evaluation and Selection Process

SUBPART C: TOURISM ATTRACTION DEVELOPMENT
GRANT AND LOAN PROGRAM

Section	
510.210	Purpose
510.220	Eligible Uses of Grant and Loan Funds
510.230	Allocation of Appropriations
510.240	Funding Limitation
510.250	Matching Funds
510.260	Evaluation and Selection Process

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

510.270 Administrative Requirements for Loans

SUBPART D: TOURISM PRIVATE SECTOR GRANT PROGRAM

Section

510.310	Purpose
510.320	Eligible Uses of Grant Funds
510.330	Allocation of Appropriations
510.340	Funding Limitation
510.350	Matching Funds
510.360	Evaluation and Selection Process

SUBPART E: MUNICIPAL CONVENTION CENTER AND
SPORTS FACILITY INCENTIVE GRANT PROGRAM

Section

<u>510.410</u>	<u>Purpose</u>
<u>510.420</u>	<u>Eligible Applicant</u>
<u>510.430</u>	<u>Allocation of Appropriations</u>
<u>510.440</u>	<u>Funding Limitations</u>
<u>510.450</u>	<u>Annual Certification</u>
<u>510.460</u>	<u>Certification Supporting Documentation</u>

AUTHORITY: Implementing and authorized by the Illinois Promotion Act [20 ILCS 665].

SOURCE: Filed December 30, 1977; codified at 6 Ill. Reg. 15011; emergency amendment at 14 Ill. Reg. 13298, effective August 6, 1990, for a maximum of 150 days; emergency expired January 3, 1991; amended at 15 Ill. Reg. 2673, effective February 1, 1991; amended at 15 Ill. Reg. 8848, effective June 10, 1991; emergency amendment at 17 Ill. Reg. 22096, effective December 13, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5813, effective April 1, 1994; amended at 18 Ill. Reg. 8387, effective May 23, 1994; amended at 20 Ill. Reg. 5064, effective March 11, 1996; amended at 22 Ill. Reg. 10394, effective June 1, 1998; emergency amendment at 24 Ill. Reg. 6718, effective April 17, 2000, for a maximum of 150 days; emergency expired September 13, 2000; amended at 24 Ill. Reg. 15044, effective September 27, 2000; emergency amendment at 24 Ill. Reg. 18834, effective December 8, 2000, for a maximum of 150 days; emergency expired May 6, 2001; old Part repealed and new Part adopted at 25 Ill. Reg. 8993, effective July 1, 2001; amended at 32 Ill. Reg. 13443, effective July 29, 2008; amended at 35 Ill. Reg. 18608, effective October 28, 2011; amended at 40 Ill. Reg. 10844, effective July 29, 2016.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

SUBPART A: GENERAL PROGRAM PROVISIONS

Section 510.20 Definitions

The following definitions are applicable to this Part:

"Act": means the Illinois Promotion Act [20 ILCS 665].

"Applicant": means an organization, unit of local government or other eligible entity, as defined in Section 510.110, 510.210, ~~or 510.310~~ or 510.410 ~~of this Part~~, submitting a written request for Program funds appropriated under the Act.

"Application": means a written request for grant funds containing the required information and attachments.

"Convention Center Authority": means an Authority, as defined by the Civic Center Code [70 ILCS 200/2-5], that operates a municipal convention center with contiguous exhibition space ranging between 30,000 and 125,000 square feet. [20 ILCS 665/3(h)]

"Department": means the Department of Commerce and Economic Opportunity of the State of Illinois [20 ILCS 665/3(a)].

"Director": means the Director of the Department of Commerce and Economic Opportunity.

"Economic Impact": means the direct financial result of visitor spending at a tourism destination, attraction or event.

"Eligible Project": means a project that is eligible for funding as defined in Sections 510.120, 510.220, and 510.320 ~~of this Part~~.

"Fiscal Year": means July 1 through June 30, the Fiscal Year of the State of Illinois.

"Grant Agreement": means a written document executed between the Grantee and the Department setting forth the obligations of the Parties, describing the purpose of the grant, identifying the manner in which Grant Funds will be paid

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

and expended, specifying the grant terms during which Grant Funds may be expended, and requiring unspent Grant Funds to be returned to the State.

"Grant Amount" or "Grant Funds": means a monetary amount that the Department shall award to a Grantee for its expenditure on an Eligible Project.

"Grantee": means an organization, unit of local government or other eligible entity, as defined in Section 510.110, 510.210, or 510.310 ~~of this Part~~, eligible to receive Program funds appropriated under the Act.

"Incentive": means:

an incentive provided by a municipal convention center or convention center authority for a convention, meeting, or trade show held at a municipal convention center that, but for the incentive, would not have occurred in the State or been retained in the State; or

an incentive provided by a unit of local government for a sporting event held at a municipal amateur sports facility that, but for the incentive, would not have occurred in the State or been retained in the State. [20 ILCS 665/3(i)]

"Ineligible Project": means a project that is ineligible for funding as defined in Sections 510.120, 510.220, and 510.320 ~~of this Part~~.

"In Kind Contribution": means noncash contributions necessary to complete the Project for which the cash value is easily documented (i.e., donated labor, equipment, supplies and materials), and that are eligible grant and match line-item expenditures identified in the budget of the Grant Agreement.

"Local Promotion Group": means any non-profit corporation, organization, association, agency or committee thereof formed for the primary purpose of publicizing, promoting, advertising or otherwise encouraging the development of tourism in any Municipality, county or region of Illinois. [20 ILCS 665/3(b)]

"Matching Funds": means the portion of the Total Project Cost that is provided by the Grantee. Matching Funds shall not be funds from other Department funded grant programs or used to match any other grant, and are necessary and irrevocably obligated to the Project.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

"Municipal Amateur Sports Facility": means a sports facility that:

is owned by a unit of local government;

has contiguous indoor sports competition space;

is designed to principally accommodate and host amateur competitions for youths, adults, or both; and

is not used for professional sporting events for which participants are compensated for their participation. [20 ILCS 665/3(f)]

"Municipal Convention Center": means a convention center or civic center owned by a unit of local government or operated by a convention center authority, or a municipal convention hall as defined in Section 11-65-1(1) of the Illinois Municipal Code [65 ILCS 5], with contiguous exhibition space ranging between 30,000 and 125,000 square feet. [20 ILCS 665/3(g)]

"Municipality": means "Municipality" as defined in Section 1-1-2(1) of the Illinois Municipal Code ~~[65 ILCS 5/1-1-2(1)]~~. [20 ILCS 665/3(d)]

"Office of Tourism": means the division of the Department that has delegated authority to perform all administrative functions relating to the Act.

"Private Sector": means any non-governmental entity.

"Program": means the Tourism Marketing Partnership Program, Tourism Attraction Development Loan and Grant Program, or the Tourism Private Sector Grant Program described in this Part.

"Project": means the activity or program of activities, described by the Applicant in the Application and approved by the Department, for which a grant is awarded.

"Promotional Activities" means:

preparing, planning and conducting campaigns of information, advertising and publicity through such media as newspapers, radio, television, magazines, trade journals, moving and still photography,

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

posters, outdoor signboards and personal contact within and without the State of Illinois;

dissemination of information, advertising, publicity, photographs and other literature and material designed to carry out the purpose of the Act;
and

participation in and attendance at meetings and conventions concerned primarily with tourism, including travel to and from those meetings. [20 ILCS 665/3(c)]

"Supporting Visitor Services": means accommodations, restaurants, shopping, and recreational and cultural activities located within a reasonable distance from the location of the Tourism Attraction, Tourism Destination or Tourism Event being promoted.

"Total Project Cost": means all necessary and reasonable costs related to the completion of the Project as identified in the budget of the Grant Agreement.

"Tourism": means travel 50 miles or more one-way, or an overnight trip outside of a person's normal routine. [20 ILCS 665/3(e)]

"Tourism Attraction": means fishing and hunting areas, State parks, historical/cultural sites, areas of historic or scenic interest, museums, recreation areas, botanical gardens, theme/amusement parks, interpretive programs and other facilities or businesses that attract or serve visitors that are open to the public for a minimum of 100 days per year (if the Tourism Attraction is entirely event driven, then it shall be open for a minimum of 200 hours per year), and are marketed and promoted to visitors from more than 50 miles away.

"Tourism Destination": means a city, town or other area the economy of which is dependent on revenues accruing from tourism.

"Tourism Event": means an event, such as a major convention, trade show, sporting activity, or festival, with potential to attract visitors from outside a 50-mile radius and to produce significantly increased Economic Impact for the State of Illinois through overnight stays.

(Source: Amended at 40 Ill. Reg. 10844, effective July 29, 2016)

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

Section 510.30 Form of Application

- a) All communications relating to the Application procedures defined in Section 510.40 shall be sent to the Illinois Office of Tourism of the Illinois Department of Commerce and Economic Opportunity, located at 620 East Adams, Springfield, Illinois 62701.
- b) An Application shall be typed or computer generated using the current approved format provided by the Department.
- c) An Application shall contain one original and five copies.
- d) An Application shall include information and supporting documents that will enable the Department to evaluate the Application based on the criteria described in Sections 510.160, 510.260 and 510.360 ~~of this Part~~.
- e) Each Application, including supporting documents and attachments, shall be contained under a single cover.

(Source: Amended at 40 Ill. Reg. 10844, effective July 29, 2016)

Section 510.80 Administrative Requirements for Grants

- a) Termination of Grant – Grants shall be terminated for the following reasons:
 - 1) Termination Due to Loss of Funding – In the absence of State funding for a Fiscal Year, all grants for that year will be terminated in full. In the event of a partial loss of State funding, the Department will make proportionate cuts to all Grantees. In the event the Department suffers such a loss of funding in full or part, the Department will give the Grantee written notice setting forth the effective date of full or partial termination or, if a change in funding is required, setting forth the change in funding and changes in the approved budget.
 - 2) Termination for Cause
 - A) If the Department determines that the Grantee has failed to comply with the terms and conditions of the grant or this Part, the

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

Department may terminate the grant in whole, or in part, at any time before the date of completion. Circumstances that will result in the termination of a grant include, but are not necessarily limited to, the following: consistent failure to submit required reports; failure to maintain required records; evidence of fraud and abuse; and consistent failure to meet performance standards. These circumstances are explained in the Grant Agreement.

- B) The Department shall notify the Grantee in writing, within 10 working days after the determination to terminate, of the reasons for the termination and the effective date of the termination. Payments made to the Grantee or recoveries by the Department shall be made in accordance with legal rights and liabilities in the Grant Agreement and the Illinois Grant Funds Recovery Act [30 ILCS 705].
- 3) Termination by Agreement – The Department and the Grantee shall terminate the grant in whole or in part when the Department and the Grantee agree that the continuation of the Program objectives would not produce beneficial results commensurate with the future expenditure of funds. The Department and the Grantee shall agree upon termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The Grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Department shall allow full credit to the Grantee for the Department's share of the noncancelable obligations, properly incurred by the Grantee prior to termination.
- b) Interest on Grant Funds – In accordance with Section 10 of the Illinois Grant Funds Recovery Act, all interest earned on Grant Funds held by the Grantee under the grant shall become part of the grant when earned. Any interest earned under the grant, and not expended as grant principal during the term of the grant, shall be returned to the Department under the grant close-out process described in subsection (c).
- c) Grant Close-out – In accordance with Section 4 of the Illinois Grant Funds Recovery Act, any Grant Funds not expended or legally obligated, including any interest, remaining at the end of the grant period or at the expiration of the period

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

of time Grant Funds were available for expenditure or obligation by the Grantee, shall be returned to the Department within 45 days after the end of the grant term.

- d) Audits – A Grantee shall be responsible for securing an audit for any grant award exceeding \$500,000. Additionally, an audit may be required when certain risk conditions exist, including, but not limited to, a negative compliance history and disclosure of previous material audit findings. The audit shall be performed by an independent certified public accountant, licensed by authority of the State of Illinois pursuant to the Illinois Public Accounting Act [225 ILCS 450]. The audit shall be conducted in accordance with generally accepted auditing standards contained in the publication entitled AICPA Professional Standards, American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, New York 10036 (June ~~2015~~²⁰⁰⁷, no later editions are incorporated).
- e) Special Audits – The Department reserves the right to conduct special audits, including but not limited to an agency-wide audit, at any time during normal working hours, of the funds expended under Department grants.
- f) Monitoring and Evaluation – Grantee shall permit any agent authorized by the Department, the Office of Inspector General, the Auditor General of the State of Illinois, or any of their duly authorized representatives, upon presentation of credentials, in accordance with the constitutional limitation on administrative searches, to have full access to and the right to examine any documents, papers, and records of the Grantee involving transactions related to a grant from the Department. Once the Department has concluded its monitoring activities, the Grantee will be notified of the Department's determination and findings, if any. If a determination containing findings of noncompliance has been made by the Department, the Grantee will be allowed an opportunity to cure any and all noncompliance issues. If any noncompliance issues cannot be resolved, the Department will issue a final determination requesting that the Grantee repay any funds that are determined by the Department to have been spent in violation of the Grant Agreement. If the Grantee fails to comply with the Department's final determination, the Department shall issue a final notice to the Grantee providing it the opportunity to invoke its rights under the Illinois Grant Funds Recovery Act.
- g) Complaint Process – An administrative hearing is initiated by a party serving a Petition for Hearing on the Department, or by the Department serving a Notice of Charges on the Grantee. In either case, the Department and the Grantee shall follow the Administrative Hearing Rules ~~as~~ set forth in 56 Ill. Adm. Code 2605.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- h) Certifications – The Grantee shall certify that it has not been barred from contracting with a unit of State or local government as a result of a violation of Sections 720 ILCS 5/33E-3 and 33E-4 of the Criminal Code [720 ILCS 5].
- i) Reports – Grantee shall submit, as required by the Department, reports on the financial status of the Project and reports on outcomes and results of the Project.

(Source: Amended at 40 Ill. Reg. 10844, effective July 29, 2016)

SUBPART E: MUNICIPAL CONVENTION CENTER AND
SPORTS FACILITY INCENTIVE GRANT PROGRAM

Section 510.410 Purpose

Section 8b of the Act authorizes the Department, until July 1, 2020, to make grants to a unit of local government, municipal convention center, or convention center authority that provides incentives for the purpose of attracting conventions, meetings and trade shows to municipal convention centers and attracting sporting events to municipal amateur sports facilities.

(Source: Added at 40 Ill. Reg. 10844, effective July 29, 2016)

Section 510.420 Eligible Applicant

- a) Eligible Projects and Activities – The Municipal Convention Center and Sports Facility Incentive Grant Program shall provide grants to a unit of local government, municipal convention center, or convention center authority for Projects and activities including, but not limited to, publicizing, promoting, advertising or otherwise attracting:
 - 1) conventions, meetings and trade shows to municipal convention centers;
or
 - 2) sporting events to municipal amateur sports facilities.
- b) Grants awarded under Section 8b of the Act shall be based upon the net proceeds received under the Hotel Operators' Occupation Tax Act [35 ILCS 145] for the renting, leasing or letting of hotel rooms in the municipality for the month in which the convention, meeting, trade show or sporting event occurs.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 40 Ill. Reg. 10844, effective July 29, 2016)

Section 510.430 Allocation of Appropriations

Annual appropriations made by the General Assembly to the Department for the purpose of making grants under Section 8b of the Act may be used by the Department in any county in the State.

(Source: Added at 40 Ill. Reg. 10844, effective July 29, 2016)

Section 510.440 Funding Limitations

- a) The net proceeds received under the Hotel Operators' Occupation Tax Act for the same month in the three immediately preceding years must exceed the average of those three years in order to be reimbursed.
- b) Grants shall not exceed 80% of the incentives amount provided by the unit of local government, municipal convention center, convention center authority or municipal sports facility.
- c) In no event may the aggregate amount of grants awarded to a single municipal convention center, convention center authority or municipal sports facility exceed \$200,000 in any calendar year.

(Source: Added at 40 Ill. Reg. 10844, effective July 29, 2016)

Section 510.450 Annual Certification

- a) The unit of local government, municipal convention center, convention center authority or municipal sports facility shall certify, no later than May 15 of each year through May 15, 2020, to the Department the amounts of funds expended in the previous fiscal year to provide qualified incentives; however, in no event may the amount certified exceed \$200,000 for any municipal convention center, convention center authority or municipal amateur sports facility in any calendar year.
- b) The unit of local government, convention center, convention center authority or municipal sports facility shall certify:

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- 1) The net proceeds received under the Hotel Operators' Occupation Tax Act for the renting, leasing or letting of hotel rooms in the municipality for the month in which the convention, meeting or trade show occurs; and
- 2) The average of the net proceeds received under the Hotel Operators' Occupation Tax Act for the renting, leasing or letting of hotel rooms in the municipality for the same month in the three immediately preceding years.
- c) The unit of local government, municipal convention center, convention center authority or municipal sports facility shall include the incentive amounts as part of its regular audit identified in subsection (a).

(Source: Added at 40 Ill. Reg. 10844, effective July 29, 2016)

Section 510.460 Certification Supporting Documentation

When Grantee submits a Department approved application for reimbursement, it shall also include the supporting documentation, including the following:

- a) A statement, with documentation, reflecting the net proceeds received under the Hotel Operators' Occupation Tax Act for the month in which the convention, meeting or trade show occurs; and
- b) A statement, with documentation, comparing the average net proceeds received under the Hotel Operators' Occupation Tax Act for the same month in the three immediately preceding years; and
- c) A letter from the Grantee certifying that the statements, as appropriate, were reviewed and audited by the appropriate staff of the Grantee or an independent monitor or accountant and that the monitor or accountant concurs with and certifies the findings.

(Source: Added at 40 Ill. Reg. 10844, effective July 29, 2016)

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Enterprise Zone and High Impact Business Programs
- 2) Code Citation: 14 Ill. Adm. Code 520
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
520.100	Amendment
520.210	Amendment
520.250	Amendment
520.400	Amendment
520.930	Amendment
520.1030	Amendment
520.1630	Amendment
520.1800	New Section
520.1810	New Section
520.1820	New Section
520.1830	New Section
520.1840	New Section
- 4) Statutory Authority: Implementing the Illinois Enterprise Zone Act [20 ILCS 655]; Section 201(f), (g) and (h) of the Illinois Income Tax Act [35 ILCS 5/201(f), (g) and (h)]; Sections 1d-1f, 1i-1j and 1o of the Retailers' Occupation Tax Act [35 ILCS 120/1d-1f, 1i-1j, and 1o]; and Sections 9-221, 9-222, and 9-222.1 of the Public Utilities Act [220 ILCS 5/9-221, 9-222 and 9-222.1]; and authorized by Section 605-95 of the Civil Administrative Code of Illinois [20 ILCS 605/605-95]
- 5) Effective Date of Rules: July 29, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 6627; April 22, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- 11) Differences between Proposal and Final Version: Grammatical and stylistic changes were made. In the text of Section 520.210(d)(6), the following statutory language was inadvertently marked to be deleted during First Notice: "or industrial structures in the local labor market area are not used because of age, deterioration, relation of the former occupants, or cessation of operation." This was discovered during the Second Notice period and the language was added back in. In Section 520.250(b)(6), "(See Section 520.210(d)(6).)" was added for clarification.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The purpose of this rulemaking is three-fold: (a) to make technical revisions to more accurately reflect the practice of scoring Enterprise Zone applications under the amended statutory regime; (b) to address the continuation of tax exemptions for businesses located in Enterprise Zones successful in reapplying for designation; and (c) to prescribe the requirement for applying for Enterprise Zone benefits as a certified aircraft maintenance facility, and to prescribe the compliance procedures after certification as an aircraft maintenance facility.
- 16) Information and questions regarding these adopted rules shall be directed to:

Ms. Jolene Clarke
Rules Administrator
Illinois Department of Commerce and Economic Opportunity
500 East Monroe
Springfield IL 62701

217/557-1820

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 14: COMMERCE

SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 520

ENTERPRISE ZONE AND HIGH IMPACT BUSINESS PROGRAMS

SUBPART A: ENTERPRISE ZONES IN ILLINOIS

Section
520.100 Definitions

SUBPART B: ENTERPRISE ZONE:
APPLICATION FOR CERTIFICATION

Section
520.200 Eligible Applicants
520.210 Eligibility Criteria
520.220 Form of Application
520.230 Application Procedures
520.240 Joint Application
520.250 Application Evaluation and Ranking

SUBPART C: ENTERPRISE ZONE:
AMENDMENT AND DECERTIFICATION

Section
520.300 Application to Amend an Ordinance
520.310 Application to Change Boundaries
520.315 Application to Change Incentives, Alter Termination Date, and Make Technical Corrections
520.320 Decertification

SUBPART D: ENTERPRISE ZONE:
LOCAL RESPONSIBILITIES

Section
520.400 Zone Administration
520.410 Reporting and Monitoring by Zone Administrators

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

520.420 Business Cessation Notification

SUBPART E: ENTERPRISE ZONE:
DESIGNATED ZONE ORGANIZATIONS

Section

520.500 General
520.510 Project Eligibility and Approval
520.520 Charitable Contributions

SUBPART F: HIGH IMPACT BUSINESSES IN ILLINOIS

Section

520.600 Definitions
520.610 Eligible Applicants
520.620 Eligibility Criteria
520.630 Form of Application
520.640 Application Approval Process
520.650 Revocation of High Impact Business Designation

SUBPART G: TAX INCENTIVES FOR ENTERPRISE ZONES
AND HIGH IMPACT BUSINESSES

Section

520.700 List of Available Tax Incentives
520.710 Eligible Applicants (Repealed)
520.720 Eligibility Criteria (Repealed)
520.730 Form of Application (Repealed)
520.740 Application Review and Approval (Repealed)
520.750 Revocation of the High Impact Business Designation (Repealed)

SUBPART H: INVESTMENT TAX CREDIT

Section

520.800 General
520.810 Eligibility Criteria (Repealed)
520.820 Form of Application (Repealed)
520.830 Application Review and Approval Process (Repealed)

SUBPART I: UTILITY TAX EXEMPTION

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

Section	
520.900	Definitions
520.910	Eligibility Criteria
520.920	Form of Application
520.930	Application Approval Process

SUBPART J: MACHINERY AND EQUIPMENT/POLLUTION CONTROL
FACILITIES SALES TAX EXEMPTION

Section	
520.1000	Definitions
520.1010	Eligibility Criteria
520.1020	Form of Application
520.1030	Application Approval Process

SUBPART K: BUILDING MATERIAL SALES TAX EXEMPTION

Section	
520.1100	General
520.1110	Eligibility Criteria (Repealed)
520.1120	Form of Application (Repealed)
520.1130	Application and Approval Process (Repealed)
520.1140	Use Tax Exemption (Repealed)

SUBPART L: JOBS TAX CREDIT

Section	
520.1200	General (Repealed)

SUBPART M: DIVIDEND INCOME DEDUCTION

Section	
520.1300	General

SUBPART N: INTEREST INCOME DEDUCTION FOR FINANCIAL INSTITUTIONS

Section	
520.1400	General

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

SUBPART O: TELECOMMUNICATIONS EXCISE TAX EXEMPTION
ON ORIGINATING CALLS

Section
520.1500 General

SUBPART P: HIGH IMPACT SERVICE FACILITY MACHINERY AND
EQUIPMENT SALES TAX EXEMPTION

Section
520.1600 Definitions
520.1610 Eligibility Criteria
520.1620 Form of Application
520.1630 Application Approval Process
520.1640 Use Tax Exemption
520.1650 Revocation of the High Impact Service Facility Designation

SUBPART Q: AIRCRAFT SUPPORT CENTER SALES TAX EXEMPTION

Section
520.1700 Definitions
520.1710 Eligibility Criteria
520.1720 Form of Application
520.1730 Application and Approval Process
520.1740 Revocation of an Aircraft Support Center Designation

SUBPART R: AIRCRAFT MAINTENANCE FACILITY SALES TAX EXEMPTION

Section
520.1800 Definitions
520.1810 Eligibility Criteria
520.1820 Form of Application
520.1830 Application and Approval Process
520.1840 Revocation of an Aircraft Maintenance Facility Designation

AUTHORITY: Implementing the Illinois Enterprise Zone Act [20 ILCS 655]; Section 201(f), (g) and (h) of the Illinois Income Tax Act [35 ILCS 5/201(f), (g) and (h)]; Sections 1d-1f, 1i-1j and 1o of the Retailers' Occupation Tax Act [35 ILCS 120/1d-1f, 1i-1j, and 1o]; and Sections 9-

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

221, 9-222, and 9-222.1 of the Public Utilities Act [220 ILCS 5/9-221, 9-222 and 9-222.1]; and authorized by Section 605-95 of the Civil Administrative Code of Illinois [20 ILCS 605/605-95].

SOURCE: Adopted at 9 Ill. Reg. 11790, effective July 24, 1985; emergency amendments at 10 Ill. Reg. 4936, effective March 11, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 7323, effective April 18, 1986; amended at 10 Ill. Reg. 12563, effective July 7, 1986; amended at 10 Ill. Reg. 12915, effective July 22, 1986; amended at 10 Ill. Reg. 15200, effective September 8, 1986; amended at 10 Ill. Reg. 16580, effective September 24, 1986; amended at 10 Ill. Reg. 19718, effective November 6, 1986; amended at 11 Ill. Reg. 11054, effective June 5, 1987; emergency amendments at 11 Ill. Reg. 11174, effective June 8, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 16091, effective September 29, 1987; amended at 12 Ill. Reg. 4115, effective February 8, 1988; amended at 12 Ill. Reg. 11201, effective June 17, 1988; amended at 12 Ill. Reg. 17823, effective October 21, 1988; emergency amendment at 13 Ill. Reg. 16117, effective October 2, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 19936, effective December 7, 1989; amended at 14 Ill. Reg. 3445, effective February 27, 1990; amended at 15 Ill. Reg. 8683, effective May 30, 1991; amended at 16 Ill. Reg. 89, effective December 20, 1991; amended at 17 Ill. Reg. 1837, effective February 1, 1993; amended at 18 Ill. Reg. 5172, effective March 21, 1994; amended at 27 Ill. Reg. 3282, effective February 14, 2002; amended at 27 Ill. Reg. 6165, effective March 28, 2003; amended at 35 Ill. Reg. 13125, effective August 1, 2011; amended at 36 Ill. Reg. 16067, effective October 26, 2012; emergency amendment at 37 Ill. Reg. 5006, effective March 28, 2013, for a maximum of 150 days; emergency amendment repealed at 37 Ill. Reg. 13457, effective August 2, 2013, for the remainder of the 150 days; emergency amendment at 37 Ill. Reg. 13502, effective August 2, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. 457, effective December 20, 2013; amended at 40 Ill. Reg. 10858, effective July 29, 2016.

SUBPART A: ENTERPRISE ZONES IN ILLINOIS

Section 520.100 Definitions

"Act" means the Illinois Enterprise Zone Act [20 ILCS 655].

"Agency" means each officer, board, commission, and agency created by the Constitution in the executive branch of State government, other than the State Board of Elections; each officer, department, board, commission, agency, institution, authority, university, body politic and corporate of the State; and each administrative unit or corporate outgrowth of the State government that is created by or pursuant to statute, other than units of local government and their officers, school districts and boards of election commissioners; each administrative unit or

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

corporate outgrowth of the above and as may be created by executive order of the Governor. No entity shall be considered an "agency" for the purposes of this Act unless authorized by law to make rules and regulations.

"Board" means the Enterprise Zone Board created in Section 5.2.1 of the Act.

"Department" means the Department of Commerce and Economic Opportunity.

"Designated Zone Organization" or "DZO" means an association or entity:

The Members of which are substantially all residents of the Enterprise Zone;

The Board of Directors of which is elected by the members of the organization;

Which satisfies the criteria set forth in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code (26 USC 501(c)(3) or (4)); and

Which exists primarily for the purpose of performing within such area or zone for the benefit of the residents and businesses therein any of the functions set forth in Section 8 of the Act [20 ILCS 655/3].

For the purpose of this definition, "resident" means an individual whose place of residence is within the Enterprise Zone, or a partnership, corporation, association, or sole proprietorship whose principal business office is within the Enterprise Zone.

"Enabling ordinance" means a certified ordinance passed by a city or county to designate, establish and provide for an Enterprise Zone as specified in Section 5(c) of the Act.

"Enterprise Zone" means an area of the State certified by the Department as an Enterprise Zone pursuant to the Act.

"Full-time equivalent job" means a job in which the new employee works for the recipient or for a corporation under contract to the recipient at a rate of at least 35 hours per week. A recipient who employs labor or services at a specific site or facility under contract with another may declare one full-time, permanent job for

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

every 1,820 man hours worked per year under that contract. Vacations, paid holidays, and sick time are included in this computation. Overtime is not considered a part of regular hours. [20 ILCS 655/3(i)]

"Full-time retained job" means any employee defined as having a full-time or full-time equivalent job preserved at a specific facility or site, the continuance of which is threatened by a specific and demonstrable threat, which shall be specified in the application for development assistance. A recipient who employs labor or services at a specific site or facility under contract with another may declare one retained employee per year for every 1,750 man hours worked per year under that contract, even if different individuals perform on-site labor or services. [20 ILCS 655/3(j)]

"General projections" means number of jobs and amount of investments that are determined based upon general economic forecasting models. Overall, these totals are estimates and would include indirect, direct and induced figures based on trend of past area job growth, which may or may not be a result of the Enterprise Zone Designation.

"Latest federal decennial census" means the most recent American Community Survey released by the U.S. Census Bureau or other appropriate data source produced by the U.S. Census Bureau.

"Local labor market area" means an economically integrated area within which individuals can reside and find employment within a reasonable distance or can readily change jobs without changing their place of residence. [20 ILCS 655/3(h)]
A local labor market area must be contiguous, compact and entirely within the State of Illinois and shall be, to the extent practicable, comprised of whole Census Tracts. A local labor market area must, at a minimum, contain the entire area within the boundaries of the Enterprise Zone to which it relates. A local labor market area may take into account communities of interest.

"New employee" means a full-time equivalent job that represents a net increase in the number of the recipient's employees statewide.

"New employee" includes an employee who previously filled a new employee position with the recipient who was rehired or called back from a layoff that occurs during or following the base years. The term "new employee" does not include any of the following:

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

An employee of the recipient who performs a job that was previously performed by another employee in this State, if that job existed in this State for at least 6 months before hiring the employee;

Any individual who has a direct or indirect ownership interest of at least 5% in the profits, capital or value of any member of the recipient;

A child, grandchild, parent or spouse, other than a spouse who is legally separated from the individual, of any individual who has a direct or indirect ownership interest of at least 5% in the profits, capital or value of any member of the recipient;

Employee positions being filled or refilled as a result of strikes or layoffs or replacement workers to replace recipient company locked out employees.

"Public infrastructure" means local roads and streets, access roads, bridges and sidewalks; waste disposal systems; water and sewer line extensions, water distribution and purification facilities, and sewage treatment facilities; rail or air or water port improvements; gas and electric utility facilities; transit capital facilities; development and improvement of publicly owned industrial and commercial sites; or other public capital improvements that are an essential precondition to business retention, development or expansion.

"Specific commitments" means a written commitment from a specific company that has agreed to invest, create and/or retain a certain number of jobs as a condition of the Enterprise Zone designation.

(Source: Amended at 40 Ill. Reg. 10858, effective July 29, 2016)

SUBPART B: ENTERPRISE ZONE:
APPLICATION FOR CERTIFICATION

Section 520.210 Eligibility Criteria

A municipality or county may qualify an area for designation as an Enterprise Zone, subject to certification by the Department, in accordance with the criteria set forth in Section 4 of the Act and the following:

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- a) Contiguous Area. The area is contiguous, which means the area has a solid continuous boundary. Boundaries shall be clearly defined and follow natural or man-made entities such as rivers, highways, and boundaries of units of government. The zone area may exclude wholly surrounded territory within its boundaries.
- b) Calculating Total Area. For purposes of calculating total area, the minimum is one-half square mile and the maximum is 12 square miles, or 15 square miles if the zone is located within the jurisdiction of four or more counties or municipalities, excluding lakes or waterways. Where the Enterprise Zone is a joint effort of three or more units of government, or two or more units of government, if located in a township divided by a municipality of 1,000,000 or more inhabitants, and where the certification has been in effect at least one year, the minimum is one-half square mile and the maximum is 13 square miles, excluding lakes and waterways. Boundaries that are connecting strips shall be not less than three, nor more than 10, feet wide. Waterways shall not be used as connecting strips.
- c) Coverage of Area. The areas must:
 - 1) be entirely within a municipality; or
 - 2) be entirely within the unincorporated areas of a county, except when reasonable need is established for the zone to cover parts of more than one municipality or county; or
 - 3) comprise all or part of a municipality and an unincorporated area of a county.
- d) Required Tests. The area must meet at least three of the following tests:
 - 1) Unemployment: *All or part of the local labor market area has had an annual average unemployment rate of at least 120% of the State's annual average unemployment rate for the most recent calendar year or the most recent fiscal year as reported by the Department of Employment Security.*
[20 ILCS 655/4(1)(f)(1)]

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- 2) Employment Opportunities: *Designation will result in the development of substantial employment opportunities by creating or retaining a minimum aggregate of 1,000 full-time equivalent jobs due to an aggregate investment of \$100,000,000 or more, and will help alleviate the effects of poverty and unemployment within the local labor market area.* [20 ILCS 655/4(1)(f)(2)] Applicants shall specify the time periods over which full-time equivalent jobs will be created or retained and aggregate investments will be made. These time periods should not exceed 15 years from the expected date of designation. Applicants should submit as many written specific commitments as possible with respect to job creation or retention, as well as aggregate investment. While some consideration will be given to general projections, the Department allocates more weight for specific commitments. Applicants are encouraged to describe how the creation and retention of full-time equivalent jobs and new investment will help alleviate the effects of poverty and unemployment with the local labor market area.
- 3) Poverty: *All or part of the local labor market area has a poverty rate of at least 20% according to the latest data from the U.S. Census Bureau, 50% or more of children in the local labor market area are eligible to participate in the federal free or reduced-price meals program according to reported statistics from the State Board of Education, or 20% or more households in the local labor market area receive SNAP benefits according to the latest data from the U.S. Census Bureau.* [20 ILCS 655/4(1)(f)(3)]
- 4) Abandoned Coal Mine, Brownfield or Federal Disaster Area: *An abandoned coal mine or a brownfield (as defined in Section 58.2 of the Environmental Protection Act [415 ILCS 5]) is located in the proposed zone area, or all or a portion of the proposed zone was declared a federal disaster area in the 3 years preceding the date of application.* [20 ILCS 655/4(1)(f)(4)] To be considered an abandoned coal mine, the coal mine must be listed on the Illinois Department of Natural Resources Abandoned Mine Locator, or the federal Office of Surface Mining Reclamation and Enforcement's Abandoned Mine Lands Portal. To document that a portion of the proposed zone was declared a federal disaster area in the ~~three~~3 years preceding the date of the application, the applicant must provide the major disaster declaration number, the area designated as adversely affected by the major disaster, and the date of the declaration. Applicants

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

are encouraged to use copies of the appropriate notices in the Federal Register of a major disaster declaration and related determinations. This does not include emergency declarations or fire management assistance declarations. A brownfield site must be listed in the Illinois Environmental Protection Agency Site Remediation Program database. Applicants are encouraged to provide the 10-digit Illinois Environmental Protection Agency identification number (LPC #) for the site.

- 5) **Large Scale Business Closings:** *The local labor market area contains a presence of large employers that have downsized over the years, the local labor market area has experienced plant closures in the 5 years prior to the date of application affecting more than 50 workers, or the local labor market area has experienced State or federal facility closures in the 5 years prior to the date of application affecting more than 50 workers.* [20 ILCS 655/4(1)(f)(5)] Applicants are encouraged to use data from filings made pursuant to the Illinois Worker Adjustment and Retraining Notification Act [820 ILCS 65] and the State Facilities Closure Act [30 ILCS 608] as evidence of job losses under this test.
- 6) **Vacant Structures:** *Based on data from Multiple Listing information or other suitable sources, the local labor market area contains a high floor vacancy rate of industrial or commercial properties, vacant or demolished commercial and industrial structures are prevalent in the local labor market area, or industrial structures in the local labor market area are not used because of age, deterioration, relocation of the former occupants, or cessation of operation.* [20 ILCS 655/4(1)(f)(6)] Vacancy prevalence rates are determined by dividing the total vacant and/or demolished square feet by the total square feet. The applicant's vacancy rate and prevalence must meet or exceed the state's annual average vacancy rate and minimum prevalence base for each category.
- 7) **Tax Base Improvement 5 year Plan:** *The applicant demonstrates a substantial plan, over the next five years from the date of designation, for using the designation to improve the State and local government tax base, including income, sales, and property taxes.* [20 ILCS 655/4(1)(f)(7)] Applicant should compare the current tax base to the final tax base after 5 years. Applicant must address each tax category: income, sales and property taxes.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- 8) Public Infrastructure Improvement Plan: *Significant public infrastructure is present in the local labor market area in addition to a 5 year plan from date of designation for infrastructure development and improvement.* [20 ILCS 655/4(1)(f)(8)]
- 9) Career Skills Programs: *High schools or community colleges located within the local labor market area are engaged in ACT Work Keys, Manufacturing Skills Standard Certification, or industry-based credentials that prepare students for careers.* [20 ILCS 655/4(1)(f)(9)] The applicant must provide written documentation from more than one high school and/or community college within the local labor market area that the institution is providing ACT Work Keys, Manufacturing Skills Standard Certification, or industry-based credentials that prepare students for careers at some time during the current school year.
- 10) Equalized Assessed Valuation: *The increase in equalized assessed valuation of industrial and/or commercial properties in the 5 years prior to the date of application in the local labor market area is equal to or less than 50% of the State average increase in equalized assessed valuation for industrial and/or commercial properties, as applicable, for the same period of time as reported by the Illinois Department of Revenue [20 ILCS 655/4(1)(f)(10)]; however, if the change in EAV in the State of industrial and/or commercial properties in the 5 years prior to the date of application is negative, then the applicant should instead demonstrate that the decrease in EAV of industrial and/or commercial properties in the 5 years prior to the date of application in the local labor market area is equal to or greater than 50% of the State average decrease in EAV for industrial and/or commercial properties, as applicable, for the same period of time as reported by the Department of Revenue. Applicants are encouraged to use data on EAV of industrial and/or commercial properties in the local labor market area from the Illinois Department of Revenue, if the local labor market area is the entire county, or from the chief assessment official of the municipality, municipalities, county or counties in which at least a portion of the local labor market area is contained.*

(Source: Amended at 40 Ill. Reg. 10858, effective July 29, 2016)

Section 520.250 Application Evaluation and Ranking

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- a) All applications submitted on or before the deadline established in Section 520.230 shall receive an initial review by the Department. This initial review shall determine if the application contains all the information required pursuant to Section 520.220 and if the application meets at least three of the criteria in Section 520.210(d). Upon meeting the minimum eligibility thresholds, applications will compete in a formalized ranking system.
- b) The Department shall issue recommendations to the Board by assigning a score to each application. The scores will be determined by the Department, based on the extent to which an application meets the criteria under Section 520.210.
 - 1) *Up to 50 points for the extent to which the applicant meets or exceeds the criteria in Section 520.210(d)(1) with points awarded according to the severity of the unemployment as indicated by the percentage that the unemployment rate in the local labor market area exceeds 120% of the State's annual average unemployment rate for the most recent calendar year or the most recent fiscal year as reported by the Department of Employment Security. [20 ILCS 655/4.1(a)(1)]*
 - 2) *Up to 50 points for the extent to which the applicant meets or exceeds the criteria in Section 520.210(d)(2), with points awarded in accordance with the number of jobs created and retained and the aggregate amount of investment promised in the Enterprise Zone as well as the alleviation of the effects of poverty and unemployment within the local labor market area. [20 ILCS 655/4.1(a)(2)] [More points are awarded for specific commitments.](#)*
 - 3) *Up to 40 points for the extent to which the applicant meets or exceeds the criteria in Section 520.210(d)(3). [20 ILCS 655/4.1(a)(3)] Applicants will receive:*
 - A) up to 10 points for the poverty rate in the local labor market area, according to the latest data from the Census Bureau;
 - B) up to 10 points for the percentage of children in participating schools and institutions in the local labor market area are eligible for free and reduced-price meals under the National School Lunch Program according to the most recent data available from the Illinois State Board of Education;

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- C) up to 10 points for the percentage of households in the local labor market area that receive SNAP benefits, according to the latest data from the Census Bureau; and
 - D) up to 10 points for the severity of the situations described in subsections (b)(3)(A) through (C).
- 4) *Up to 30 points for the extent to which the applicant meets or exceeds the criteria in Section 520.210(d)(4), with points awarded in accordance with the severity of the environmental impact of the abandoned coal mine, brownfield, or federal disaster area. [20 ILCS 655/4.1(a)(4)]* More points will be awarded for abandoned coal mines in the proposed Enterprise Zone that are a priority 1 or 2 site, as determined by the Illinois Department of Natural Resources, Office of Mines and Minerals, Division of Abandoned Mined Lands Reclamation [or Federal Office of Surface Mines](#). More points will be awarded for brownfields in the proposed Enterprise Zone that are listed on the U.S. Environmental Protection Agency's National Priorities List. Points will be awarded for major disaster declarations when a county or counties in the proposed Enterprise Zone are included in the Federal Emergency Management Agency (FEMA) individual assistance program, the FEMA public assistance program, or both programs. More points will be awarded for multiple major disaster declarations.
- 5) *Up to 50 points for the extent to which the applicant meets or exceeds the criteria in Section 520.210(d)(5), with points awarded in accordance with the severity of the applicable facility closures or downsizing. [20 ILCS 655/4.1(a)(5)]* Severity of the applicable facility closures or downsizing will be measured by the number of workers affected as shown by notices filed pursuant to the Illinois Worker Adjustment and Retraining Notification Act [820 ILCS 65] in the 10 years prior to the date of application, notices filed pursuant to the State Facilities Closure Act [30 ILCS 608] in the 5 years prior to the date of application, or reliable evidence of the number of workers affected by federal facility closures in the 5 years prior to the date of application.
- 6) *Up to 40 points for the extent to which the applicant meets or exceeds the criteria in Section 520.210(d)(6) with points awarded in accordance with*

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

the severity and extent of the high floor vacancy or deterioration. [20 ILCS 655/4.1(a)(6)] Applicants shall list affected commercial or industrial parcels and/or units and describe how those parcels or units were determined to be vacant or deteriorated. To show a vacancy rate or prevalence, applicants shall provide data of the total number or square feet of commercial and industrial parcels or units in the local labor market area in comparison to total number or square feet of vacant and demolished commercial and industrial parcels or units. Applicants shall describe how that data was collected or determined. (See Section 520.210(d)(6).)

- 7) *Up to 30 points for the extent to which the applicant meets or exceeds the criteria in Section 520.210(d)(7) with points awarded in accordance with the extent to which the application addresses a plan to improve the State and local government tax base.* [20 ILCS 655/4.1(a)(7)] Applicants shall address the State and local sales tax base, the State income tax base, and the local property tax base.
- 8) *Up to 50 points for the extent to which the applicant meets or exceeds the criteria in Section 520.210(d)(8) with points awarded in accordance with the existence of significant public infrastructure* in addition to a plan for infrastructure development and improvement. [20 ILCS 655/4.1(a)(8)] Applicants shall provide an inventory of the public infrastructure that demonstrates that significant public infrastructure exists in the local labor market area to support economic development at the time of the application. Applicants shall provide a three-year public infrastructure improvement and development plan for each municipality and/or county applicant government that provides for large, physical improvements that are permanent in nature and that are needed for the functioning of the community, including transportation, utilities, etc. The plans shall include a listing of the capital improvement projects, the plan for financing the projects, a timetable for the construction or completion of the projects, and justification for the projects. Points will be awarded for both the inventory of existing public infrastructure and the public infrastructure improvement and development plan, with a majority of the points awarded based on the public infrastructure improvement and development plan.
- 9) *Up to 40 points for the extent to which the applicant meets or exceeds the criteria in Section 520.210(d)(9) with points awarded in accordance with the extent to which educational programs exist for career preparation.*

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

Applicants shall list all high schools and community colleges in the local labor market area and indicate which high schools and community colleges *are engaged in ACT Work Keys, Manufacturing Skills Standard Certification, or other industry-based credentials that prepare students for careers*. Applicants shall provide documentation that high schools and community colleges in the local labor market are engaged in these programs. More points will be awarded to applicants with a higher percentage of high schools and community colleges *engaged in ACT Work Keys, Manufacturing Skills Standard Certification, or other industry-based credentials that prepare students for careers*. [20 ILCS 655/4.1(a)(9)]

- 10) *Up to 40 points for the extent to which the applicant meets or exceeds the criteria in Section 520.210(d)(10) with points awarded according to the severity of the change in equalized assessed valuation.* [20 ILCS 655/4.1(a)(10)]
- A) If the change in statewide equalized assessed valuation in the State of industrial and/or commercial properties in the 5 years prior to the date of application is positive, the applicant should demonstrate that the increase in EAV of industrial and/or commercial properties in the 5 years prior to the date of application in the local labor market area is equal to or less than 50% of the State average increase in EAV for industrial and/or commercial properties, as applicable, for the same period of time as reported by the Department of Revenue.
 - B) If the change in statewide EAV of industrial and/or commercial properties in the 5 years prior to the date of application is negative, the applicant should demonstrate that the decrease in EAV of industrial and/or commercial properties in the 5 years prior to the date of application in the local labor market area is equal to or greater than 50% of the statewide average decrease in EAV for industrial and/or commercial properties, as applicable, for the same period of time as reported by the Department of Revenue.
 - C) Applicants are encouraged to use data on EAV of industrial and/or commercial properties in the local labor market area from the Department of Revenue or from the chief assessment official of the

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

[municipality, municipalities](#), county or counties in which at least a portion of the local labor market area is contained. Severity will be measured by the difference in the local labor market area's industrial and/or commercial EAV from the State average change in EAV for industrial and/or commercial properties beyond the threshold for this test.

- c) *No later than June 30, the Department shall notify all applicant municipalities and counties of the Department's determination of the qualification of their respective designated Enterprise Zone areas, and shall send qualifying applications, including the applicant's scores for the items listed in subsection (b) and the applicant's final score under this Section, to the Board for the Board's consideration, along with supporting documentation of the basis for the Department's decision. [20 ILCS 655/5.2(c)]*

(Source: Amended at 40 Ill. Reg. 10858, effective July 29, 2016)

SUBPART D: ENTERPRISE ZONE: LOCAL RESPONSIBILITIES

Section 520.400 Zone Administration

- a) The administration of an Enterprise Zone shall be under the jurisdiction of the designating municipality or county. Each designating municipality or county shall, by ordinance, designate a Zone Administrator for the certified zones within its jurisdiction. A Zone Administrator must be an officer or employee of the municipality or county. The Zone Administrator shall be the liaison between the designating municipality or county, the Department, and any Designated Zone Organizations within zones under his or her jurisdiction. Where there are two or more designating units of government for an Enterprise Zone, only one Zone Administrator is required for designation. The Zone Administrator must be an officer or employee of at least one of the designating units of government and must be selected in accordance with the intergovernmental agreement (see Section 520.240(c)).
- b) Each Zone Administrator *shall post a copy of the boundaries of the Enterprise Zone on its official Internet website and shall provide an electronic copy to the Department. The Department shall post each copy of the boundaries of an Enterprise Zone that it receives from a Zone Administrator on its official Internet website. [20 ILCS 655/8.2(a)]* Administrators are encouraged to submit

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

geospatial data in the form of ESRI ARCGIS Shape files.

- c) *The Zone Administrator shall collect and aggregate the following information:*
- 1) *the estimated cost of each building project, broken down into labor and materials; and*
 - 2) *within 60 days after the end of the project, the estimated cost of each building project, broken down into labor and materials. [20 ILCS 655/8.2(b)]*
- d) *By April 1 of each year, each Zone Administrator shall file a copy of its fee schedule with the Department, and the Department shall post the fee schedule on its website. Zone Administrators shall charge no more than 0.5% of the cost of building materials of the project associated with the specific Enterprise Zone, with a maximum fee of no more than \$50,000. [20 ILCS 655/8.2(c)]*

(Source: Amended at 40 Ill. Reg. 10858, effective July 29, 2016)

SUBPART I: UTILITY TAX EXEMPTION

Section 520.930 Application Approval Process

- a) **Application Approval Requirements.** Applications shall be submitted to the Department, which shall approve or deny the application in writing within 90 days after receipt. The application shall be approved if it meets the requirements of Sections 520.910 and 520.920, utilizing one of the two following options:
- 1) **Investments Placed in Service.** The applicant has substantiated, in accordance with Section 520.920(a), that the eligible investment in qualified property has been placed in service; or
 - 2) **Spending Plan and Financial Commitments.** The applicant has not placed in service in qualified property the eligible investment. However, a spending plan and financial commitments for the proposed eligible investment have been submitted. The spending plan must include a detailed "project by project" description, as well as the estimated eligible investment for each specific project. The spending plan must further include the date when the eligible investment in each project will be

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

placed in service. The applicant's financial commitments must include the sources of financing for the project. Should the applicant choose to follow this option, it must sign a written agreement with the Department obligating the business to place in service the eligible investment in qualified property within 12 months after certification pursuant to this Section. Should the business fail to place in service the eligible investment in qualified property within 12 months after certification pursuant to this Section, the business shall be decertified for the tax exemption and required to repay the exempted taxes. Should the business place in service the eligible investment subsequent to this decertification, the business may reapply to the Department for recertification. However, this reapplication must utilize the procedures set forth in subsection (a)(1) ~~of this Section~~, and contain the same information as required pursuant to Section 520.920.

- b) Application Denial Requirements. When the Department denies an application, it shall specify in writing the reasons for denial and allow the applicant 45 days from the date of application denial to amend and resubmit the application. Resubmitted applications shall be approved or denied in writing within 45 days after receipt.
- c) Certificates for "Investment" Applicants. Applicants determined eligible by the Department, in accordance with subsection (a)(1) ~~of this Section~~, will be issued a Certificate of Exemption. The exemption shall take effect six months after certification.
- d) Certificates for "Spending Plan" Applicants. Applicants determined eligible by the Department, in accordance with subsection (a)(2) ~~of this Section~~, will be issued a Certificate of Exemption 12 months prior to the eligible investment in qualified property being placed in service as set forth in the applicant's spending plan submitted pursuant to this Section.
- e) Department's Right to Inspect and Audit. The Department shall have the right to inspect and conduct its own audit of all books and records relied upon by the business to demonstrate that the eligible investment in qualified property has been placed in service. Certified businesses shall also submit information annually to the Department documenting the maintenance of the minimum job creation or job retention criterion. Certified businesses that fail to comply with this subsection shall be decertified for the tax exemption and shall repay the exempted taxes. The

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

jobs created or retained must be documented through personnel records.

- f) Five-Year Exemption Period. All certified businesses shall receive a five-year exemption from the State utility tax.
- g) Additional Exemption Period for Certified Businesses. At the expiration of this initial five-year period, certified businesses may apply to the Department for renewals of the exemption for additional five-year time periods not to exceed the termination date of the Enterprise Zone. The Department shall grant an exemption to a certified business for an additional five-year period at 100% of the State utility taxes provided that at the time of the application for each renewal:
 - 1) Jobs Retained are in an Enterprise Zone. In the case of a business certified pursuant to the job creation criterion of Section 520.920, [thesueh](#) business has retained a minimum of 200 full-time equivalent jobs in Illinois; or in the case of a business certified pursuant to the job retention criterion of Section 520.910, [thesueh](#) business has retained a minimum of 1,000 full-time jobs in Illinois. A majority of the "jobs retained" must be in the Enterprise Zone in which the eligible investment is made.
 - 2) Business is Located in an Enterprise Zone. [TheSueh](#) business is located in an Enterprise Zone established pursuant to the Illinois Enterprise Zone Act [20 ILCS 655].
 - 3) Business Provides an Audited Financial Statement. [TheSueh](#) business provides a financial statement, including balance sheets and income statements, audited according to generally accepted auditing standards by a public accountant certified in the State of Illinois as contained in the publication entitled AICPA Professional Standards, American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York NY 10036-8775 (June 2011, no later editions are incorporated). In addition, the certified business' chief financial officer shall attest in writing that the certified business is not aware of a condition or occurrence that would result in a bankruptcy or closure.
 - 4) Maximum Period of Exemption. This exemption shall not be allowed beyond the term of the certified Enterprise Zone.
- h) [Exemptions for Certified Businesses Located in Enterprise Zones Successful in](#)

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

Reapplying for Designation. Certified businesses located in Enterprise Zones that successfully reapplied for designation as an Enterprise Zone to be effective on or after January 1, 2016, and that expired or terminated solely by operation of Section 5.3(c) of the Act, shall continue to be eligible for the renewals of exemptions in accordance with subsection (g). Any Certificate of Exemption issued under this Section shall not, after taking into account the time for which the exemption existed under the prior zone designation, exceed a total of five years. Thereafter, certified businesses located in Enterprise Zones may apply to the Department in accordance with subsection (g).

(Source: Amended at 40 Ill. Reg. 10858, effective July 29, 2016)

SUBPART J: MACHINERY AND EQUIPMENT/POLLUTION CONTROL
FACILITIES SALES TAX EXEMPTION

Section 520.1030 Application Approval Process

- a) Application Approval Requirements. Applications shall be submitted to the Department, which shall approve or deny the application in writing within 90 days after receipt. The application shall be approved if it meets the requirements of Sections 520.1010 and 520.1020.
- b) Application Denial Requirements. When the Department denies an application, it shall specify in writing the reasons for denial and allow the applicant 45 days from the date of application denial to amend and resubmit the application. Resubmitted applications shall be approved or denied in writing within 45 days after receipt.
- c) Certificates of Exemption. Applicants determined eligible by the Department, in accordance with Section 520.1010, will be issued a Certificate of Exemption. A copy of the Certificate of Exemption will be filed by the Department with the Illinois Department of Revenue in accordance with Section 1f of the Retailers' Occupation Tax Act.
- d) Exemption Includes. Subject to Section 520.1010, and in accordance with Section 1d of the Retailers' Occupation Tax Act, this exemption includes:
 - 1) Tangible Personal Property. All tangible personal property used or consumed in the process of manufacturing or assembling tangible personal

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

property for wholesale or retail sale or lease, or in the process of graphic arts production;

- 2) **Repair and Replacement Parts.** Repair and replacement parts for machinery and equipment used in the manufacturing or assembling of tangible personal property, or in the process of graphic arts production for wholesale or retail sale or lease; and
 - 3) **Equipment Manufacturing, Etc.** Equipment, manufacturing or graphic arts fuels, material, and supplies for the maintenance, repair, or operation of such manufacturing or assembling or graphic arts machinery or equipment.
- e) **Department's Right to Inspect and Audit.** The Department shall have the right to inspect and conduct its own audit of all books and records relied upon by the business to demonstrate that the eligible investment in qualified property has been placed in service. Certified businesses shall also submit information annually to the Department documenting the maintenance of the minimum job creation or job retention criterion. Certified businesses that fail to comply with this subsection shall be decertified for the tax exemption and shall repay the exempted taxes. The jobs created or retained must be documented through personnel records.
- f) **Five-Year Exemption Period.** All certified businesses shall receive a five-year exemption from this tax.
- g) **Additional Exemption Period for Certified Businesses.** At the expiration of this initial five-year period, certified businesses may apply to the Department for renewals of the exemption for additional five-year time periods not to exceed the termination date of the Enterprise Zone. The Department shall grant an exemption to a certified business for an additional five-year period, provided that at the time of application for renewal:
- 1) **Job Creation/Retention Criteria.** The following job creation/retention criteria are met:
 - A) In the case of a business certified pursuant to the job creation criterion of Section 520.1010, the business has retained a minimum of 200 full-time equivalent jobs in Illinois.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- B) In the case of a business certified pursuant to the job retention criterion of Section 520.1010, the business has:
 - i) Retained a minimum of 2,000 full-time jobs in Illinois; or
 - ii) Has made an eligible investment of \$40 million resulting in the retention of 90% of the full-time jobs in place on the date on which the exemption is granted for the duration of the exemption.
 - C) A majority of the "jobs retained" must be in the Enterprise Zone in which the eligible investment is made.
- 2) Business is Located in an Enterprise Zone. The business is located in an Enterprise Zone established pursuant to the Illinois Enterprise Zone Act [20 ILCS 655].
 - 3) Business Provides an Audited Financial Statement. The business provides an audited Financial Statement, including balance sheets and income statements, audited according to generally accepted auditing standards by a public accountant certified in the State of Illinois as contained in the publication entitled AICPA Professional Standards, American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York NY 10036-8775 (June 2011, no later editions are incorporated). In addition, the certified business' chief financial officer shall attest in writing that the certified business is not aware of a condition or occurrence that would result in a bankruptcy or closure.
 - 4) Maximum Period of Exemption. This exemption shall not be allowed beyond the term of the certified Enterprise Zone.
- h) Exemptions for Certified Businesses Located in Enterprise Zones Successful in Reapplying for Designation. Certified businesses located in Enterprise Zones that successfully reapplied for designation as an Enterprise Zone to be effective on or after January 1, 2016, and that expired or terminated solely by operation of Section 5.3(c) of the Act, shall continue to be eligible for the renewals of exemptions in accordance with subsection (g). Any Certificate of Exemption issued under this Section shall not, after taking into account the time for which the exemption existed under the prior zone designation, exceed a total of five years.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

Thereafter, certified businesses located in Enterprise Zones may apply to the Department in accordance with subsection (g).

(Source: Amended at 40 Ill. Reg. 10858, effective July 29, 2016)

SUBPART P: HIGH IMPACT SERVICE FACILITY MACHINERY AND
EQUIPMENT SALES TAX EXEMPTION

Section 520.1630 Application Approval Process

- a) **Application Approval Requirements.** Applications shall be submitted to the Department, which shall approve or deny the application in writing within 60 days after receipt. The application shall be approved if it meets the requirements of Sections 520.1610 and 520.1620 and the applicant has submitted a spending plan and financial commitments for the proposed eligible investment. The applicant must sign a written agreement with the Department obligating the business to place in service the eligible investment in qualified property within five years after the date of certification. Should the business fail to place in service the eligible investment in qualified property within five years following certification, the business shall be decertified for the tax exemption and required to repay the exempted taxes. Should the business place in service eligible investment subsequent to decertification, the business may reapply to the Department for recertification. However, this reapplication must utilize the procedures set forth in Section 520.1620, and contain the same information as required pursuant to Section 520.1610.
- b) **Application Denial Requirements.** When the Department denies an application, it shall specify in writing the reasons for denial and allow the applicant 15 days from the date of application denial to amend and resubmit the application. Resubmitted applications shall be approved or denied within 30 days after receipt.
- c) **Certificate of Eligibility for Exemption.** Applicants determined eligible by the Department in accordance with Sections 520.1610 and 520.1620 will be issued a Certificate of Eligibility for Exemption.
- d) **10-Year Exemption Period.** All certified businesses shall receive a 10-year exemption from the tax imposed by Section 2 of the Retailers' Occupation Tax Act on purchases of machinery and equipment used in the operation of a high impact service facility, as provided in Section 1j of the Retailers' Occupation Tax

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

Act, and on purchases of jet fuel and petroleum products sold to and used in the conduct of its business of sorting, handling and redistribution of mail, freight, cargo or other parcels in the operation of a high impact service facility, defined in Section 1j of the Retailers' Occupation Tax Act.

- e) **Quarterly Reports Required.** All certified businesses shall submit quarterly reports describing the progress made toward the creation of 750 or more full-time or full-time equivalent jobs, and the investment of \$100 million in qualified property at the High Impact Service Facility.
- f) **Additional Exemption Periods.** At the expiration of this initial 10-year period, certified businesses may apply to the Department for renewals of the exemption for additional 5-year time periods. Any previously certified business that had its exemption expire for the sole reason that it could not seek an additional renewal under the previous version of this Section may apply to the Department for a renewal, and the Department may grant an exemption to the business and make that exemption retroactively effective as of the date of its previous expiration. The Department shall grant an exemption to a certified business for an additional 5-year period provided that, at the time of application for renewal:
 - 1) **Minimum Jobs Created.** The business has created a minimum of 750 or more full-time or full-time equivalent jobs at a High Impact Service Facility in Illinois.
 - 2) **Business is Located in an Enterprise Zone.** The business is located in an Enterprise Zone established pursuant to the Illinois Enterprise Zone Act [20 ILCS 655].
 - 3) **Business Provides an Audited Financial Statement.** The business provides a financial statement, including balance sheets and income statements, audited according to generally accepted auditing standards by a public accountant certified in the State of Illinois as contained in the publication entitled AICPA Professional Standards, American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York NY 10036-8775 (June 2011, no later editions are incorporated). In addition, the certified business chief financial officer shall attest in writing that the certified business is not aware of a condition or occurrence that would result in a bankruptcy or closure.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

- 4) Maximum Period of Exemption. This exemption shall not be allowed beyond the term of the certified Enterprise Zone.
- g) Exemptions for Certified Businesses Located in Enterprise Zones Successful in Reapplying for Designation. Certified businesses located in Enterprise Zones that successfully reapplied for designation as an Enterprise Zone to be effective on or after January 1, 2016, and that expired or terminated solely by operation of Section 5.3(c) of the Act, shall continue to be eligible for the renewals of exemptions in accordance with subsection (f). Any Certificate of Exemption issued under this Section shall not, after taking into account the time for which the exemption existed under the prior zone designation, exceed a total of five years. Thereafter, certified businesses located in Enterprise Zones may apply to the Department in accordance with subsection (f).

(Source: Amended at 40 Ill. Reg. 10858, effective July 29, 2016)

SUBPART R: AIRCRAFT MAINTENANCE FACILITY SALES TAX EXEMPTIONSection 520.1800 Definitions

The following definitions are applicable to this Subpart R.

"Act" means Section 1k of the Retailers' Occupation Tax Act [35 ILCS 120/1k].

"Aircraft maintenance facility" means a facility operated by an interstate carrier for hire that is used primarily for the maintenance, rebuilding or repair of aircraft, aircraft parts and auxiliary equipment owned or leased by that carrier and used by that carrier as rolling stock moving in interstate commerce.

"Contractually obligated" means the business enterprise has entered into a legally binding agreement with the Department to comply with Section 1k of the Retailers' Occupation Tax Act.

"Department" means the Department of Commerce and Economic Opportunity.

"Eligible investments" means a \$400,000,000 investment in qualified property at an aircraft maintenance facility located in a county with population not less than 150,000 and not more than 200,000 and that contained three enterprise zones as of December 31, 1990. Qualified properties are statutorily defined in Section 201(f)

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

of the Illinois Income Tax Act [35 ILCS 5/201(f)] or are noncapital/nonroutine investments, and associated service costs (direct labor or contractual fees) that will be placed in service at an aircraft maintenance facility.

"Full-time equivalent job" means a job in which the new employee works for the recipient or for a corporation under contract to the recipient at a rate of at least 35 hours per week. A recipient who employs labor or services at a specific site or facility under contract with another may declare one full-time, permanent job for every 1820 man hours worked per year under that contract. Vacations, paid holidays, and sick time are included in this computation. Overtime is not considered a part of regular hours. [20 ILCS 655/3(i)]

"Full-time retained job" means any employee defined as having a full-time or full-time equivalent job preserved at a specific facility or site, the continuance of which is threatened by a specific and demonstrable threat, which shall be specified in the application for development assistance. A recipient who employs labor or services at a specific site or facility under contract with another may declare one retained employee per year for every 1750 man hours worked per year under that contract, even if different individuals perform on-site labor or services. [20 ILCS 655/3(j)]

"Job creation" means at least 5000 full-time equivalent employees have been hired at an aircraft maintenance facility. Job titles being filled or refilled as a result of strikes cannot be computed as job creation.

"New employee" means a full-time equivalent job that represents a net increase in the number of the recipient's employees statewide. "New employee" includes an employee who previously filled a new employee position with the recipient who was rehired or called back from a layoff that occurs during or following the base years. The term "new employee" does not include any of the following:

An employee of the recipient who performs a job that was previously performed by another employee in this State, if that job existed in this State for at least 6 months before hiring the employee;

Any individual who has a direct or indirect ownership interest of at least 5% in the profits, capital or value of any member of the recipient;

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

A child, grandchild, parent or spouse, other than a spouse who is legally separated from the individual, of any individual who has a direct or indirect ownership interest of at least 5% in the profits, capital or value of any member of the recipient;

Employee positions being filled or refilled as a result of strikes or layoffs, or replacement workers used to replace recipient company locked out employees.

"Placed in service" means the state or condition of readiness and availability for a specifically assigned function as defined in 26 CFR 1.46-3(d). Eligible investments as defined in this Section shall be considered placed in service on the earlier of the date the property is placed in a condition of readiness and availability for use or the date on which the depreciation period of that property begins.

(Source: Added at 40 Ill. Reg. 10858, effective July 29, 2016)

Section 520.1810 Eligibility Criteria

The business enterprise must provide a written description of a spending plan and financial commitments for the proposed eligible investment that will demonstrate to the Department that the minimum eligible investment will be placed in service and the required number of jobs will be created within three years following the date of certification. This information must include a detailed "project by project" description, as well as the estimated eligible investment for each specific project that obligates the business enterprise to place in service the minimum eligible investment and create the required number of jobs.

(Source: Added at 40 Ill. Reg. 10858, effective July 29, 2016)

Section 520.1820 Form of Application

An application shall be submitted on the standard application form provided by the Department. An application shall include:

- a) Investment Information – a description of the eligible investment with documentation to substantiate that the planned investment is eligible (e.g., balance sheets, construction schedules, schematics and specifications, or lists and cost of equipment purchased); and a spending plan and financial commitments

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

demonstrating that the business enterprise will place the investment in service within three years after certification;

- b) Job Information – information on new employment that will result at the aircraft maintenance facility, as a result of the investment, that includes by job titles the number of employees and an explanation of how and why the investment causes creation of full-time employees or full-time equivalent employees.
- c) Certification – a signed and dated statement verifying that the data and information in the application are true and correct, that the Department shall be provided access to any material, documentation or other data required to verify application information, and a statement that the number of jobs created shall be maintained for the term of the exemption.
- d) Legally Binding Agreement – a dated statement executed by the Chief Executive Officer of the business enterprise obligating the business enterprise to create 5000 or more full-time equivalent jobs and place in service, within three years, a minimum of \$400,000,000 in qualified property at an aircraft maintenance facility. The agreement shall state that, should the business fail to place in service the eligible investments in qualified property within three years following certification, the business shall be decertified for the tax exemption and required to repay the exempted taxes, plus any penalties and interest determined by the Department of Revenue. The agreement shall also state that the business shall submit quarterly progress reports describing the progress made toward the creation of 5000 or more full-time equivalent jobs and the investment of \$400,000,000 in qualified property at the aircraft maintenance facility, and that failure to do so shall result in termination of the exemption.

(Source: Added at 40 Ill. Reg. 10858, effective July 29, 2016)

Section 520.1830 Application and Approval Process

- a) Upon receipt of a complete application, the Department shall approve or deny the application in writing within 60 days after receipt. The application shall be approved if it meets the requirements of Sections 520.1810 and 520.1820 and the applicant has submitted a spending plan and financial commitments for the proposed eligible investment. The applicant must have a legally binding agreement (see Section 520.1820(d)) that obligates the business to place in service the eligible investments within three years after the date of certification. If the

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

business fails to meet any of the conditions of the agreement, including, but not limited to, failure to place in service the eligible investments in qualified property within three years after the date of certification, the business may be decertified for the tax exemption and required to repay the exempted taxes. Should the business place in service eligible investments subsequent to decertification, the business may reapply to the Department for recertification. However, this reapplication must utilize the procedures set forth in Section 520.1820 and contain the same information as required by Section 520.1810.

- b) When the Department denies an application, it shall specify in writing the reasons for denial and allow the applicant 15 days from the date of application denial to amend and resubmit the application. Resubmitted applications shall be approved or denied within 30 days after receipt.
- c) Applicants determined eligible by the Department in accordance with Sections 520.1810 and 520.1820 shall be issued a Certificate of Eligibility for Exemption.
- d) All certified businesses shall receive a 10-year exemption from the tax imposed by Sections 1m and 1n of the Retailers' Occupation Tax Act [35 ILCS 120] on machinery and equipment used primarily to maintain, rebuild or repair aircraft used as rolling stock moving in interstate commerce for hire by the operator of the aircraft maintenance facility and all tangible personal property to be used or consumed, within an enterprise zone established pursuant to the Illinois Enterprise Zone Act, by any aircraft maintenance facility operator, directly in the process of maintaining, rebuilding or repairing aircraft, as provided in Sections 1n and 1o of the Retailers' Occupation Tax Act.
- e) All certified businesses shall submit quarterly reports describing the progress made toward the creation of 5000 or more full-time equivalent jobs and the investment of \$400,000,000 in qualified property at the aircraft maintenance facility.
- f) At the expiration of the initial 10-year period, certified businesses may apply to the Department for a renewal of the exemption for an additional 10-year time period. The Department shall grant an exemption to a certified business for an additional 10-year period, provided that, at the time of application for renewal:
 - 1) The business has created a minimum of 5000 or more full-time equivalent jobs and invested \$400,000,000 in qualified property for an aircraft

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

maintenance facility.

- 2) The business is located in a county with population not less than 150,000 and not more than 200,000 and that contained three enterprise zones as of December 31, 1990.
- 3) The business provides an audited financial statement, including balance sheets and income statements, audited according to generally accepted auditing standards by a public accountant certified in the State of Illinois as contained in the publication entitled AICPA Professional Standards, American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York NY 10036-8775 (June 2014, no later editions are incorporated). In addition, the firm's chief financial officer shall attest in writing that the firm is not aware of a condition or occurrence that would result in bankruptcy or closure.
- 4) The total period of the exemption from the taxes imposed under the Act cannot exceed the life of the enterprise zone in which the business is located.

(Source: Added at 40 Ill. Reg. 10858, effective July 29, 2016)

Section 520.1840 Revocation of an Aircraft Maintenance Facility Designation

- a) If the business fails to meet any of the conditions of the legally binding agreement, including, but not limited to, failure to make the minimum eligible qualified investment and create or retain the requisite number of jobs, the business may be decertified for the tax exemption and required to repay the exempted taxes. The Department will contact the Director of the Illinois Department of Revenue and request that DOR begin proceedings to recover wrongfully exempted taxes, with interest as allowed by law.
- b) The Department shall revoke an aircraft maintenance facility designation if it is determined upon investigation that the business falsified application information in violation of Section 520.1820(d).
- c) The Department shall notify a business designated as an aircraft maintenance facility in writing that it is subject to revocation in accordance with subsection (b). The notice shall include the reason for revocation and the date and location of a

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENTS

hearing to be held pursuant to 56 Ill. Adm. Code 2605 (Administrative Hearing Rules).

- d) Following revocation in accordance with subsection (b), the Department will contact the Director of the Illinois Department of Revenue and request that DOR begin proceedings to recover wrongfully exempted taxes, with interest as allowed by law.
- e) Any business whose aircraft maintenance facility designation is revoked shall be ineligible for all State funded Department programs for 10 years.

(Source: Added at 40 Ill. Reg. 10858, effective July 29, 2016)

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: General Procedures
- 2) Code Citation: 80 Ill. Adm. Code 1200
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1200.5	Amendment
1200.7	New Section
1200.10	Amendment
1200.20	Amendment
1200.40	Amendment
1200.45	Amendment
1200.60	Amendment
1200.70	Amendment
1200.80	Amendment
1200.90	Amendment
1200.100	Amendment
1200.105	Amendment
1200.120	Amendment
1200.135	Amendment
1200.140	Amendment
1200.143	Amendment
1200.145	Amendment
- 4) Statutory Authority: Authorized by Section 5(i) of the Illinois Public Labor Relations Act [5 ILCS 315/5(i)]
- 5) Effective Date of Rules: August 1, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Illinois Labor Relation Board's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 2414; February 5, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

- 11) Differences between Proposal and Final Version: The only substantive change between the proposed and final drafts is the inclusion of a 45-day timeframe for the General Counsel to issue a declaratory ruling in Section 1200.45. There is a structural change to Section 1200.20(e) related to service of documents. In the proposal, the Board sought to eliminate a timeframe for declaratory rulings. The Board also corrected the citation to 2 Ill. Adm. Code 2501.20(c) to 2 Ill. Adm. Code 2501.220(a), and added a citation to the Act in Section 90. All other changes were typographical or stylistic in nature.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this part? No
- 15) Summary and Purpose of Rulemaking: The Board has conducted a systematic review of its administrative rules for the first time since 2003. The amendments intend to bring Board practices in compliance with the Open Meetings Act; make the Board's processes more efficient, e.g., allowing electronic filing; and clarify existing procedures.
- 16) Information and questions regarding these adopted rules shall be directed to:

Sarah R. Kerley
Deputy General Counsel
Illinois Labor Relations Board
One Natural Resources Way, First Floor
Springfield IL 62702

217/785-3155
Sarah.R.Kerley@Illinois.Gov

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

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE C: LABOR RELATIONS
CHAPTER IV: ILLINOIS LABOR RELATIONS BOARDPART 1200
GENERAL PROCEDURES

Section

1200.3	General Statement of Purpose
1200.5	Board Information and Business Hours
1200.7	Board Meetings
1200.10	Definitions
1200.20	Filing and Service of Documents
1200.30	Computation and Extensions of Time
1200.40	Authority of Administrative Law Judges
1200.45	Motions
1200.50	Recording of Hearings and Payment of Court Reporting Services
1200.60	Closing Arguments and Briefs Before An Administrative Law Judge
1200.70	Representation of Parties
1200.80	Ex Parte Communications
1200.90	Subpoenas
1200.100	Transfer of Jurisdiction
1200.105	Consolidation of Proceedings
1200.110	Amicus Curiae Briefs (Repealed)
1200.120	Voluntary Settlement or Adjustment of Disputes
1200.130	Rules of Evidence
1200.135	Appeals Procedures, Board Review and Court Review
1200.140	Amicus Curiae Briefs
1200.143	Declaratory Rulings
1200.145	Filing of Contracts
1200.150	Conflicts of Interest
1200.160	Variances and Suspensions of Rules
1200.170	Board Member Meeting Attendance by Means other than Physical Presence

AUTHORITY: Implementing and authorized by the Illinois Public Labor Relations Act [5 ILCS 315].

SOURCE: Emergency rule adopted at 8 Ill. Reg. 17314, effective September 11, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1846, effective January 25, 1985; amended at 11 Ill.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

Reg. 6428, effective March 27, 1987; amended at 12 Ill. Reg. 20096, effective November 18, 1988; amended at 14 Ill. Reg. 19896, effective November 30, 1990; amended at 17 Ill. Reg. 15588, effective September 13, 1993; amended at 20 Ill. Reg. 7391, effective May 10, 1996; amended at 27 Ill. Reg. 7365, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 15557, effective September 22, 2003, for a maximum of 150 days; emergency amendment expired February 18, 2004; amended at 28 Ill. Reg. 4166, effective February 19, 2004; emergency amendment at 28 Ill. Reg. 7540, effective May 12, 2004, for a maximum of 150 days; emergency expired October 8, 2004; amended at 28 Ill. Reg. 15154, effective November 1, 2004; emergency amendment at 37 Ill. Reg. 5897, effective April 22, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 14064, effective August 23, 2013; amended at 37 Ill. Reg. 20637, effective December 13, 2013; emergency amendment at 39 Ill. Reg. 10641, effective July 15, 2015, for a maximum of 150 days; amended at 39 Ill. Reg. 15803, effective November 25, 2015; amended at 40 Ill. Reg. 10892, effective August 1, 2016.

Section 1200.5 Board Information and Business Hours

- a) The Springfield office of the Illinois Labor Relations Board is located at:

One Natural Resources Way, First Floor
Springfield IL 62702
telephone: 217-785-3155
facsimile: 217-785-4146

- b) The Chicago office of the Board is located at:

160 N. LaSalle St., Suite S-400
Chicago IL 60601
telephone: 312-793-6400
facsimile: 312-793-6989

- c) The Board's website address is www.Illinois.gov/ilrb ~~www.state.il.us/ilrb~~. The Board's designated email address for electronic filing purposes is ILRB:Filing@Illinois.gov.

- d) The official business hours of the Board are 8:30 a.m. to 5:00 p.m., Monday through Friday.

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 1200.7 Board Meetings

- a) Notice of meetings is given on the Board's website, www.Illinois.gov/ilrb, and at each of the Board's offices in accordance with the provisions of the Open Meetings Act [5 ILCS 120/2.02].
- b) After the Board has considered pending cases, members of the public shall be permitted to address the Board during the open portion of a Board meeting on subjects relevant to the Board's functions. The comments by each member of the public shall be limited to a reasonable period of time, not to exceed five minutes, without permission of the Chairman.
- c) Any person may record, by tape, film or other means, the meetings of the Illinois Labor Relations Board's State Panel, Local Panel or the Panels meeting in joint session that are required to be open by Illinois law. However, if the recording process interferes with the overall decorum and proceeding of a meeting, the recording shall be discontinued at the request of the Chairman or other presiding officer.

(Source: Added at 40 Ill. Reg. 10892, effective August 1, 2016)

Section 1200.10 Definitions

~~The This Part incorporates the~~ definitions contained in Section 3 of the Act shall apply to this Part, as well as ~~the following: other definitions.~~

"Act" means the Illinois Public Labor Relations Act [5 ILCS 315].

"Administrative Law Judge" means either the agency head or an attorney licensed to practice in Illinois.

"Administrative Law Judge's recommended decision and order" means findings of fact and conclusions of law and reasons for those findings and conclusions. It is not a final decision of the Board. Such a recommended decision and order will be reviewed by the Board upon the filing of exceptions or on the Board's own motion.

"Board" means the Illinois Labor Relations Board or State or Local Panel, individually as applicable, or an agent designated by the Board.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

"Board agent" means any Board employee who is designated by the Board to perform the acts and/or responsibilities outlined in the relevant sections of the rules.

"Charging party" means the person, [employer](#) or labor organization filing an unfair labor practice charge.

"Complaint" means a Board document issued to the parties in an unfair labor practice proceeding, notifying them of a hearing and setting forth the issues of fact or law to be resolved at the hearing.

"Employer" means ["public employer" or "employer" as defined in Section 3\(o\) of the Act](#) or the party named in a representation petition, unit clarification petition, decertification petition or voluntary recognition petition as the employer of the unit described in the petition.

["Exclusive representative" means "exclusive representative" as defined in Section 3\(f\) of the Act.](#)

"Executive Director's Order" includes reports concerning challenges and objections to an election; deferrals to arbitration; orders holding cases in abeyance; dismissals; directions of election; and other similar orders. These orders are not final decisions of the Board but are the results of investigations. The Board, upon the filing of an appeal, shall review such orders except that orders and parts of orders finding sufficient issues of law and fact sufficient to warrant a hearing are not appealable.

"Fact-finding" means a process whereby an employer and an exclusive representative submit their disputes concerning the terms of a new collective bargaining agreement to a neutral third party for non-binding findings of fact and recommendations.

"General public employee unit" means any bargaining unit of employees who, because they are not subject to Section 14 of the Act, have the right to strike in accordance with Section 17 of the Act.

"Grievance arbitration" means a process whereby an employer and an exclusive representative submit a dispute concerning the interpretation or application of an

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

existing collective bargaining agreement to a neutral third party for resolution.

"Grievance mediation" means a process whereby an employer and an exclusive representative employ a neutral third party to communicate with the parties and endeavor to bring about an amicable, voluntary resolution of a dispute over the interpretation or application of an existing collective bargaining agreement.

"Initial contract" means ~~negotiations for~~ a first collective bargaining agreement between an exclusive representative and an employer, covering a bargaining unit, following certification of that exclusive representative, that is not currently covered by a collective bargaining agreement between the exclusive representative and the employer.

"Interest arbitration" means a process ~~in which~~whereby an employer and an exclusive representative submit their disputes concerning the terms to be included ~~in~~ a new collective bargaining agreement for resolution by a neutral third party.

"Compulsory interest arbitration" shall refer to interest arbitration engaged in pursuant to Section 14 of the Act. "Voluntary interest arbitration" shall refer to all other interest arbitration engaged in under the Act.

"Labor organization" means "labor organization" as defined in Section 3(i) of the Act.

"Mediation" means a process whereby an employer and an exclusive representative employ a neutral third party to communicate with the parties and endeavor to bring about an amicable, voluntary resolution of negotiations over the terms of a new collective bargaining agreement.

"Petitioner" means the party named in a representation petition, unit clarification petition, decertification petition or voluntary recognition petition as having filed the petition.

"Protective services unit" means any bargaining unit subject to Section 14 of the Act in which the employees accordingly do not have the right to strike. Such units *are units of security employees of a public employer, peace officer units, or units of firefighters or paramedics.* (Section 14(a) of the Act)

"Representation petition" means either a traditional representation petition to determine a union's majority support through an election (election petition) as set

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

forth in Section 9(a)(1) and (2) of the Act or a petition filed pursuant to the Board's card check procedures (majority interest petition) as set forth in Section ~~9(a-5)(a)(5)~~ of the Act.

"Respondent" means the party named in an unfair labor practice charge or complaint as having allegedly committed the unfair labor practice.

"Successor contract" means negotiations for a collective bargaining agreement covering a bargaining unit that is currently covered by a collective bargaining agreement between the exclusive representative and the employer.

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)

Section 1200.20 Filing and Service of Documents

- a) ~~All charges, petitions, mediation requests and other initial documents relating to any proceeding before the State Panel of the Illinois Labor Relations Board shall be filed in the Board's Springfield office, which shall be designated as the State Panel's principal office. All subsequent documents may shall be filed in either the Board's Springfield or Chicago office, as directed by the Board. All documents relating to any proceeding before the Local Panel of the Illinois Labor Relations Board shall be filed with the Board's office in Chicago which shall be designated as the Local Panel's principal office. Two copies of each document shall be filed. The Board shall post, and from time to time revise as appropriate, a list containing the street and mailing addresses for filing by actual delivery of papers and the telephone numbers for filing by electronic telefacsimile transmission (fax).~~
- b) Whenever this Part or 80 Ill. Adm. Code 1210, 1220 or 1230 requires that a document be on a form developed by the Board, the document may be prepared on a form obtained ~~either from a Board office or from the Board's website. from the Board or on a facsimile.~~ Minor deviations in the form of a document shall not be grounds for objecting to the document. Minor deviations are those concerning form rather than substance that do not prejudice the other parties to a proceeding.
- c) Documents may be filed by any of the following methods:
- 1) By actual delivery of documents to the Board;
 - 2) By first class, registered or certified United States mail or by commercial

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

parcel delivery company; or

- 3) By email, to the Board's designated email address for electronic filing, provided that any and all attachments are in Microsoft Word format (.doc or .docx) or in Portable Document Form (.pdf). The Board may direct parties to provide hard copies of documents filed by e-mail.~~By fax, subject to the following limitations:~~
- A) ~~Parties shall transmit one copy of the documents, accompanied by a cover sheet or form identifying the party filing the documents, the total number of pages in the fax transmission, and the name, address, telephone number and fax number of the person sending the fax;~~
 - B) ~~The original documents filed by fax shall be mailed or delivered to the appropriate Board office on the same day the fax is transmitted, together with a fax confirmation receipt;~~
 - C) ~~The appropriate case numbers shall be indicated on the front page of each document filed by fax, unless the document is being filed to initiate proceedings before the Board;~~
 - D) ~~If receipt of a fax transmission commences after the close of the Board's business hours, the documents will be deemed filed on the next business day; and~~
 - E) ~~A fax shall not be used to submit authorization cards for purposes of a showing of interest within the meaning of 80 Ill. Adm. Code 1210.80.~~
- d) All petitions and, intervening claims filed in representation proceedings, and all amendments to those documents, shall be served on the appropriate parties by the Board by certified mail or by regular mail accompanied by affidavit or certificate of service.
- e) All ~~unfair labor practice charges and all~~ documents, except those listed in subsection (d), shall be served by the party filing the document on all other parties to the proceedings. The following documents~~Evidence submitted to the Board in the course of an investigation~~ shall not be subject to this requirement:-

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) position statements and evidence submitted to the Board in the course of any investigation of an unfair labor practice charge;
 - 2) position statements and evidence submitted to the Board in the course of any investigation of an objection to an election;
 - 3) showing of interest evidence described in Section 1210.80; and
 - 4) evidence of majority support referenced in Section 1210.160(c).
- f) When a party is represented in a proceeding before the Board, service shall be on the party's representative. When a party is not represented, service shall be on the party. The document shall not be considered properly served unless accompanied by proof of service. Proof of service shall consist of a written statement, signed by the party effecting service, detailing the name of the party served and the date and manner of service.
- g)f) In all matters, a document shall be considered filed with the Board on the date that it is
- 1) postmarked;
 - 2) tendered to a delivery service;
 - 3) transmitted by e-mail, in accordance with Section 1200.20(c)(3); or
 - 4) received before the close of the Board's business hours by personal delivery in either of the Board's offices, office of the appropriate Panel before the close of the Board's business hours. Service made by fax shall be regarded as completed upon production by the fax machine of confirmation of transmission, together with the same day mailing of a copy of the papers, postage pre-paid and properly addressed, to the person being served.

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)

Section 1200.40 Authority of Administrative Law Judges

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

The Administrative Law Judge shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, to maintain order and to ensure development of a clear and complete record. The Administrative Law Judge shall have all powers necessary to achieve these ends, including, but not limited to the discretionary authority to:

- a) Require the parties to participate in a pre-hearing conference [and/or mediation](#) before proceeding with a hearing;
- b) Require all parties to submit pre-hearing information, including, but not limited to, a detailed written statement of the issue to be resolved at hearing and its position; a list of witnesses each party intends to call, the nature of their testimony, the estimated time for each witness' testimony, and the estimated time for the party's case in chief; a list of exhibits to be offered by each party in its case in chief and a copy of each exhibit; and all other information the Administrative Law Judge requests;
- c) Regulate the proceedings of the case, and the conduct of the parties and their counsel;
- d) Administer oaths and affirmations;
- e) Receive relevant testimony and evidence;
- f) Establish reasonable limits on the frequency and duration of the testimony of any witness and limit repetitious or cumulative testimony;
- g) Examine witnesses and direct witnesses to testify; however, this provision does not lessen any party's burden of proof;
- h) Issue subpoenas and rule upon motions to revoke subpoenas;
- i) Take administrative notice of generally recognized facts of which Illinois courts may take judicial notice and of other facts within the specialized knowledge and experience of the Board;
- j) Rule on objections, motions and questions of procedure;
- k) Authorize the submission of briefs and set the time for their filing;

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

- l) Hear closing argument;
- m) Order a hearing reopened prior to the issuance of the Administrative Law Judge's recommended decision and order;
- n) Render and serve the recommended decision and order on the parties to the proceeding;
- o) Carry out the duties of Administrative Law Judge as provided or otherwise authorized by this Part or 80 Ill. Adm. Code 1210, 1220 or 1230 or the Act.

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)

Section 1200.45 Motions

- a) Motions during the course of an investigation must be filed with the Executive Director. In matters set for hearing, all motions must be filed with the assigned Administrative Law Judge. Once the Administrative Law Judge's recommended decision and order has issued, all motions ~~must~~should be filed with the General Counsel ~~in the Board's Chicago office.~~ Any briefs related to a motion filed before an Administrative Law Judge or General Counsel must comport with Section 1200.140.
- b) Motions must be made in writing unless made during the hearing, at which time the motions may be made verbally, on the record. Motions must briefly state the grounds for the motion and any relief requested. Written motions must be served in accordance with Section 1200.20.
 - 1) Motions to extend time for the filing of documents must contain a statement that the moving party discussed the requested extension with the other parties. If no objections were raised, the moving party must certify that the other parties were consulted and authorized the moving party to represent that they have no objections. If objections were raised, the moving party must describe those objections and its response.
 - 2) Motions for continuance of a hearing must contain a statement that the moving party consulted with the other parties to determine whether they have any objection to the requested continuance. Where there are no objections, the moving party must certify that it has consulted with the

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

other parties and that they authorized the moving party to represent that they have no objections. Where objections are raised, the moving party must describe those objections and its response. The motion for continuance must contain a statement that the moving party contacted the other parties to determine their availability for hearing on subsequent dates and it must indicate those dates in the motion.

- 3) At any time prior to the issuance of the recommended decision and order, a party may move to disqualify the Administrative Law Judge on the grounds of bias or conflict of interest. The motion shall be in writing to the General Counsel, with a copy to the Administrative Law Judge, setting out the specific instances of bias or conflict of interest. An adverse decision or ruling, in and of itself, is not grounds for disqualification. The General Counsel may decline to disqualify the Administrative Law Judge or may appoint another Administrative Law Judge to hear the case.
- 4) Motions to defer an unfair labor practice matter to arbitration may be made in accordance with Section 1220.65.
- c) Responses and any other answering documents, including memoranda and affidavits, must be filed within 5 days after service of the motion, or as otherwise required by the [Executive Director](#), Administrative Law Judge or the Board. Responses must be served in accordance with Section 1200.20.
- d) Rulings on motions shall be made in writing and served on all parties to the proceeding. The Administrative Law Judge may reserve ruling on any motion until the issuance of his [or her](#) recommended decision and order.
- e) Rulings on motions are not appealable to the Board, unless as otherwise provided by the Board.

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)

Section 1200.60 Closing Arguments and Briefs Before An Administrative Law Judge

Upon request, a party is entitled to a reasonable period of time at the close of the hearing for oral argument, which shall be made part of the record. The Administrative Law Judge may direct the filing of briefs when the filing is, in the opinion of the Administrative Law Judge, warranted by the nature of the proceedings or the particular issues involved. [All briefs filed shall be in](#)

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

~~accordance with Section 1200.140. All briefs shall be no more than a total of 50 double-spaced pages with margins of at least 1/2 inch, including attachments. All of the pages in excess of the 50 page limit will be rejected. The General Counsel may grant approval of exceptions and briefs containing more than 50 pages only in extraordinary circumstances (e.g., in cases involving extremely complex issues, in cases involving factual or legal issues of first impression, or in cases involving a lengthy factual record).~~

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)

Section 1200.70 Representation of Parties

A party may be represented by counsel or any other representative of the party's choosing. The representative shall file a Notice of Appearance with the Board referencing the case number and caption, and the postal address, email address and telephone number of the representative. Filing pleadings on behalf of a party shall be equivalent to filing a Notice of Appearance, provided the pleadings include the required information.

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)

Section 1200.80 Ex Parte Communications

No party or other persons legally interested in the outcome of a matter pending before an Administrative Law Judge or any Board panel hearing may communicate ex parte regarding the matter, either directly or indirectly, with ~~any~~ Administrative Law Judge or with any member of the Board ~~regarding matters pending before the Board~~.

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)

Section 1200.90 Subpoenas

Following the issuance of a complaint for hearing or a notice of representation hearing, *the Board*, upon the request of an Administrative Law Judge or upon the written application of a party, *shall have the power to issue subpoenas* for witnesses and subpoenas for documents. [5 ILCS 315/11(b)]

- a) Subpoenas for Witnesses
 - 1) A party's written application for subpoenas for witnesses must be directed to the Administrative Law Judge, and must contain the following

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

information:

- A) the title and case number of the proceeding;
 - B) the name, address, [e-mail address](#) and phone number of the party requesting the subpoena and its representative;
 - C) the name of the person to be subpoenaed; and
 - D) the date, time and place of the appearance to be commanded.
- 2) Applications must be filed with the Board and served on the other parties to the case at least 10 days before the hearing. The requested subpoenas may be picked up at the Board's office where the hearing will be held or at the office specified by the applicant in the subpoena request. Upon request, the Board will mail the subpoenas to the applicant.
 - 3) The party requesting the subpoenas shall be responsible for serving the subpoenas on the witnesses at least 5 days before the hearing date. The party requesting the subpoenas shall also be responsible for payment of the witness fees for attendance, subsistence and mileage. Witnesses appearing at a hearing pursuant to subpoena are entitled to the same fees and mileage as are allowed witnesses in civil cases in the courts of the State of Illinois, pursuant to Section 4.3 of the Fees and Salaries Act [705 ILCS 35/4.3]. The requesting party must tender all fees with the subpoena. A witness appearing at the request of the Board shall submit the subpoena with a voucher when claiming reimbursement.
 - 4) Board employees shall not be subpoenaed to testify regarding matters that occurred during their employment with the Board.
 - 5) Subpoenas shall remain in effect throughout the course of the proceedings.
- b) Subpoenas for Documents (Subpoena Duces Tecum)
- 1) A party's written application for subpoenas for documents must be directed to the Administrative Law Judge and must contain the following information:

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

- A) the title and case number of the proceeding;
 - B) the name, address and phone number of the party requesting the subpoena and its representative;
 - C) a detailed description of the books, papers, documents or other objects to be produced pursuant to the subpoena;
 - D) the name of the person to be served with the subpoena; and
 - E) the date, time and place of production to be commanded.
- 2) Applications must be filed with the Board and served on the other parties to the case at least 10 days before the hearing and 10 days before the date on which the documents are to be produced. The date and time for production of documents may be prior to the hearing. The requested subpoenas may be picked up at the Board's office where the hearing will be held or at the office specified by the applicant in the subpoena request. Upon request, the Board will mail the subpoenas to the applicant.
 - 3) The party requesting the subpoenas shall be responsible for serving the subpoenas at least 5 days before the hearing date and 5 days before the date on which the documents are to be produced.
 - 4) Confidential Board documents as defined in 2 Ill. Adm. Code [2501.220\(a\)](#)~~2501.20(e)~~ shall not be subpoenaed.
- c) **Motions to Revoke Subpoenas**
A person objecting to the subpoena may file a motion to revoke the subpoena. The motion must be filed at least 3 days prior to the hearing and [3 days before the date on which the documents are to be produced](#). The motion shall be filed with the Administrative Law Judge assigned to the case. Grounds for revocation shall include irrelevance, undue burden and privilege.
 - d) **Subpoenas in Impasse Proceedings**
Subpoenas in impasse proceedings shall be handled in accordance with 80 Ill. Adm. Code 1230.90. Motions to revoke the subpoena in such proceedings shall be filed with the arbitrator or fact-finder.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)

Section 1200.100 Transfer of Jurisdiction

- a) Whenever a proceeding is instituted before either the State or Local Panel of the Illinois Labor Relations Board and it appears that the matter is properly subject to the other Panel's jurisdiction, the first Panel shall transfer the case to the other Panel.
- b) Whenever one Panel has transferred a case to the other Panel, the other Panel ~~can~~ refuse to accept the transfer if it believes that it does not have jurisdiction. The other Panel's refusal to accept the transfer shall automatically initiate the scheduling of a joint meeting of the State and Local Panels~~Panel proceeding~~ to resolve the jurisdictional issue.
- c) Whenever only one member of either Panel believes that a case before that Panel is subject to the jurisdiction of the other Panel, that member shall initiate a joint Panel proceeding to resolve the jurisdictional issue.

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)

Section 1200.105 Consolidation of Proceedings

The Board shall consolidate two or more representation or unfair labor practice cases when the following 3 conditions are met.

- a) The cases involve common parties or issues of law or fact and/or grow out of the same transaction or occurrence;
- b) Consolidation would not prejudice the rights of the parties; and
- c) Consolidation would result in the efficient and expeditious resolution of cases.

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)

Section 1200.120 Voluntary Settlement or Adjustment of Disputes

The Board, as a matter of policy, encourages the voluntary efforts of the parties to settle or adjust disputes involving issues of representation, unfair labor practices, and interest and rights

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

disputes. Any such efforts at resolution or conciliation and any resulting settlements shall be in compliance with the provisions, purposes and policies of the Act. Any facts, admissions against interest, offers of settlement or proposals of adjustment that have been submitted pursuant to this Section shall not be used as evidence of ~~an admission of~~ a violation of the Act.

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)

Section 1200.135 Appeals Procedures, Board Review and Court Review

a) Executive Director's Orders

- 1) Parties may appeal to the Board orders~~Orders~~ of the Executive Director, except orders setting matters for hearing, ~~may be appealed to the Board~~. Notice of appeal and all supporting materials shall be filed with the Board's General Counsel, in the Board's Chicago office, no later than 10 days after service of the Executive Director's order. The appeal shall be served on all other parties in accordance with Section 1200.20.
- 2) A party may file a response to the appeal and all materials in support of the response no later than 5 days after service of the appeal. The response shall be served on all other parties in accordance with Section 1200.20.
- 3) The Board will review an Executive Director's order only upon the timely filing of an appeal. ~~Parties desiring oral argument before the Board shall request oral argument and state the reasons for the requests in their appeals and responses. The Board shall grant or deny requests for oral argument depending upon the significance, complexity and novelty of the issues. In addition, the Board may, on its own motion, request oral argument, depending upon the significance, complexity and novelty of the issues.~~ The Board may adopt all, part or none of the order depending on the extent to which it is consistent with the record and applicable law. The Board shall issue and serve on all parties its decision and order.

b) Administrative Law Judge's Recommended Decision and Order

- 1) Proceedings
 - A) In representation proceedings, parties may file exceptions to the Administrative Law Judge's recommended decision and order, and

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

briefs in support of those exceptions, no later than 14 days after service of the recommended decision and order. Parties may file responses to exceptions and briefs in support of the responses no later than 10 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's decision. Within 5 days from the filing of the cross-exceptions, parties may file cross-responses to the cross-exceptions. Cross-responses shall be limited to the questions raised in the cross-exceptions. All exceptions, responses, cross-exceptions and cross-responses shall be filed in accordance with Section 1200.135. Each party shall serve its exceptions, cross-exceptions, responses, cross-responses, and briefs on the other parties. If the original exceptions are withdrawn, then all subsequent exceptions are moot.

- B) In unfair labor practice proceedings, parties may file exceptions to the Administrative Law Judge's recommended decision and order, and briefs in support of those exceptions, no later than 30 days after service of the recommended decision and order. Parties may file responses to exceptions and briefs in support of the responses no later than 15 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's decision. Within 7 days from the filing of such cross-exceptions, parties may file cross-responses to the cross-exceptions. Cross-responses shall be limited to the questions raised in the cross-exceptions. All exceptions, responses, cross-exceptions and cross-responses shall be filed in accordance with Section 1200.135. Each party shall serve its exceptions, cross-exceptions, responses, cross-responses, and briefs on the other parties.
- C) In either type of proceeding, exceptions, responses, cross-exceptions, cross-responses and briefs, shall be filed with the Board's General Counsel in the Board's Chicago office. A party not filing timely exceptions waives its right to object to the Administrative Law Judge's recommended decision and order.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) Exceptions and/or cross-exceptions shall specifically set forth the questions of procedure, fact, law or policy to which exception is taken, shall identify that part of the Administrative Law Judge's recommended decision and order to which objection is made, and shall state the grounds for the exceptions and shall include the citation of authorities and citations to the record unless set forth in a supporting brief. Any exception to a ruling, finding, conclusion or recommendation that is not specifically urged shall be deemed to have been waived. Any exception that fails to comply with the foregoing requirements may be disregarded.
- 3) Any brief in support of exceptions shall be confined to the subjects raised in the exceptions and shall contain:
 - A) a clear and concise statement of the case containing all that is material to the consideration of the questions presented;
 - B) a specification of the questions involved and the issues to be argued; and
 - C) an argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question.
- 4) The Board will review the Administrative Law Judge's recommended decision and order upon timely filing of exceptions or at any time on its own motion. The Board may adopt all, part or none of the recommended decision and order depending on the extent to which it is consistent with the record and applicable law. The Board shall issue and serve on all parties its decision and order.
 - A) In representation proceedings, if the Board determines that a question concerning representation exists, the Board shall direct the holding of an election on a date and at a time and place set by the Board. The Board shall direct the posting of a Notice of Election. Within 7 days following the Board's direction of an election, the employer shall furnish the Board and the labor organization with ~~an excelsior list, which is~~ a list of the full names, alphabetized by last name, and addresses of the employees eligible to vote in the election. The ~~list~~lists shall be provided by personal delivery or certified mail. The employer shall obtain receipts

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

verifying delivery.

- B) In unfair labor practice proceedings, the Board will retain jurisdiction over the case to ensure the parties' compliance with the Board order. Unless overturned by the Board, the parties must comply with the recommended decision and order.
- 5) If no exceptions to the Administrative Law Judge's recommended decision and order have been filed within the prescribed time period, the parties will be deemed to have waived their exceptions. Unless the Board reviews the recommended decision and order upon its own motion, it will not be legal precedent and shall be final and binding only on the parties to that proceeding. The Board's General Counsel shall issue an order so providing.
- c) Requests for Oral Argument
Parties desiring oral argument before the Board shall request oral argument and state the reasons for the requests in their appeals, exceptions and responses. The Board shall grant or deny requests for oral argument depending upon the significance, complexity and novelty of the issues. In addition, the Board may, on its own motion, request oral argument, depending upon the significance, complexity and novelty of the issues.
- d) Court Review of Board Orders
Appeals to a Board's decision shall be made in accordance with Sections 9(i)9-i) and 11(e)11-e) of the Act.

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)

Section 1200.140 ~~Amicus Curiae~~ Briefs

- a) For purposes of this Section, "briefs" shall be deemed to include:
- 1) post-hearing briefs before an Administrative Law Judge;
 - 2) briefs in support of appeals from Executive Director's orders and responses to those orders, inclusive of any separate appeal or response document filed with the brief;

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

- 3) briefs in support of exceptions and cross-exceptions to an Administrative Law Judge's recommended decision and order and responses to that decision and order, inclusive of any separate exceptions, cross-exceptions or response document filed with the brief;
 - 4) briefs in support of or opposition to petitions for declaratory ruling;
 - 5) objections to compliance orders; and
 - 6) amicus curiae briefs filed pursuant to subsection (c).
- b) All briefs, including supporting materials, shall be no more than a total of 50 double-spaced pages with margins of at least ½ inch, including attachments. All of the pages in excess of the 50 page limit will be rejected, unless leave is granted. In the extraordinary circumstance that a case involves extremely complex issues, issues of first impression, or a lengthy factual record, a party may seek leave to file a brief in excess of 50 pages by filing a motion requesting leave. Motions seeking leave must be filed before the deadline for filing the brief at issue and should be directed to the Administrative Law Judge with whom the brief is pending or the General Counsel if the brief is on a matter before the Board.
- c) Interested non-parties~~Parties~~ may file a motion with the Board to request leave to file an amicus curiae brief or the Board, on its own motion, may solicit such briefs. The Board's standards by which to grant leave to file an amicus brief will include the importance of the issue presented, the general application of the issue presented and the need perceived by the Board for additional briefing on the issue presented. The amicus curiae brief shall conform to any conditions imposed by the Board for briefs in the case in which the brief is filed. These interested non-parties~~Amicus curiae parties~~ may be invited to participate in oral arguments heard by the Board. The Board will accept amicus curiae briefs in its proceedings. The filing of thesesuch briefs shall not serve to postpone or delay the proceedings.

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)

Section 1200.143 Declaratory Rulings

Parties may petition the Board's General Counsel for a declaratory ruling, pursuant to Section 5-150 of the Illinois Administrative Procedure Act [5 ILCS 100/5-150], as follows:

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

- a) In general public employee bargaining units covered by 80 Ill. Adm. Code 1230.Subpart C, if, after the commencement of negotiations and before reaching agreement, the exclusive representative and the employer have a good faith disagreement over whether the Act requires bargaining over a particular subject or particular subjects, they may jointly petition for a declaratory ruling concerning the status of the law.
- 1) The petition must be signed by both parties and must contain the name, address, [email address](#), telephone number and person to contact for each party, the date negotiations began, a statement of the legal issue on which a declaratory ruling is sought, and a copy of the most recently negotiated contract, if any.
 - 2) Declaratory rulings shall not be issued concerning factual issues that are in dispute.
 - 3) Each party shall file a brief no later than 10 days after the filing of the petition, unless an extension has been granted by the General Counsel.
 - 4) Any party desiring oral argument shall request oral argument in writing prior to or at the time of the filing of its brief. The General Counsel shall determine whether oral argument is warranted by the particular issues involved. Oral argument shall be held no later than 7 days after the filing of the briefs.
 - 5) The General Counsel shall issue a declaratory ruling no later than ~~4530~~ days after receipt of the parties' briefs. Pursuant to Board practice and caselaw, the Board considers General Counsel declaratory rulings to be non-binding advisory opinions. Consequently, the Board's General Counsel declaratory rulings are not appealable.
 - 6) The parties shall continue to have a duty to bargain in good faith during the pendency of a declaratory ruling petition. The pendency of a declaratory ruling petition shall not stay the running of the 60 and 30 day notice periods provided in 80 Ill. Adm. Code 1230.140(a), (b), and (c). Nor shall the pendency of a declaratory ruling petition stay the running of the 5 day notice of intent to strike required under Section 17(a)(5) of the Act.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

- b) In protective service employee bargaining units covered by 80 Ill. Adm. Code 1230.Subpart B, if, after the commencement of negotiations and before reaching agreement, the exclusive representative and the employer have a good faith disagreement over whether the Act requires bargaining over a particular subject or particular subjects, they may jointly petition for a declaratory ruling concerning the status of the law. If a request for interest arbitration has been served in accordance with 80 Ill. Adm. Code 1230.70 and either the exclusive representative or the employer has requested the other party to join it in filing a declaratory ruling petition and the other party has refused the request, the requesting party may file the petition on its own, provided that the petition is filed no later than the first day of the interest arbitration hearing.
- 1) A joint petition must be signed by both parties. A petition filed by only one party must contain a statement that the other party has refused a request to join in the petition, and must contain a copy of the request for interest arbitration. All petitions must contain the name, address, [email address](#), telephone number and person to contact for each party, the date negotiations began, a statement of the legal issue on which a declaratory ruling is sought, and a copy of the most recently negotiated contract, if any.
 - 2) Declaratory rulings shall not be issued concerning factual issues that are in dispute. In the case of a unilateral petition for declaratory ruling in which the General Counsel has determined that material issues of fact are in dispute, the General Counsel may either dismiss the petition without prejudice to the requesting party's right to file an unfair labor practice charge, or, where the General Counsel determines that a fact-finding of the disputed factual issues will facilitate a determination of the issues that are the subject of the petition, the issuance of the declaratory ruling may be deferred and the disputed issues of fact referred to the Interest Arbitration Panel for determination.
 - 3) ~~The Board shall serve a copy of a petition filed by only one party on the other party.~~ Each party shall file a brief no later than 10 days after the filing of a joint petition, or no later than 10 days after the service of a petition filed by only one party, unless an extension has been granted by the General Counsel.
 - 4) Any party desiring oral argument shall request oral argument in writing

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

prior to or at the time of the filing of its brief. The General Counsel shall determine whether oral argument is warranted by the particular issues involved. Oral argument shall be held no later than 7 days after the filing of the briefs.

- 5) The General Counsel shall issue a declaratory ruling no later than ~~45~~ 30 days after receipt of the parties' briefs. Declaratory rulings shall not be appealable.
- 6) The parties shall continue to have a duty to bargain in good faith during the pendency of a declaratory ruling petition. The pendency of a declaratory ruling petition shall not stay mediation or interest arbitration proceedings required under the Act.

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)

Section 1200.145 Filing of Contracts

- a) Within 60 days after a new collective bargaining agreement that is subject to the Act has been signed by the parties, the parties shall be jointly reached, each labor organization and each employer shall be responsible for filing with the Board a copy of the agreement in .pdf and paper form. 2 copies of any collective bargaining agreement that is subject to the Act.
- b) The collective bargaining agreements shall be accompanied by a designated Board form setting forth the following information:
 - 1) names, addresses, email addresses, telephone and fax numbers of the parties and their representatives;
 - 2) the contract's execution and expiration dates; and
 - 3) the composition of the bargaining unit and whether the unit is a general public employee unit or a protective services unit.
- c) The Board's acceptance of the contract for filing is not determinative of any substantive issues in any proceedings before the Board, such as the existence of a valid historical unit or of a valid collective bargaining relationship between the parties or that the contract is sufficient to establish a contract bar under 80 Ill.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENTS

Adm. Code 1210.

- d) Failure of the parties to comply with the above filing requirements may cause any representation petitions or requests for mediation and/or arbitration to be delayed until ~~that~~ such information is submitted to the Board.

(Source: Amended at 40 Ill. Reg. 10892, effective August 1, 2016)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Carbon Monoxide Alarms and Detectors
- 2) Code Citation: 41 Ill. Adm. Code 112
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
112.100	New Section
112.120	New Section
112.140	New Section
112.180	New Section
112.200	New Section
112.230	New Section
112.250	New Section
- 4) Statutory Authority: Implementing and authorized by Sections 5/10-20.56 and 5/34-18.49 of the School Code [105 ILCS 5/10-20.56 and 5/34-18.49] and Section 5 of the Carbon Monoxide Alarm Detector Act [430 ILCS 135/5]
- 5) Effective Date of Rules: July 29, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any matter incorporated by reference, is on file in the Office of the State Fire Marshal, 1035 Stevenson Drive, Springfield IL and is available for public inspection at that location.
- 9) Notice of Proposed published in the *Illinois Register*: 40 Ill. Reg. 5165; March 25, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between the Proposed and Final Version: In Section 112.250(b) the phrase "listed by UL" was replaced with the phrase "in accordance with the applicable UL standard" in two places. In Section 112.250(g) a clarification was made by adding "that the occupant notification zone may be limited to the area where the carbon monoxide alarm signal was initiated" between "except" and "where" and deleting "The occupant notification zone may be limited to the area where the carbon monoxide alarm signal was initiated." In Section 112.230(c), the last sentence was deleted as part of the agreed upon changes with JCAR.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

Three additional minor typographical edits were also made.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending to this part? No
- 15) Summary and Purpose of Rulemaking: PA 99-470 took effect on January 1, 2016 and mandates local school boards to require each school under its authority to be equipped with carbon monoxide alarms or carbon monoxide detectors. The statute places responsibility on the Office of the State Fire Marshal to establish the guidelines for approved carbon monoxide detectors under this Act and carbon monoxide alarms under the Carbon Monoxide Alarm Detector Act [430 ILCS 135/1]. These rules establish minimum requirements for approved carbon monoxide alarms and detectors in new and existing public schools and clarify the requirements for carbon monoxide alarms under the Carbon Monoxide Alarm Detector Act.
- 16) Information and questions regarding these adopted rules shall be directed to:

Deborah J. Williams
Division of Legal Counsel
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703

217/785-0978
fax: 217/524-5487

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

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHALPART 112
CARBON MONOXIDE ALARMS AND DETECTORS

Section	
112.100	Purpose and Scope
112.120	Severability
112.140	Definitions
112.180	Incorporations by Reference
112.200	Approved Carbon Monoxide Alarms for Use in Dwelling Units
112.230	Approved Carbon Monoxide Alarms for Use in Public Schools
112.250	General Requirements for Carbon Monoxide Detectors or Detection Systems in Public Schools

AUTHORITY: Implementing and authorized by Sections 10-20.56 and 34-18.49 of the School Code [105 ILCS 5/10-20.56 and 34-18.49] and the Carbon Monoxide Alarm Detector Act [430 ILCS 135].

SOURCE: Adopted at 40 Ill. Reg. 10918, effective July 29, 2016.

Section 112.100 Purpose and Scope

This Part implements the provisions of the School Code that delegate responsibility to the Office of the State Fire Marshal to promulgate regulations defining the carbon monoxide detectors that may be used public schools. (See 105 ILCS 5/10-20.56 and 34-18.49.) This Part also includes the specifications for approved carbon monoxide alarms established by the Carbon Monoxide Alarm Detector Act [430 ILCS 135] as referenced in the School Code.

Section 112.120 Severability

If any Section, subsection, sentence or clause of this Part shall be held by a court of competent jurisdiction to be invalid, that holding shall not affect the remaining portions of this Part.

Section 112.140 Definitions

The following definitions are used in this Part:

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

"Act" means the Carbon Monoxide Alarm Detector Act [430 ILCS 135].

"Alarm control unit" means a carbon monoxide detection system or fire alarm system component that monitors inputs and controls outputs through various types of circuits.

"Carbon monoxide alarm" or "alarm" means a single-station or multiple-station carbon monoxide alarm intended for the purpose of detecting carbon monoxide gas and alerting occupants by a distinct audible signal. An alarm is comprised of an assembly that incorporates a sensor, control components, and an alarm notification appliance in a single unit operated from a power source either located in the unit or obtained at the point of installation.

"Carbon monoxide detection system" means a system that consists of an alarm control unit, components, and circuits arranged to monitor and annunciate the status of carbon monoxide alarm initiating devices and to initiate the appropriate response to those signals.

"Carbon monoxide detector" or "detector" means a device having a sensor that responds to carbon monoxide gas and that is connected to an alarm control unit [105 ILCS 5/10-20.56(a) and 34-18.49(a)].

"NFPA" means the National Fire Protection Association.

"UL" means Underwriters Laboratories.

Section 112.180 Incorporations by Reference

- a) All the materials incorporated by reference in this Section are incorporated as of the date specified and include no later editions or amendments.
- b) The following materials are incorporated by reference:

NFPA 720: Standard for the Installation of Carbon Monoxide (CO) Detection and Warning Equipment, (2015 edition), NFPA; 1 Batterymarch Park, Quincy MA 02269; (617)770-3000 or (800)344-3555; www.nfpa.org.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

UL 217: Standard for Smoke Alarms (8th edition; October 30, 2015); Underwriters Laboratories, 333 Pfingsten Road, Northbrook IL 60062; (877)854-3577; www.ul.com.

UL 268: Smoke Detectors for Fire Alarm Systems (7th edition; January 11, 2016); Underwriters Laboratories, 333 Pfingsten Road, Northbrook IL 60062; (877)854-3577; www.ul.com.

UL 2034: Standard for Single and Multiple Station Carbon Monoxide Alarms (3rd edition; February 28, 2008); Underwriters Laboratories, 333 Pfingsten Road, Northbrook IL 60062; (877)854-3577; www.ul.com.

UL 2075: Standard for Gas and Vapor Detectors and Sensors (2nd edition; March 5, 2013); Underwriters Laboratories, 333 Pfingsten Road, Northbrook IL 60062; (877)854-3577; www.ul.com.

Section 112.200 Approved Carbon Monoxide Alarms for Use in Dwelling Units

An approved carbon monoxide alarm used in an occupancy or structure that has one or more dwelling units, as defined in the Act, must be listed in accordance with UL 2034, as incorporated by reference in Section 112.180. An approved combined carbon monoxide and smoke alarm used in an occupancy or structure that has one or more dwelling units, as defined in the Act, must be listed in accordance with UL 2034 and UL 217, as incorporated by reference in Section 112.180.

Section 112.230 Approved Carbon Monoxide Alarms for Use in Public Schools

- a) Carbon monoxide alarms in public schools must be listed in accordance with UL 2034, as incorporated by reference in Section 112.180.
- b) Combined carbon monoxide and smoke alarms must be listed in accordance with UL 2034 and UL 217, as incorporated by reference in Section 112.180.
- c) For public schools designed on or after January 1, 2016, any carbon monoxide alarm installed to achieve compliance with the School Code and this Part must be monitored by any required fire alarm system and must be permanently powered by the building's electrical system.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

Section 112.250 General Requirements for Carbon Monoxide Detectors or Detection Systems in Public Schools

- a) For public schools designed on or after January 1, 2016, a carbon monoxide detection system or carbon monoxide detectors installed to achieve compliance with the School Code and this Part must be monitored by any required fire alarm system and must be permanently powered by the building's electrical system.
- b) A carbon monoxide detection system constructed and installed pursuant to this Section and its components must be listed in accordance with the applicable UL standard for the purpose for which it is used and must be cross-listed in accordance with the applicable UL standard with the panel to which it is connected.
- c) Carbon monoxide detectors shall be listed in accordance with UL 2075, incorporated by reference in Section 112.180.
- d) Combined carbon monoxide and smoke detectors installed in carbon monoxide detection systems shall be an acceptable alternative to carbon monoxide detectors provided the combination detectors are listed in accordance with UL 2075 and UL 268.
- e) Carbon monoxide detection system or carbon monoxide detector components must be installed and maintained in accordance with the manufacturer's published instructions and NFPA 720, incorporated by reference in Section 112.180, except that the location and the frequency of inspection and testing of carbon monoxide detectors shall be as prescribed in Section 10-20.56(b) or 34-18.49(b) of the School Code, as applicable.
- f) All carbon monoxide detection systems and carbon monoxide detectors must have an audible alarm signal that is distinctive from other alarm signals and is a four-pulse temporal pattern as prescribed in NFPA 720.
- g) Carbon monoxide detection systems or carbon monoxide detectors must have occupant notification throughout the building, except that the occupant notification zone may be limited to the area where the carbon monoxide alarm signal was initiated where the signal is transmitted to a constantly attended location on-premise or off-premise where response action can be taken.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

- h) Signals from carbon monoxide detection systems and carbon monoxide detectors transmitted to a fire alarm system shall not transmit a fire alarm signal.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Numbers: Adopted Actions:
100.9320 Amendment
100.9410 Amendment
- 4) Statutory Authority: [35 ILCS 5/905 and 911]
- 5) Effective Date of Rules: July 29, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 5823; April 8, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section Number:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
100.8010	Amendment	40 Ill. Reg. 5174, March 25, 2016
100.9400	Amendment	40 Ill. Reg. 5174, March 25, 2016
100.5060	Amendment	40 Ill. Reg. 6540; April 15, 2016
100.5100	Amendment	40 Ill. Reg. 6540; April 15, 2016
100.5130	Amendment	40 Ill. Reg. 6540; April 15, 2016

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.7035	Amendment	40 Ill. Reg. 6540; April 15, 2016
100.5020	Amendment	40 Ill. Reg. 6676; April 22, 2016
100.5215	Amendment	40 Ill. Reg. 7297; May 13, 2016
100.2465	New Section	40 Ill. Reg. 7522; May 20, 2016

- 15) Summary and Purpose of Rulemaking: This rulemaking amends 86 Ill. Adm. Code Sections 100.9320 and 100.9410, which provide guidance on the income tax statutes of limitation for the Department to issue notices of deficiency and for taxpayers to file refund claims, to reflect legislation and case law arising since the Sections were last amended.
- 16) Information and questions regarding these adopted rules shall be directed

Brian Stocker
Staff Attorney
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield IL 62796

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section	
100.2000	Introduction
100.2050	Net Income (IITA Section 202)
100.2060	Compassionate Use of Medical Cannabis Pilot Program Act Surcharge (IITA Section 201(o))

SUBPART B: CREDITS

Section	
100.2100	Replacement Tax Investment Credit Prior to January 1, 1994 (IITA Section 201(e))
100.2101	Replacement Tax Investment Credit (IITA 201(e))
100.2110	Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA Section 201(f))
100.2120	Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone and River Edge Redevelopment Zone (IITA Section 201(g))
100.2130	Investment Credit; High Impact Business (IITA 201(h))
100.2140	Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150	Training Expense Credit (IITA 201(j))
100.2160	Research and Development Credit (IITA Section 201(k))
100.2163	Environmental Remediation Credit (IITA 201(l))
100.2165	Education Expense Credit (IITA 201(m))
100.2170	Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2171	Angel Investment Credit (IITA 220)
100.2180	Credit for Residential Real Property Taxes (IITA 208)
100.2185	Film Production Services Credit (IITA Section 213)
100.2190	Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2193	Student-Assistance Contributions Credit (IITA 218)
100.2195	Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196	Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197	Foreign Tax Credit (IITA Section 601(b)(3))

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

Section

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

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

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

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

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

SUBPART F: BASE INCOME OF INDIVIDUALS

- Section
- 100.2510 Subtraction for Contributions to Illinois Qualified Tuition Programs (Section 529 Plans) (IITA Section 203(a)(2)(Y))
- 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART H: BASE INCOME OF TRUSTS AND ESTATES

Section

100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))

100.2657 Subtraction Modification for High Impact Business Interest (IITA Section 203(b)(2)(M-1))

100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

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

Section

100.3000 Terms Used in Article 3 (IITA Section 301)

100.3010 Business and Nonbusiness Income (IITA Section 301)

100.3015 Business Income Election (IITA Section 1501)

100.3020 Resident (IITA Section 301)

SUBPART K: COMPENSATION

Section

100.3100 Compensation (IITA Section 302)

100.3110 State (IITA Section 302)

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

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

Section

100.3200 Taxability in Other State (IITA Section 303)

100.3210 Commercial Domicile (IITA Section 303)

100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

SUBPART M: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section	
100.3300	Allocation and Apportionment of Base Income (IITA Section 304)
100.3310	Business Income of Persons Other Than Residents (IITA Section 304) – In General
100.3320	Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)
100.3330	Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
100.3340	Business Income of Persons Other Than Residents (IITA Section 304)
100.3350	Property Factor (IITA Section 304)
100.3360	Payroll Factor (IITA Section 304)
100.3370	Sales Factor (IITA Section 304)
100.3371	Sales Factor for Telecommunications Services
100.3373	Sales Factor for Publishing
100.3380	Special Rules (IITA Section 304)
100.3390	Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400	Apportionment of Business Income of Financial Organizations for Taxable Years Ending Prior to December 31, 2008 (IITA Section 304(c))
100.3405	Apportionment of Business Income of Financial Organizations for Taxable Years Ending on or after December 31, 2008 (IITA Section 304(c))
100.3420	Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
100.3450	Apportionment of Business Income of Transportation Companies (IITA Section 304(d))
100.3500	Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART N: ACCOUNTING

Section	
100.4500	Carryovers of Tax Attributes (IITA Section 405)

SUBPART O: TIME AND PLACE FOR FILING RETURNS

Section	
100.5000	Time for Filing Returns (IITA Section 505)
100.5010	Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020	Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030	Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

(IITA Section 506)

100.5040	Innocent Spouses
100.5050	Frivolous Returns
100.5060	Reportable Transactions
100.5070	List of Investors in Potentially Abusive Tax Shelters and Reportable Transactions
100.5080	Registration of Tax Shelters (IITA Section 1405.5)

SUBPART P: COMPOSITE RETURNS

Section

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

SUBPART Q: COMBINED RETURNS

Section

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

SUBPART R: PAYMENTS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section
100.6000 Payment on Due Date of Return (IITA Section 601)

SUBPART S: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section
100.7000 Requirement of Withholding (IITA Section 701)
100.7010 Compensation Paid in this State (IITA Section 701)
100.7020 Transacting Business Within this State (IITA Section 701)
100.7030 Payments to Residents (IITA Section 701)
100.7035 Nonresident Partners, Subchapter S Corporation Shareholders, and Trust
Beneficiaries (IITA Section 709.5)
100.7040 Employer Registration (IITA Section 701)
100.7050 Computation of Amount Withheld (IITA Section 702)
100.7060 Additional Withholding (IITA Section 701)
100.7070 Voluntary Withholding (IITA Section 701)
100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090 Reciprocal Agreement (IITA Section 701)
100.7095 Cross References

SUBPART T: AMOUNT EXEMPT FROM WITHHOLDING

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

SUBPART U: INFORMATION STATEMENT

Section
100.7200 Reports for Employee (IITA Section 703)

SUBPART V: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section
100.7300 Returns and Payments of Income Tax Withheld from Wages (IITA Sections 704
and 704A)
100.7310 Returns Filed and Payments Made on Annual Basis (IITA Sections 704 and
704A)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

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

SUBPART W: ESTIMATED TAX PAYMENTS

Section

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

SUBPART X: COLLECTION AUTHORITY

Section

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

SUBPART Y: NOTICE AND DEMAND

Section

- 100.9100 Notice and Demand (IITA Section 902)

SUBPART Z: ASSESSMENT

Section

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

SUBPART AA: DEFICIENCIES AND OVERPAYMENTS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section

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

SUBPART BB: CREDITS AND REFUNDS

Section

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

SUBPART CC: INVESTIGATIONS AND HEARINGS

Section

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

SUBPART DD: JUDICIAL REVIEW

Section

- 100.9600 Administrative Review Law (IITA Section 1201)

SUBPART EE: DEFINITIONS

Section

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

SUBPART FF: LETTER RULING PROCEDURES

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section
100.9800 Letter Ruling Procedures

SUBPART GG: MISCELLANEOUS

Section
100.9900 Tax Shelter Voluntary Compliance Program

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

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

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days;

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092, effective August 24, 2011; amended at 36 Ill. Reg. 2363, effective January 25, 2012; amended at 36 Ill. Reg. 9247, effective June 5, 2012; amended at 37 Ill. Reg. 5823, effective April 19, 2013; amended at 37 Ill. Reg. 20751, effective December 13, 2013; recodified at 38 Ill. Reg. 4527; amended at 38 Ill. Reg. 9550, effective April 21, 2014; amended at 38 Ill. Reg. 13941, effective June 19, 2014; amended at 38 Ill. Reg. 15994, effective July 9, 2014; amended at 38 Ill. Reg. 17043, effective July 23, 2014; amended at 38 Ill. Reg. 18568, effective August 20, 2014; amended at 38 Ill. Reg. 23158, effective November 21, 2014; emergency amendment at 39 Ill. Reg. 483, effective December 23, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 1768, effective January 7, 2015; amended at 39 Ill. Reg. 5057, effective March 17, 2015; amended at 39 Ill. Reg. 6884, effective April 29, 2015; amended at 39 Ill. Reg. 15594, effective November 18, 2015; amended at 40 Ill. Reg. 1848, effective January 5, 2016; amended at 40 Ill. Reg. 10925, effective July 29, 2016.

SUBPART AA: DEFICIENCIES AND OVERPAYMENTS

Section 100.9320 Limitations on Notices of Deficiency (IITA Section 905)

- a) In ~~General~~general
~~With respect to a taxable year for which a taxpayer filed a return, no deficiency shall be assessed or collected except as otherwise provided in the Act unless the Department issues a notice of deficiency not later than 3 years after the later of the last day prescribed for filing or the date the return was filed. See subsection (h) regarding when a return is deemed filed.~~
- 1) Except as otherwise provided in this Section, no notice of deficiency for a taxable year may be issued later than 3 years after the date the return for that taxable year was filed or deemed filed under subsection (h) (see IITA Section 905(a)).
 - 2) Consequences of Failure to Issue a Timely Notice of Deficiency. Failure by the Department to issue a timely notice of deficiency with respect to a

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

taxable year precludes assessment of any additional tax for that taxable year, together with any related penalty or interest, that is required to be shown in a notice of deficiency. The expiration of the period for issuing a notice of deficiency for a taxable year:

- A) does not preclude the Department from asserting any adjustments to net income or credits reported by a taxpayer, to the extent the adjustments would reduce or eliminate a refund claimed by the taxpayer for that taxable year. (See Lewis v. Reynolds, 284 U.S. 281 (1932).)
- B) does not preclude the Department from asserting any adjustments to the amount of net loss incurred under IITA Section 207 (except as provided in subsection (l) of this Section for losses incurred in taxable years ending prior to December 31, 2002) or of any credit earned in that taxable year, or the amount of net loss deduction under IITA Section 207 or of any credit carryforward that is properly taken in that taxable year, in order to compute the amount of net loss deduction or credit carryforward allowable in another taxable year, so that a timely notice of deficiency may be issued for that other taxable year or a claim for refund for that other taxable year may be denied in whole or in part. (Springfield Street Railway Co. v. U.S., 312 F.2d 754 (Ct. Cl. 1963).)

EXAMPLE:

Corporation A and its wholly-owned subsidiary Corporation B are members of a unitary business group, but filed separate returns for calendar years 2005 through 2009. Corporation A reported positive net income every year, and Corporation B reported net losses under IITA Section 207 for every year. For 2010, the corporations filed a combined return, and used losses incurred by Corporation B in 2010 and carryforwards of losses reported by Corporation B in prior years to reduce combined net income to zero. The corporations also filed refund claims for 2007, 2008 and 2009, computing their liability on a combined basis, and reporting net losses carried to 2010. The limitations periods for issuing notices of deficiency have expired for 2005 and 2006, but not for the later years.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

The Department may examine the returns for 2005 and 2006 and may adjust the combined net income or loss of the corporations for those years and for each subsequent year in order to determine the correct amount of any combined net income or loss for each year, and the correct amount of any net loss deduction to be used in each year, so that the correct liabilities for 2007, 2008, 2009 and 2010 can be determined and any deficiency for the later years can be assessed and any excessive refund claim denied.

If the limitations period for issuing a notice of deficiency for 2007 expires before the Department begins its examination of the corporations' returns, but before any refund is paid, the Department may nevertheless make any adjustment to the net income or net loss of either corporation for 2007, as well as to any net loss carryforwards from 2005 and 2006, in order to reduce the allowable refund for that year or to reduce the net losses available to carry to subsequent years.

b) Omission of ~~More~~ than 25% of ~~Base Income~~

- 1) *If a taxpayer omits from base income an amount in excess of 25% of the amount of base income stated in the return, a notice of deficiency may be issued at any time not later than 6 years after the date the return was filed or deemed filed. There shall not be taken into account as an amount omitted from base income any amount disclosed in the return or in a statement attached thereto in a manner adequate to apprise the Department of its nature. (IITA Section 905(b)(1))*
- 2) *If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a reportable transaction, as required under IITA Section 501(b), a notice of deficiency may be issued not later than 6 years after the return is filed or deemed filed with respect to the taxable year in which the taxpayer participated in the reportable transaction, provided that any such notice of deficiency shall be limited to the amount of deficiency resulting under the Act from any correction to the items required to be reported. (IITA Section 905(b)(2))*
- 3) See subsection (h) regarding when a return is deemed filed.

c) No ~~Return~~ or ~~Fraudulent Return~~

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) *If no return is filed or a false and fraudulent return is filed with intent to evade the tax imposed by the ~~IITAA~~, a notice of deficiency may be issued at any time. (IITA Section 905(c)) However, if the taxpayer had reasonable cause for failing to file a return, a notice of deficiency may be issued no later than 6 years after the date the return was due, including any extensions or automatic extensions of time to file (see UPIA Section 3-10(b)). The issuance of a notice of deficiency ~~under IITA Section 904(b) (see 86 Ill. Adm. Code 100.9300(b))~~ does not cause the running of any limitations period to begin. If a fraudulent return is filed, the subsequent filing of a nonfraudulent amended return does not cause the running of any limitations period to begin. (See Badaracco v. Commissioner, 464 U.S. 386 (1984).)*

- 2) *For purposes of this subsection (c), any taxpayer who is required to join in the filing of a combined return under the provisions of IITA Section 502(e) for a taxable year ending on or after December 31, 2013 and who is not included on that return and does not file its own return for that taxable year shall be deemed to have failed to file a return; provided that the amount of any proposed assessment set forth in a notice of deficiency issued under this subsection (c) shall be limited to the amount of any increase in liability under the IITA that should have been reported on the combined return for that taxable year resulting from proper inclusion of that taxpayer on that combined return (IITA Section 905(c)). For purposes of this subsection (c)(2), a taxpayer is included on a combined return under IITA Section 502(e) if it is identified on that return and its base income and apportionment factors are reported on that return under Section 100.5270(b)(1) as those of a member of the unitary business group that has no nexus with this State.*

- d) Failure to ~~Report Federal Change~~report federal change
If a taxpayer fails to notify the Department of an alteration or change as required by IITA Section 506(b), a notice of deficiency may be issued at any time. The assessment proposed in any such notice of deficiency shall be limited to the amount of deficiency resulting under the ~~IITAA~~ from recomputing the taxpayer's net income, net loss, or Article 2 credits~~base income~~ for the taxable year by giving effect to the item or items~~item(s)~~ subject to the notification requirements ~~of the preceding sentence.~~ (See IITA Section 905(d).) The statute of limitations for issuing a notice of deficiency under this subsection (d) applies to a federal change for a taxable year, even if the federal change is made after the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

~~statute of limitations has expired for assessing a federal income tax deficiency for that taxable year. (See Peoria and Pekin Union Railway Co. v. IDOR, 301 Ill.App.3d 736 (1999).) Inasmuch as IITA Section 506(b) requires the filing with the Department of a notification of alteration within the 120-day period therein (see 86 Ill. Adm. Code 100.9200(a)(4)), a notice of deficiency may be issued at any time in absence of such notification and shall be limited in the same manner as that described in (e) below.~~

- e) Report of ~~Federal Change~~federal change
- In any case ~~in which~~where a taxpayer has given notification to the Department of an alteration ~~or change~~ as required by IITA Section 506(b), the Department, not later than 2 years after the date ~~the~~such notification is received, may issue a notice of deficiency proposing assessment limited to the amount of deficiency resulting under the ~~IITA Act~~ from recomputing the taxpayer's net income, net loss, or Article 2 credits~~base income~~ for the taxable year for which the notification is required or for any year for which the amount of net loss or credit carryovers is affected by the recomputations for that year. The deficiency that may be assessed under this provision is limited to the changes in liability that result from~~giving effect to the item or items subject to the notification requirements. (See IITA Section 905(e).) The statute of limitations for issuing a notice of deficiency under this subsection (e) applies to a federal change for a taxable year, even if the federal change is made after the statute of limitations has expired for assessing a federal income tax deficiency for that taxable year. (See Peoria and Pekin Union Railway Co. v. IDOR, 301 Ill.App.3d 736 (1999).)~~item(s) specified in the notification of alteration.
- f) Extension by ~~Agreement~~agreement
- 1) ~~When~~Where before expiration of the time otherwise prescribed in this ~~Section~~section for issuance of a notice of deficiency pertinent to a return or returns for one or more taxable years, the Department has obtained the taxpayer's written consent to issuance after such time, ~~then~~ a notice of deficiency for any or all of ~~those~~such years may be issued at any time prior to the expiration of the extended period ~~so~~ agreed upon. ~~In addition to one original on Form IL-872, Consent Fixing Period of Limitation upon Assessment of Income Tax, carbon copies (or photocopies) thereof are to be prepared (for execution as duplicate originals) in number equal to the number of taxable years involved. After proper execution and submission by the taxpayer~~ of an agreement to extend the statute of limitations, the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

consent will become effective upon acceptance and authorized execution on behalf of the Department, ~~after which one executed duplicate copy will be mailed to the taxpayer; one of the original and remaining executed copies shall be attached to each of the original returns for the involved taxable years.~~

2) *In the case of a taxpayer who is a partnership, Subchapter S corporation, or trust and who enters into an agreement with the Department pursuant to this subsection (f) on or after January 1, 2003, a notice of deficiency may be issued to the partners, shareholders, or beneficiaries of the taxpayer at any time prior to the expiration of the period agreed upon. Any proposed assessment set forth in the notice under this subsection (f)(2) shall be limited to the amount of any deficiency resulting under the IITA from recomputation of items of income, deduction, credits, or other amounts of the taxpayer that are taken into account by the partner, shareholder, or beneficiary in computing its liability under the IITA. (IITA Section 905(f))*

3) *Prior to the expiration of any*~~Similarly, prior to its expiration, such extended period under this subsection (f), the period may be successively further extended for any or all of ~~thesuch~~ taxable years covered by the extension agreement by the obtaining of a further written consent. If upon being requested to do so, the taxpayer delays or declines or for other reason fails to execute and furnish Form IL-872 for a taxable year or years which otherwise soon would become barred, the Department's recourse ordinarily is to issue a notice of deficiency, which is timely and within previously extended periods under IITA Section 905, setting forth adjustments and reasons therefor under IITA Section 904(c). On the other hand, where the Department has not requested Form IL-872, a taxpayer can prevent the expiration of the statutory period during which a credit or refund may be made in connection with items he specifies therein by filing a claim for refund in accord with IITA Section 909(d) within the time limitations imposed in IITA Section 911. (See 86 Ill. Adm. Code 100.9400 and 100.9410)~~

g) *Erroneous Refunds*~~refunds~~
In any case in which~~where~~ tax payable under the *IITAA*~~et~~ has been erroneously refunded, a notice of deficiency not to exceed the amount so refunded may be issued within 2 years from the date of the refund, or within 5 years therefrom if it

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

appears that any part of the refund was induced by fraud or misrepresentation of a material fact. Beginning July 1, 1993, in any case in which there has been a refund of tax payable under the IITA attributable to a net loss carryback as provided for in Section 207, and that refund is subsequently determined to be an erroneous refund due to a reduction in the amount of the net loss which was reported for the loss year, a notice of deficiency for the erroneous refund amount may be issued at any time during the same period in which a notice of deficiency can be issued for the loss year under this subsection (g). The amount of any proposed assessment set forth in the notice shall be limited to the amount of such erroneous refund. (IITA Section 905(g))

- h) Time Return Deemed Filed~~return deemed filed~~
For purposes of this ~~Section~~section, a return filed before the last day prescribed by law (including any extensions of time for filing) shall be deemed to have been filed on such last day. (IITA Section 905(h)) The last day prescribed for filing returns shall include any automatic extensions of time for filing, regardless of whether the taxpayer filed the return prior to the unextended due date.
- i) Request for Prompt Determination~~prompt determination~~ of Liability~~liability~~
- 1) In General~~general~~
In the case of a tax return required under the IITAA~~et~~ in respect of a decedent, or by his or her estate during the period of administration or by a corporation meeting the conditions stated in subsection (i)(3)-below, in lieu of the 3-year limitations period in IITA Section 905(a)(1) that~~which~~ ends 3 years after the date the return was filed, that~~such~~ period if earlier shall end 18 months after the filing with the Department of three executed copies of a written request for prompt determination of liability by the executor, administrator, or other fiduciary representing the decedent's estate or by an officer authorized to act for the~~such~~ corporation or by the fiduciary provided if required under IITA Section 502(b)(4).
- 2) Purpose; Evidence~~evidene~~ of Authority~~authority~~ to Act~~act~~
The written request to be effective must be transmitted separately from and after the filing of the return and in a manner sufficient to put the Director of Revenue on notice of the request for prompt determination of liability. The shortened limitations period does not apply if more than 25% of base income is omitted from the return or in case of a false or fraudulent return or where no return has been filed (see subsections (b)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

and (c)). If not previously filed with the Department, there should be furnished with the written request in respect of a decedent copies of Letters Testamentary or of Administration, properly certified true and in full force and effect within 3 months of the day submitted. In the case of a corporation, consistent with the provisions ~~of~~ ~~the~~ IITA ~~Section~~ ~~Sections~~ 503(a) and (b), the signature (with ~~his~~ title) of the president, vice-president, or treasurer shall be prima facie evidence of ~~that person's~~ ~~his~~ authority.

- 3) Corporate ~~Intent~~ ~~intent~~ and ~~Undertaking~~ ~~undertaking~~ to ~~Dissolve~~ ~~dissolve~~
For application of this subsection (i) in case of a corporation, ~~the~~ ~~such~~ written request must notify the Department, as of the date ~~of the~~ ~~request~~ ~~thereof~~:
- A) that the corporation contemplates dissolution at or before the expiration of the limitations period of 18 months (or less as the case may be), in which case the dissolution (for example, the proceedings required by applicable ~~State~~ ~~state~~ law after the filing of an intent to dissolve) must in good faith be undertaken within and the dissolution must be completed (under the State law requirements) by the termination of ~~the~~ ~~limitations~~ ~~such~~ period;
- B) that a dissolution has in good faith begun, ~~if it has so~~ ~~commenced~~ ~~such is a fact, in which case~~ (the dissolution must be completed by the termination of ~~the~~ ~~such~~ limitations period); or
- C) that, ~~if such is a fact, that~~ the dissolution is completed, ~~if it is~~ ~~complete~~.
- j) Withholding ~~Tax~~ ~~tax~~
- 1) *In the case of returns required under Article 7 of the ~~IITAA~~ ~~et~~ relating to amounts withheld, or required to have been withheld, as tax a notice of deficiency may be issued at any time not later than 3 years after the 15th day of the 4th month following the close of the calendar year in which such withholding was required. (IITA Section 905(j)) (~~Effective for taxable years ending after December 30, 1973.~~)*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 2) *For any period beginning on or after January 1, 2013, if an employer fails to report on a return an amount required to be withheld and to be reported on that return which is in excess of 25% of the total amount of withholding required to be reported on that return, a notice of deficiency may be issued not later than 6 years after the return was filed. (IITA Section 905(b)(3))*
- k) *Transferee Liability*
A notice of deficiency may be issued to a transferee relative to a liability asserted under IITA Section 1405 during the following time periods:
- 1) *In the case of the liability of an initial transferee, up to 2 years after the expiration of the period of limitation for assessment against the transferor, except that if a court proceeding for review of the assessment against the transferor has begun, then up to 2 years after the return of the certified copy of the judgment in the court proceeding. (IITA Section 905(m)(1))*
- 2) *In the case of the liability of a subsequent transferee, up to 2 years after the expiration of the period of limitation for assessment against the preceding transferee, but not more than 3 years after the expiration of the period of limitation for assessment against the initial transferor; except that if, before the expiration of the period of limitation for the assessment of the liability of the transferee, a court proceeding for the collection of the tax or liability in respect thereof has been begun against the initial transferor or the last preceding transferee, as the case may be, then the period of limitation for assessment of the liability of the transferee shall expire 2 years after the return of the certified copy of the judgment in the court proceeding. (IITA Section 905(m)(2))*
- l) *Net Losses. On and after August 23, 2002, no notice of deficiency shall be issued as the result of a decrease determined by the Department in the net loss incurred by a taxpayer in any taxable year ending prior to December 31, 2002 under IITA Section 207 unless the Department has notified the taxpayer of the proposed decrease within 3 years after the return reporting the loss was filed or within one year after an amended return reporting an increase in the loss was filed, provided that in the case of an amended return, a decrease proposed by the Department more than 3 years after the original return was filed may not exceed the increase claimed by the taxpayer on the amended return. (IITA Section 905(n))*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) This subsection (1) applies only to net losses incurred in taxable years ending prior to December 31, 2002.
- 2) This subsection (1) does not preclude the Department from decreasing a net loss reported by a taxpayer in order to deny some or all of a refund claimed by a taxpayer as the result of claiming a carryforward deduction of that net loss.
- 3) This subsection (1) does not preclude the Department from adjusting the net income of the taxpayer (before net loss deductions) for any year to which a net loss is carried in order to issue a notice of deficiency for that year or reduce the amount of net loss remaining available to carry to subsequent years, so that a notice of deficiency may be issued for one or more subsequent years.

(Source: Amended at 40 Ill. Reg. 10925, effective July 29, 2016)

SUBPART BB: CREDITS AND REFUNDS

Section 100.9410 Limitations on Claims for Refund (IITA Section 911)

- a) In ~~General~~general
Except as otherwise provided in this Section, no credit or refund shall be allowed or made with respect to any year unless a claim for refund or credit was filed on or before the later of:
 - 1) 3 years after the date the return was filed or, in the case of returns required under Article 7 of the IITA respecting any amounts withheld as tax, the 15th day of the 4th month following the close of the calendar year in which such withholding was made); or
 - 2) one year after the date the tax was paid. (IITA Section 911(a))~~With respect to a taxable year for which a claimant taxpayer has filed a return, or tax was paid, no claim shall be filed and no credit or refund shall be allowed or made, except as otherwise provided in the Act, if the claimant files a claim for refund after the later to occur of the expiration of the 3-year period after the date the return was filed (in the case of returns under Article 7 for amounts withheld as tax, not later than 3 years after the 15th day of the 4th month following the close of the calendar year in which the~~

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

~~withholding was made effective for taxable years ending after December 30, 1973), or one year after the date the tax was paid.~~

3) Consequence of Failing to File a Timely Refund Claim. In the case of any overpayment, the Department may grant a credit or refund of the amount of such overpayment within the applicable period of limitations for a claim for refund (see IITA Section 909(a)). Failure of a taxpayer to file a refund claim before the expiration of the limitations period for a taxable year precludes the Department from granting a credit or refund of any overpayment for that taxable year after the date of expiration. The expiration of the period for filing a refund claim for a taxable year:

A) does not preclude the taxpayer from asserting any adjustments to net income or credits to the extent the adjustments would reduce or eliminate a deficiency asserted by the Department for that taxable year. (See Lewis v. Reynolds, 284 U.S. 281 (1932).)

B) does not preclude the taxpayer from asserting any adjustments to the amount of net loss incurred under IITA Section 207 (except as provided in subsection (g) of this Section for losses incurred in taxable years ending prior to December 31, 2002) or of any credit earned in that taxable year, or the amount of net loss deduction under IITA Section 207 or of any credit carryforward that is properly taken in that taxable year, in order to compute the amount of net loss deduction or credit carryforward allowable in another taxable year, so that a timely refund claim may be filed for that other taxable year or a deficiency for that other taxable year may be reduced or eliminated. (Springfield Street Railway Co. v. U.S., 312 F.2d 754 (Ct. Cl. 1963).)

4) See subsection (e) regarding when a return is deemed filed.

b) Federal Changes
Irrespective of whether notification of a federal change~~an alteration~~ required by IITA Section 506(b) has been filed is given by a ~~claimant~~ taxpayer, a claim for refund may be filed not later than two years after the date the notification was due. The recoverable amount of a claim filed under this subsection (b)~~Section~~ is limited to any overpayment resulting from a change in the taxpayer's net~~base~~ income, net loss, or Article 2 credits for the taxable year for which the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

notification is required, and any resulting change in a net loss or Article 2 credit carryover to a subsequent year, after giving effect to reflecting the items of adjustment in the alteration required to be reported. (IITA Section 911(b)(1)) IITA Section 506(b) requires that a notification of federal change~~the alteration, showing the taxpayer's address and signed by the taxpayer or his or her representative,~~ be filed with the Department not later than 120 days ~~(120 days for federal changes occurring on or after July 1, 1986)~~ after the alteration has been agreed to or finally determined for federal income tax purposes or, if earlier, not later than 120 days ~~(120 days for federal changes occurring on or after July 1, 1986)~~ after any federal income tax deficiency or refund, tentative carryback adjustment, or abatement or credit resulting therefrom, has been assessed or paid. ~~However, in the case of tentative carryback adjustments paid pursuant to IRC Section 6411 before January 1, 1974, a claim for refund of an overpayment may be filed any time prior to January 1, 1976.~~

- c) Extension by Agreement~~agreement~~
- 1) When, before expiration of the time otherwise prescribed in this Section for the filing of a claim for refund ~~pertinent to a particular taxable year (or years) for which there has been filed a return (or returns),~~ the Department and the taxpayer have consented in writing~~has obtained (on Form IL-872) the claimant taxpayer's written consent~~ to the filing after that time, then a claim may be filed at any time prior to the expiration of the period agreed upon.
 - 2) *In the case of a taxpayer who is a partnership, Subchapter S corporation, or trust and who enters into an agreement with the Department pursuant to this subsection (c) on or after January 1, 2003, a claim for refund may be filed by the partners, shareholders, or beneficiaries of the taxpayer at any time prior to the expiration of the period agreed upon. Any refund allowed pursuant to the claim, however, shall be limited to the amount of any overpayment of tax due under the IITA that results from recomputation of items of income, deduction, credits, or other amounts of the taxpayer that are taken into account by the partner, shareholder, or beneficiary in computing its liability under the IITA. (IITA Section 911(c))*
 - 3) Prior to the expiration of any~~Similarly, prior to its expiration, the~~ extended period under this subsection (c), the period may be successively further extended for any or all ~~these~~ taxable years covered by the extension

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

agreement by the obtaining of a further written consent ~~(see 86 Ill. Adm. Code 100.9320(f)).~~

- ~~4)2)~~ Under Section 100.9400(f)(1) ~~of this Part~~, an original return is not a refund claim that preserves a taxpayer's right to a refund or credit for an overpayment of tax after the statute of limitations for filing of a refund claim has otherwise expired. However, a timely-filed original return showing an overpayment shall be treated as an extension of time for the filing of a claim for refund of that overpayment through the date that is 6 months after the date on which the Department issues a refund of a portion of the reported overpayment, notifies the taxpayer that it has allowed a credit for a portion of the reported overpayment, or notifies the taxpayer that no refund or credit of the reported overpayment will be allowed.

d) Limit on ~~Amount~~ amount of ~~Credit~~ credit or ~~Refund~~ refund

- 1) *Limit ~~When Claim~~ when claim is ~~Filed within~~ filed within a 3-~~Year~~ Year ~~Period~~ period*
With respect to a taxable year for which a claimant-taxpayer has filed a return and during the 3-year period in subsection (a) ~~(1)~~ has filed a claim for refund, the amount of the credit or refund shall not exceed the portion of the tax paid within the period immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return. ~~(IITA Section 911(d)(1))~~ For the purposes of this subsection ~~(d)(1) and HTA Section 911(d)(1)~~, any amount paid on account of withheld tax or estimated tax ~~(IITA Arts. 7 and 8 see Articles 7 and 8 of the Illinois Income Tax Act)~~ or any other payment paid as tax or in respect of tax imposed by the Act (for example tax paid with a return filed before the due date) shall be deemed to have been paid not earlier than the last day prescribed for filing the return (irrespective of extensions) for the taxable year for which the payments are applicable ~~(see IRC section 6513(b).)~~ ~~If the claim is filed after expiration of the 3-year period in subsection (a) but prior to the expiration of an agreed to extended period for assessment of the tax, the recoverable amount is limited to that which could have been allowed if the claim were filed at the time of the execution of the extension agreement plus the tax paid thereafter up to the time the claim was timely filed.~~
- 2) Limit When Claim ~~when claim~~ is Not Filed Within ~~not filed within~~ a 3-

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Year Period~~year period~~

Irrespective of whether a return was filed, *if the claim was not filed within the 3-year period* in subsection (a) or within an agreed-to extended period for filing of a refund claim~~assessment of tax~~, *the amount of credit or refund shall not exceed the portion of the tax paid during the one year immediately preceding the filing of the claim.* (IITA Section 911(d)(2))

3) Limit When Claim is Filed Under an Extension

If the claim is filed prior to the expiration of an extended period for filing under subsection (c), the credit or refund is limited to the amount that could have been allowed if the claim had been filed prior to the expiration of the period that was extended.

e) Time Return Deemed Filed~~return deemed filed~~

For purposes of this Section, a tax return filed before the last day prescribed by law for the filing of the return (including any extensions) shall be deemed to have been filed on the last day. (IITA Section 911(e)) *The last day prescribed for filing returns shall include any automatic extensions of time for filing, regardless of whether the taxpayer filed the return prior to the unextended due date.*

f) Special Period~~period~~ of Limitation~~limitation~~ with Respect~~respect~~ to Net Loss Carrybacks~~net loss carrybacks from loss years ending on or after December 31, 1986~~

The 3-year period of limitation prescribed in subsection (a)(1) does not apply if the claim for refund relates to an overpayment attributable to a net loss carryback provided by IITA Section 207. Instead, the period of limitation shall be that period which ends 3 years after the time for filing the return (including extensions) for the taxable year in which the net loss occurs, or the period prescribed in subsection (c) in respect of that taxable year, whichever expires later. The amount of the refund may exceed the portion of the tax paid within the period provided in subsection (d) to the extent of the amount of the overpayment attributable to the net loss carryback.

g) Net Losses. *On and after August 23, 2002, no claim for refund shall be allowed to the extent the refund is the result of an amount of net loss incurred under IITA Section 207 that was not reported to the Department within 3 years after the due date (including extensions) of the return for the loss year on either the original return filed by the taxpayer or on amended return or to the extent that the refund is the result of an amount of net loss incurred in any taxable year under Section*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

207 for which no return was filed within 3 years after the due date (including extensions) of the return for the loss year. (IITA Section 911(h))

- 1) This subsection (g) applies only to net losses incurred in taxable years ending prior to December 31, 2002.
- 2) This subsection (g) does not preclude a taxpayer from increasing a net loss in order to carry forward deduction of that increased net loss to reduce or eliminate a deficiency for a subsequent taxable year.

EXAMPLE:

Corporation A and its wholly-owned subsidiary Corporation B are members of a unitary business group, but filed separate returns for calendar years 2005 through 2009. Corporation A reported positive net income every year, and Corporation B reported net losses under IITA Section 207 for each year. After auditing Corporation A's returns for 2007, 2008 and 2009, the Department adjusted various items of income and apportionment, and issued notices of deficiency. The limitations periods for filing claims for refund have expired for 2005 and 2006, but not for the later years.

The taxpayer may file amended returns for all of the years in question to combine the corporations so that Corporation B's net losses for the years under audit can offset the income of Corporation A, and may carry any combined net loss properly determined for any year (including 2005 and 2006) to each subsequent year in order to determine the correct liabilities for the years 2007, 2008 and 2009, and reduce or eliminate the deficiencies determined by the Department or to claim refunds for the open years.

h) *Periods of Limitation Suspended While Taxpayer is Unable to Manage Financial Affairs Due to Disability*

- 1) *In the case of an individual, the running of the periods specified in this Section shall be suspended during any period when that individual is financially disabled. (IITA Section 911(i))*
- 2) *For purposes of this subsection (h), an individual is financially disabled if that individual is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment of the individual that can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months.*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

An individual shall not be treated as financially disabled during any period when that individual's spouse or any other person is authorized to act on behalf of that individual with respect to financial matters. (IITA Section 911(i)) A person who has been determined to be financially disabled for any period of time for purposes of IRC section 6511(h) shall be deemed to be financially disabled for purposes of this subsection (h) for the same period.

- 3) After a limitations period has expired, legislation cannot extend the period. (See *Sepmeyer v. Holman*, 162 Ill. 2d 249 (1994).) Accordingly, this subsection (h) shall apply only to periods specified in this Section that had not expired prior to August 15, 2014, the effective date of Public Act 98-970, which enacted IITA Section 911(i).

(Source: Amended at 40 Ill. Reg. 10925, effective July 29, 2016)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Tobacco Products Tax Act of 1995
- 2) Code Citation: 86 Ill. Adm. Code 660
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
660.5	Amendment
660.10	Amendment
660.15	Amendment
660.16	New Section
660.18	New Section
660.20	Amendment
660.24	New Section
660.25	Amendment
660.26	New Section
660.27	New Section
660.28	New Section
660.29	New Section
660.30	Amendment
660.35	Amendment
660.40	New Section
660.45	New Section
660.50	New Section
660.55	New Section
- 4) Statutory Authority: 35 ILCS 143; 20 ILCS 2505/2505-795
- 5) Effective Date of Rules: July 29, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 2156; January 29, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Yes. The Department filed its Agency Notice of Refusal to Meet Objections of the Joint Committee of

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Administrative Rules ("Agency Notice") with the Joint Committee on July 7, 2016. The Agency Notice was published in the *Illinois Register* on July 22, 2016, at 40 Ill. Reg. 10058. By letter dated July 22, 2016, the Joint Committee acknowledged receipt of the Agency Notice, a copy of which is attached.

- 11) Differences between Proposal and Final Version: Grammatical and technical changes were made by JCAR and agreed to by the Department. After the Department filed Second Notice, JCAR recommended changes to Section 660.16a. The Department added subsections (a)(1), (a)(2), and (a)(5)-(8) to further delineate by rule the information an applicant for a retailer's license must furnish to the Department.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: 86 Ill. Adm. Code 660 Tobacco Products Tax Act is being amended in response to changes made to the Tobacco Products Tax Act of 1995 (Act) by PA 97-688, PA 98-273 and PA 98-1055 and to incorporate some existing statutory provisions. Section 660.5 is amended to add a definition of "moist snuff" and reflect the change in the manner moist snuff is taxed – from a percentage basis to a weight-based approach – made by PA 97-688. The Section is amended to reflect the increase in the rate of the tax on other tobacco products from 18% of the wholesale price to 36%. Section 660.05 is also amended to reflect changes enacted by PA 98-273; beginning July 1, 2013, little cigars in packages containing 20 or 25 little cigars are taxed in the same manner and at the same rate as cigarettes. Section 660.10 is amended to add definitions for "contraband cigarettes", "little cigars", "stamps", "stamping distributor" and several existing statutory definitions. Section 660.15 is amended to reflect that the existing licensing section applies only to distributors and reflects changes made by PA 98-271 regarding little cigars. A new Section 660.16 reflects the changes enacted by PA 98-1055 that require retailers of tobacco products to obtain retailer's licenses. A new Section 660.18 incorporates changes made by PA 98-273. Beginning July 1, 2013, stamping distributors are required to affix tax stamps on packages of little cigars containing 20 or 25 little cigars in the same manner as cigarettes. Section 660.18 explains the process of acquiring tax stamps and affixing them to packages of little cigars. Section 660.20 is amended to modify the requirements for returns filed by distributors in response to the changes in the method and manner of taxing moist snuff

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

and little cigars. Also, effective January 1, 2016, returns, schedules, documents and data required to be filed by the Act with the Department must be filed electronically in the format required by the Department. A new Section 660.24 explains the recordkeeping requirement for retailers of tobacco products. Section 660.25 is amended to require distributors to place their Tobacco Products License number on invoices unless a waiver from the Department is obtained by a distributor. A new Section 660.26 contains new requirements for invoices issued by distributors for little cigars. A new Section 660.27 explains the restrictions on the sale and possession of little cigars by manufacturers. A new Section 660.28 explains the restrictions on the purchase and possession of little cigars and other tobacco products by retailers. A new Section 660.29 explains the restrictions on the purchase, sale and possession of little cigars by wholesalers. Section 660.30 is amended to reflect changes to the conditions for making exempt sales as a result of the changes made in the manner of taxing packages of little cigars containing 20 or 25 little cigars. Section 660.35 is amended to incorporate the claims sections contained in the Retailers' Occupation Tax Act. A new Section 660.40 addresses credits for stamps that are damaged, unused, destroyed or affixed to packages of little cigars returned to the manufacturer. A new Section 660.45 addresses the revocation, cancellation and suspension of distributor and retailer licenses. A new Section 660.50 includes statutory penalties, interest and procedures. A new Section 660.55 identifies the sections of the Retailer's Occupation Tax Act incorporated by reference into the Tobacco Products Tax Act

- 16) Information and questions regarding these adopted rules shall be directed to:

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

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 660
TOBACCO PRODUCTS TAX ACT OF 1995

Section	
660.5	Nature and Rate of Tobacco Products Tax
660.10	General Definitions
660.15	Distributor Licenses
660.16	Retailer Licenses
660.18	Stamping Distributors; Purchasing Tax Stamps; Affixing Tax Stamps to Packages of Little Cigars
660.20	Returns
660.24	Books and Records – Retailers
660.25	Books and Records – Distributors
660.26	Invoices Relating to Packages of Little Cigars
660.27	Manufacturers – Sale of Little Cigars
660.28	Retailers – Purchase and Possession of Tobacco Products
660.29	Wholesalers – Possession of Little Cigars
660.30	Exempt Sales
660.35	Claims for Credit
660.40	Credit for Stamps that Are Damaged, Unused, Destroyed or Affixed to Packages of Little Cigars Returned to the Manufacturer
660.45	License Actions: Revocations, Cancellations and Suspensions
660.50	Penalties, Interest and Procedures
660.55	Incorporation by Reference

AUTHORITY: Implementing the Tobacco Products Tax Act of 1995 [35 ILCS 143] and authorized by Section 2505-795 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-795].

SOURCE: Adopted at 20 Ill. Reg. 10174, effective July 16, 1996; amended at 26 Ill. Reg. 13310, effective August 23, 2002; amended at 34 Ill. Reg. 12972, effective August 19, 2010; amended at 40 Ill. Reg. 10954, effective July 29, 2016.

Section 660.5 Nature and Rate of Tobacco Products Tax

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

The Tobacco Products Tax Act imposes a tax on any person in business as a distributor of tobacco products. The tax is based on the wholesale price of tobacco products sold or otherwise disposed of to distributors located in Illinois, except moist snuff sold or otherwise disposed of on or after January 1, 2013 and little cigars sold or otherwise disposed of on or after July 1, 2013. Beginning January 1, 2013, under the Act, moist snuff is taxed by the ounce and all fractional parts of an ounce. Beginning July 1, 2013, little cigars are taxed under the Act at the same rate as cigarettes. Little cigars in packages of 20 or 25 little cigars sold by stamping distributors must have a tax stamp affixed. Stamping distributors must purchase tax stamps from the Department in same manner as licensed cigarette distributors purchase tax stamps that are affixed to packages of cigarettes. The same tax stamps are affixed to packages of little cigars and cigarettes containing 20 or 25 little cigars or cigarettes. Taxes on packages of little cigars containing other than 20 or 25 little cigars are reported on a return to be filed no later than the 15th of the month and paid on or before the date the return is due.

- a) Except as otherwise provided in this Section with respect to moist snuff and little cigars, theThe Tobacco Products Tax is imposed upon the last distributor, as defined in Section 660.10, who sells tobacco products to a retailer or consumer located in Illinois at the rate of 18% of the wholesale price of tobacco products sold or otherwise disposed of in this State prior to July 1, 2012 and 36% of the wholesale price of tobacco products sold or otherwise disposed of to retailers or consumers located in this State beginning on July 1, 2012. Beginning on January 1, 2013, the tax on moist snuff shall be imposed at a rate of \$0.30 per ounce, and a proportionate tax at the like rate on all fractional parts of an ounce, sold or otherwise disposed of to retailers or consumers located in this State, provided that the rate of tax imposed on moist snuff after any future rate increases may not exceed 15% of the tax imposed upon a package of 20 cigarettes pursuant to the Cigarette Tax Act. Beginning July 1, 2013, the tax on little cigars shall be imposed at the same rate, and the proceeds shall be distributed in the same manner as the tax imposed on cigarettes under the Cigarette Tax Act. [35 ILCS 143/10-10] Beginning July 1, 2013, the tax on little cigars is 99 mills per little cigar sold or otherwise disposed of.
- b) *The tax is in addition to all other occupation or privilege taxes imposed by the State of Illinois, by any political subdivision thereof, or by any municipal corporation [35 ILCS 14/10-10(a)].* ~~(Section 10-10 of the Act)~~
- c) A retailer is required to register as a distributor, file returns and pay the Tobacco Products Tax imposed by the Act on all sales of tobacco products on which the tax has not been paid unless the sales are exempt under Section 660.30. (See Sections

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

660.15, 660.20 and 660.30.) Retailers that are not stamping distributors shall purchase stamped packages of little cigars containing 20 or 25 little cigars for resale only from stamping distributors, distributors, or wholesalers. Retailers who are not stamping distributors may not purchase or possess unstamped packages of little cigars containing 20 or 25 little cigars. Retailers who are not stamping distributors may not purchase or possess packages of little cigars containing other than 20 or 25 little cigars, unless the retailer receives an invoice from a stamping distributor, distributor, or wholesaler stating the tax on the packages has been or will be paid. [35 ILCS 143/10-27] (See Section 660.28.)

- d) The Tobacco Products Tax is paid on the wholesale price of tobacco products, except on moist snuff and little cigars. The wholesale price is the established list price for which a manufacturer sells tobacco products to a distributor, or the established list price for which a wholesaler or distributor sells tobacco products to the last distributor ~~sells tobacco products to a retailer or consumer located in Illinois,~~ before the allowance of any discounts, trade allowances, rebates or other reductions. Surcharges added by manufacturers or distributors are considered part of the wholesale price subject to tax.
- 1) The wholesale price for purposes of imposing the Tobacco Products Tax on the last distributor is the invoice price at which tobacco products are sold by a wholesaler or distributor to the last distributor before the allowance of any discounts, trade allowances, rebates or other reductions. Surcharges added by distributors are considered part of the wholesale price subject to tax.
 - 2) The wholesale price for purposes of imposing the tax on a retailer who receives or purchases tobacco products on which the tax has not been paid or will not be paid by a licensed distributor is the invoice price paid by the retailer to an unlicensed distributor or other supplier of tobacco products before the allowance of any discounts, trade allowances, rebates or other reductions. Surcharges added by manufacturers, distributors or other suppliers are considered part of the wholesale price subject to tax.
- e) Whenever any sales invoice issued by a supplier to a retailer for tobacco products sold to the retailer does not comply with the requirements of Section 660.25(d), ~~and~~ (e) and (g), a prima facie presumption shall arise that the tax imposed by Section 10-10 of the Act and this Section has not been paid on the tobacco products listed on the sales invoice. A retailer that is unable to rebut this

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

presumption is in violation of both the Act and this Part and is subject to the penalties provided in Section 10-50 of the Act.

(Source: Amended at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.10 General Definitions

"Act" means the Tobacco Products Tax Act of 1995 [\[35 ILCS 143\]](#).

"Business" means any trade, occupation, activity, or enterprise engaged in, at any location whatsoever, for the purpose of selling tobacco products. [35 ILCS 143/10-5]

"Contraband little cigar" means:

packages of little cigars containing 20 or 25 little cigars that do not bear a required tax stamp under the Act;

packages of little cigars containing 20 or 25 little cigars that bear a fraudulent, imitation, or counterfeit tax stamp;

packages of little cigars containing 20 or 25 little cigars that are improperly tax stamped, including packages of little cigars that bear only a tax stamp of another state or taxing jurisdiction; or

packages of little cigars containing other than 20 or 25 little cigars in the possession of a distributor, retailer or wholesaler, unless the distributor, retailer, or wholesaler possesses, or produces within the time frame provided in Section 10-27 or 10-28 of the Act, an invoice from a stamping distributor, distributor, or wholesaler showing that the tax on the packages has been or will be paid. [35 ILCS 143/10-5]

"Department" means the Illinois Department of Revenue. [35 ILCS 143/10-5]

"Distributor" means any of the following:

Any manufacturer or wholesaler in this State engaged in the business of selling tobacco products who sells, exchanges, or distributes tobacco products to retailers or consumers in this State.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Any manufacturer or wholesaler engaged in the business of selling tobacco products from without this State who sells, exchanges, distributes, ships, or transports tobacco products to retailers or consumers located in this State, so long as that manufacturer or wholesaler has or maintains within this State, directly or by subsidiary, an office, sales house, or other place of business, or any agent or other representative operating within this State under the authority of the person or subsidiary, irrespective of whether the place of business or agent or other representative is located here permanently or temporarily.

Any retailer who receives tobacco products on which the tax has not been or will not be paid by another distributor. ~~(Section 10-5 of the Act)~~

Distributor does not include any person, wherever resident or located, who makes, manufactures, or fabricates tobacco products as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. [35 ILCS 143/10-5](Section 10-5 of the Act) A Correctional Industries program is a program that employs committed persons confined in institutions and facilities of the Illinois Department of Corrections to make, manufacture, or fabricate tobacco products for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility.

"Little cigar" means and includes any roll, made wholly or in part of tobacco, where such roll has an integrated cellulose acetate filter and weighs less than 4 pounds per thousand and the wrapper or cover of which is made in whole or in part of tobacco. [35 ILCS 143/10-5]

"Manufacturer" means any person, wherever resident or located, who manufactures and sells tobacco products, except a person who makes, manufactures, or fabricates tobacco products as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. [35 ILCS 143/10-5] ~~(Section 10-5 of the Act)~~

"Moist snuff" means any finely cut, ground, or powdered tobacco that is not intended to be smoked, including tobacco products referred to as "snus", but does

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

not include any finely cut, ground, or powdered tobacco that is intended to be placed in the nasal cavity. [35 ILCS 143/10-5]

"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, limited liability company, or public or private corporation, however formed, or a receiver, executor, administrator, trustee, conservator, or other representative appointed by order of any court. [35 ILCS 143/10-5]

"Place of business" means and includes any place where tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine. [35 ILCS 143/10-5]

"Retailer" means any person in this State engaged in the business of selling tobacco products to consumers in this State, regardless of quantity or number of sales. [35 ILCS 143/10-5]-~~(Section 10-5 of the Act)~~

"Sale" means any transfer, exchange, or barter in any manner or by any means whatsoever for a consideration and includes all sales made by persons. [35 ILCS 143/10-5]-~~(Section 10-5 of the Act)~~

"Secondary distributor" means any person engaged in the business of selling cigarettes who purchases stamped original packages of cigarettes from a licensed distributor under the Cigarette Tax Act or the Cigarette Use Tax Act, sells 75% or more of those cigarettes to retailers for resale, and maintains an established business where a substantial stock of cigarettes is available to retailers for resale. [35 ILCS 130/1]

"Stamp" or "stamps" mean the indicia required to be affixed on a package of little cigars that evidence payment of the tax on packages of little cigars containing 20 or 25 little cigars under Section 10-10 of the Act. These stamps shall be the same stamps used for cigarettes under the Cigarette Tax Act. [35 ILCS 143/10-5]

"Stamping distributor" means a distributor licensed under the Act and also licensed as a distributor under the Cigarette Tax Act or Cigarette Use Tax Act. [35 ILCS 143/10-5]

"Tobacco products" means any cigars, including little cigars; cheroots; stogies;

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff or snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweeping of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but does not include cigarettes as defined by Section 1 of the Cigarette Tax Act or tobacco purchased for the manufacture of cigarettes by cigarette distributors and manufacturers defined in the Cigarette Tax Act and persons who make, manufacture, or fabricate cigarettes as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. [35 ILCS 143/10-5]~~(Section 10-5 of the Act)~~

"Wholesale price" means the established list price for which a manufacturer sells tobacco products to a distributor, before the allowance of any discount, trade allowance, rebate, or other reduction. In the absence of such an established list price, the manufacturer's invoice price at which the manufacturer sells the tobacco product to unaffiliated distributors, before any discounts, trade allowances, rebates, or other reductions, shall be presumed to be the wholesale price. [35 ILCS 143/10-5]~~(Section 10-5 of the Act)~~ The wholesale price of tobacco products is the established list price at the time of purchase, by the distributor who remits tax to the Department, of such tobacco products. Surcharges added by manufacturers or distributors are considered part of the wholesale price subject to tax.

"Wholesaler" means any person, wherever resident or located, who is engaged solely in making sales of tobacco products to others for resale or sales that are otherwise exempt from tax. "Wholesaler", when used in the Act, does not include a person licensed as a distributor under Section 10-20 of the Act unless expressly stated in the Act. [35 ILCS 143/10-5]

(Source: Amended at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.15 Distributor Licenses

- a) *It shall be unlawful for any person to engage in business as a distributor of tobacco products within the meaning of the Act without first having obtained a license to do so from the Department. (Section 10-20 of the Act) Application for a distributor's license shall be made to the Department in a form furnished and*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

prescribed by the Department and shall be accompanied by a joint and several bond in an amount fixed by the Department. Each licensed place of business shall be covered by a separate license. Subject to the limitations regarding little cigars imposed on retailers contained in this subsection (a) and Section 660.28, a~~A~~ retailer who receives or purchases tobacco products on which the tax has not been paid or will not be paid by another distributor is required to register with the Department and obtain a license, file returns and pay the Tobacco Products Tax. Whenever any sales invoice issued by a supplier to a retailer for tobacco products sold to the retailer does not comply with the requirements of Section 660.25(d), ~~and (e) and (g)~~, a prima facie presumption shall arise that the tax imposed by Section 10-10 of the Act and Section 660.5 has not been paid on the tobacco products listed on the sales invoice.

- 1) Subject to the limitations regarding little cigars imposed on retailers contained in this subsection (a) and Section 660.28, a~~A~~ retailer who receives or purchases tobacco products from an out-of-state distributor that is not registered with the Department must obtain a license.
 - 2) Subject to the limitations regarding little cigars imposed on retailers contained in this subsection (a) and Section 660.28, a~~A~~ retailer who receives or purchases tobacco products from a supplier, whether within or without the State, that is not registered with the Department must obtain a license.
- b) The Department may, in its discretion, upon application, issue licenses authorizing the payment of the tax imposed by the Act on tobacco products, excluding little cigars, by any distributor or manufacturer not otherwise subject to the tax imposed under the Act who, to the satisfaction of the Department, furnishes adequate security to ensure payment of the tax.
- c) Wholesalers that are not registered and licensed as distributors with the Department but claim to only sell tobacco products, excluding little cigars, in such a way that their sales are not taxable under this Act (e.g., resale or to exempt purchasers) are advised to apply to the Department for a resale number so that those wholesalers are able to provide distributors with Certificates of Resale when purchasing the tobacco products, excluding little cigars, that will be resold. Those wholesalers need not file returns with the Department. (See Section 660.30, Exempt Sales.)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- d) *The bonding requirement in Section 10-20 of the Act does not apply to an applicant for a distributor's license who is already bonded under the Cigarette Tax Act or the Cigarette Use Tax Act. Licenses issued by the Department under the Act shall be valid for a period not to exceed one year after issuance unless sooner revoked, canceled, or suspended as provided in the Act. [35 ILCS 143/10-20]*
- e) *No license shall be issued to any person who is in default to the State of Illinois for moneys due under the Act or any other tax Act administered by the Department. [35 ILCS 143/10-20]*

(Source: Amended at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.16 Retailer Licenses

- a) *Beginning on January 1, 2016, no person may engage in business as a retailer of tobacco products in this State without first having obtained a license from the Department. Application for license shall be made to the Department, by electronic means, in a form prescribed by the Department. Each applicant for a license under this Section shall furnish to the Department, in an electronic format established by the Department, the following information:*
- 1) *the name and address of the applicant;*
 - 2) *the social security number or FEIN of the applicant;*
 - 3) *the address of the applicant's principal place of business;*
 - 4) *the address of the location or locations at which the applicant proposes to engage in business as a retailer of tobacco products in this State [35 ILCS 143/10-21];*
 - 5) *In the case of:*
 - A) *a publicly traded corporation, the FEIN of the corporation and the name and title of the Chief Financial Officer, Chief Operating Officer, and any other officer or employee with responsibility for preparing tax returns under the Act, along with the last 4 digits of each of their social security numbers; and*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- B) all other corporations, the FEIN of the corporation and the name, title and social security number of each corporate officer;
- 6) in the case of a limited liability company, the name, social security number or FEIN of each manager and member;
- 7) in the case of a partnership, the name, title, social security number or FEIN of each general partner and each limited partner, if any;
- 8) such other additional information as the Department may lawfully require.
- b) The annual license fee payable to the Department for each retailer's license shall be \$75. Each applicant for license shall pay the fee to the Department at the time of submitting its application for license to the Department. The applicant for a license under this Section shall electronically file and pay the fee.
- c) A separate annual license fee shall be paid for each place of business at which a person who is required to procure a retailer's license under Section 10-21 of the Act proposes to engage in business as a retailer in Illinois under the Act.
- d) The following are ineligible to receive a retailer's license under the Act:
- 1) a person who has been convicted of a felony under any federal or State law for smuggling cigarettes or tobacco products or tobacco tax evasion, if the Department, after investigation and a hearing if requested by the applicant, determines that person has not been sufficiently rehabilitated to warrant the public trust; and
- 2) a corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of that corporation, would not be eligible to receive a license under the Act for any reason.
- e) The Department, upon receipt of an application and license fee, in proper form, from a person who is eligible to receive a retailer's license under the Act, will issue to the applicant a license in the form prescribed by the Department. That license shall permit the applicant to whom it is issued to engage in business as a retailer under the Act at the place shown in his or her application. All licenses

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

issued by the Department under this Section shall be valid for a period not to exceed one year after issuance unless sooner revoked, canceled or suspended as provided in the Act. No license issued under this Section is transferable or assignable. The license shall be conspicuously displayed in the place of business conducted by the licensee in Illinois under the license. A person who obtains a license as a retailer who ceases to do business as specified in the license, or who never commenced business, or whose license is suspended or revoked, shall immediately surrender the license to the Department. The Department shall not issue a license to a retailer unless the retailer is also validly registered under the Retailers' Occupation Tax Act [35 ILCS 130/4g]. A retailer, as defined under the Act, need not obtain an additional license under the Act, but shall be deemed to be sufficiently licensed by virtue of his being properly licensed as a retailer under Section 4g of the Cigarette Tax Act.

- f) Any person aggrieved by any decision of the Department under Section 10-21 of the Act may, within 30 days after notice of the decision, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice to the person requesting the hearing of the time and place fixed for the hearing and shall hold a hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to that person. In the absence of a protest and request for a hearing within 30 days, the Department's decision shall become final without any further determination being made or notice given. [35 ILCS 143/10-21]

(Source: Added at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.18 Stamping Distributors; Purchasing Tax Stamps; Affixing Tax Stamps to Packages of Little Cigars

Only a stamping distributor may purchase and affix stamps to packages of little cigars containing 20 or 25 little cigars.

- a) Stamping distributors of packages of little cigars containing 20 or 25 little cigars sold or otherwise disposed of in this State shall remit the tax by purchasing tax stamps from the Department and affixing them to packages of little cigars in the same manner as stamps are purchased and affixed to cigarettes under the Cigarette Tax Act, unless the stamping distributor sells or otherwise disposes of those packages of little cigars to another stamping distributor. Only persons meeting the definition of "stamping distributor" contained in Section 660.10 may

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

affix stamps to packages of little cigars containing 20 or 25 little cigars. Stamping distributors may not sell or dispose of little cigars at retail to consumers or users at locations where stamping distributors affix stamps to packages of little cigars containing 20 or 25 little cigars. [35 ILCS 143/10-10(b)]

- b) Whenever a stamping distributor brings or causes to be brought into this State from without this State, or purchases from without or within this State, any packages of little cigars containing 20 or 25 little cigars upon which there are no tax stamps affixed as required by the Act, for purposes of resale or disposal in this State to a person not a stamping distributor, then the stamping distributor shall pay the tax to the Department and add the amount of the tax to the price of the packages sold by the stamping distributor. Payment of the tax shall be evidenced by a stamp or stamps affixed to each package of little cigars containing 20 or 25 little cigars. [35 ILCS 143/10-10(c)]
- c) Tax stamps for packages of little cigars are the same stamps used for packages of cigarettes under the Cigarette Tax Act. [35 ILCS 143/10-5]
- d) Stamping distributors paying the tax to the Department on packages of little cigars containing 20 or 25 little cigars sold to other distributors, wholesalers or retailers shall add the amount of the tax to the price of the packages of little cigars containing 20 or 25 little cigars sold by the stamping distributors. [35 ILCS 143/10-10(c)]
- e) The Department may refuse to sell tax stamps to any person who does not comply with the provisions of the Act.
- f) The Department, or any person authorized by the Department, will sell tax stamps only to stamping distributors, subject to discounts as explained in subsection (g). The discount shall be allowed at the time of purchase of the stamps. Payment for the stamps must be made by means of electronic funds transfer.
- g) A stamping distributor may include the amount of the tax paid for stamps affixed to packages of little cigars under the Act when calculating the discount to which the stamping distributor may be entitled for tax paid for stamps affixed to packages of cigarettes under the Cigarette Tax Act. (See 86 Ill. Adm. Code 440.90.)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- h) Two or more distributors that use a common means of affixing revenue tax stamps or that are owned or controlled by the same interests shall be treated as a single distributor for the purpose of computing the discount.
- i) Sales and transfers of Illinois tax stamps by one stamping distributor to another stamping distributor are not permitted unless authorization is given in writing by the Department to make the sale or transfer.
- j) Packages of little cigars sold by stamping distributors to other stamping distributors must not be accompanied by loose stamps.
- k) When, at the time of terminating his or her business as a stamping distributor in this State, a stamping distributor has on hand unaffixed Illinois tax stamps, he or she may transfer or sell those unaffixed stamps to some other stamping distributor, provided that, prior to the sale or transfer, the stamping distributor shall request and receive from the Department, in writing, authority to sell or transfer the stamps. At the time of requesting authority to sell and transfer stamps to some other stamping distributor, the stamping distributor making the request must submit the name and address of the stamping distributor to whom he or she intends to sell the stamps, together with the exact number of stamps in each series to be sold or transferred.
- l) When stamps have become mutilated or otherwise unfit for use, stamping distributors shall file a claim with the Department. (See Section 660.40.)

(Source: Added at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.20 Returns

- a) *Every distributor of tobacco products shall, on or before the 15th day of each calendar month, file a return with the Department covering the preceding calendar month disclosing the following (Section 10-20 of the Act):*
 - 1) The wholesale price for tobacco products, excluding little cigars and moist snuff, manufactured and then sold or otherwise disposed of.
 - 2) The wholesale price for tobacco products, excluding little cigars and moist snuff, purchased and then sold or otherwise disposed of.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 3) The total cost of all tobacco products, excluding little cigars and moist snuff, sold or otherwise disposed of.
 - 4) Deductions authorized by law on tobacco products, excluding little cigars and moist snuff.
 - 5) Tobacco products tax base, excluding little cigars and moist snuff.
 - 6) Total tax based on percentage of wholesale price on tobacco products, excluding little cigars and moist snuff.
 - 7) Total quantity in ounces and fractional ounces of moist snuff purchased and then sold or otherwise disposed of.
 - 8) Deductions authorized by law on moist snuff.
 - 9) Total tax on moist snuff.
 - 10) In addition to the items listed in subsections (a)(1) through (9):
 - A) The quantity of little cigars purchased and sold or otherwise disposed of.
 - B) The quantity of packages of little cigars containing 20 or 25 little cigars.
 - C) Deductions authorized by law on little cigars.
 - D) Total tax on little cigars.
- b) The Such return shall be filed in the format and manner upon forms furnished and prescribed by the Department. Payment of the tax in the amount disclosed by the return shall accompany the return. Effective October 1, 2002 through September 30, 2010, 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 as provided in 86 Ill. Adm. Code 750. Beginning October 1, 2010, taxpayers whose annual liability is \$20,000 or more for the preceding calendar year are required to make payments of tax by Electronic Funds Transfer as provided in 86 Ill. Adm. Code 750. For purposes of this subsection, the term "annual tax

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

liability" means, for a taxpayer that incurs a tax liability under the Retailers' Occupation Tax Act, Service Occupation Tax Act, Use Tax Act, Service Use Tax Act, or any other State or local occupation or use tax law that is administered by the Department (which includes the Act), the sum of the taxpayer's liabilities under the Retailers' Occupation Tax Act, Service Occupation Tax Act, Use Tax Act, Service Use Tax Act, and all other State and local occupation and use tax laws administered by the Department for the immediately preceding calendar year. [20 ILCS 2505/2505-210(c)]

- c) Tobacco products "otherwise disposed of" include samples of tobacco products. Transfers of tobacco products between divisions of a corporation that have separate Illinois Business Tax numbers are required to be reported as sales under "otherwise disposed of."
- d) Effective January 1, 2016, returns, schedules, documents and data required to be filed by the Act with the Department must be filed electronically in the format required by the Department. Distributors who do not have access to the Internet may petition the Department for a waiver of this requirement.

(Source: Amended at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.24 Books and Records – Retailers

- a) Through December 31, 2015, every retailer shall keep complete and accurate records of tobacco products held and purchased, and tobacco products sold or otherwise disposed of, and shall preserve and keep all invoices, bills of lading, sales records, and copies of bills of sale. Books, records, papers, and documents that are required by the Act to be kept shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. The books, records, papers, and documents for any period with respect to which the Department is authorized to issue a notice of tax liability shall be preserved until the expiration of that period. [35 ILCS 143/10-36]
- b) Beginning January 1, 2016, every retailer, as defined in Section 10-5 of the Act, shall keep complete and accurate records of tobacco products held, purchased, sold, or otherwise disposed of, and shall preserve and keep all invoices, bills of lading, sales records, and copies of bills of sale, returns and other pertinent papers and documents relating to the purchase, sale, or disposition of tobacco

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

products. Those records need not be maintained on the licensed premises, but must be maintained in the State of Illinois; however, if access is available electronically, the records may be maintained out of state. However, all original invoices or copies thereof covering purchases of tobacco products must be retained on the licensed premises for a period of 90 days after the purchase, unless the Department has granted a waiver in response to a written request in cases in which records are kept at a central business location within the State of Illinois or in cases in which records that are available electronically are maintained out of state. [35 ILCS 143/10-35(b)] The Department will grant a written waiver when the following requirements are met by the retailer:

- 1) The retailer submits a letter to the Department containing:
 - A) the retailer's license number and FEIN;
 - B) the address or addresses of the licensed premises where records are currently maintained;
 - C) the address of the out-of-state location where the retailer intends to maintain the records;
 - D) an explanation of the process and system that will enable the Department or its duly authorized employees to electronically access the records from the licensed premises on demand; and
 - E) an acknowledgement by the retailer that the Department, upon 30 days written notice, may revoke the waiver of the retailer for one or more licensed premises if the retailer:
 - i) fails to provide electronic access in accordance with the requirements of the written waiver;
 - ii) transfers or sells the licensed premises to another person; or
 - iii) changes the process or system for providing access to the records electronically.
- 2) The Department is given access electronically to accurate records of tobacco products held, purchased, sold or otherwise disposed of; invoices;

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

bills of lading; sales records; and copies of bills of sale, returns and other pertinent papers and documents relating to the purchase, sale or disposition of tobacco products kept at the licensed premises in the normal course of business at the time of the request.

- 3) The Department has tested the process and system from the licensed premises and verified that the Department and its duly authorized employees have access electronically to the required records from the licensed premises on demand.
- c) Books, records, papers, and documents that are required by the Act to be kept shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. The books, records, papers, and documents for any period with respect to which the Department is authorized to issue a notice of tax liability shall be preserved until the expiration of that period. [5 ILCS 143/10-35(c)]

(Source: Added at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.25 Books and Records – Distributors

- a) Every distributor of tobacco products who is required to procure a license under the Act, including retailers who are required to procure a distributor's license under Section 660.15, shall keep within Illinois, at his or her licensed address, complete and accurate records of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the State, and sold or otherwise disposed of, and shall preserve and keep within Illinois at his or her licensed address all of the following:
- 1) Invoices.
 - 2) Bills of lading.
 - 3) Sales records.
 - 4) Copies of bills of sale.
 - 5) The wholesale price for tobacco products sold or otherwise disposed of.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 6) An inventory of tobacco products prepared as of December 31 of each year or as of the last day of the distributor's fiscal year if he or she files federal income tax returns on the basis of a fiscal year.
 - 7) Other pertinent papers and documents relating to the manufacture, purchase, sale, or disposition of tobacco products.
 - 8) Certificates of Resale and Certificates of Exemption.
- b) All books and records and other papers and documents that are required by the Act to be kept shall be kept in the English language, and shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.
 - c) Such books, records, papers, and documents shall be preserved for the period during which the Department is authorized to issue Notices of Tax Liability, which is generally for a maximum of 3½ years.
 - d) Every sales invoice issued by a licensed distributor for tobacco products shall contain the distributor's Tobacco Products License number. *Beginning January 1, 2016, every sales invoice issued by a licensed distributor to a retailer in this State shall contain the distributor's Tobacco Products License number unless the distributor has been granted a waiver by the Department in response to a written request in cases in which the distributor sells little cigars or other tobacco products only to licensed retailers that are wholly-owned by the distributor or owned by a wholly-owned subsidiary of the distributor, the licensed retailer obtains little cigars or other tobacco products only from the distributor requesting the waiver, and the distributor affixes the tax stamps to the original packages of little cigars or has or will pay the tax on the other tobacco products sold to the licensed retailer. The distributor shall file a written request with the Department, and, if the Department determines that the distributor meets the conditions for a waiver, the Department shall grant the waiver.* [35 ILCS 143/10-35(a)] Every sales invoice for packages of little cigars containing other than 20 or 25 little cigars issued by a stamping distributor to a person who is not a stamping distributor shall contain, in addition to the stamping distributor's Tobacco Products License number, the stamping distributor's Cigarette Tax Distributor's License number or Cigarette Use Tax Distributor's License number. (See Section 660.26 for additional rules regarding invoices for little cigars.)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- e) Every sales invoice issued by a licensed distributor shall state whether:
- 1) the tax imposed by the Act has been or will be paid in full; or
 - 2) the sale is exempt in whole or in part under Section 660.30 and the specific subsections under which the exemption is claimed.
 - A) If the sale is exempt in part, the invoice additionally shall state:
 - i) the amount of tax actually paid or what will be paid; or
 - ii) the percentage of tax actually paid based on the amount of the invoice before the allowance of any discount, trade allowance, rebate or other reduction, and including any added surcharges.
 - B) The distributor making an exempt sale of tobacco products shall document the exemption by obtaining a certification required by Section 660.30(g).
- f) Whenever any sales invoice issued by a supplier to a retailer for tobacco products sold to the retailer does not comply with the requirements of subsections (d) and (e), a prima facie presumption shall arise that the tax imposed by Section 10-10 of the Act and Section 660.5 has not been paid on the tobacco products listed on the sales invoice. A retailer that is unable to rebut this presumption is in violation of both the Act and this Part and is subject to the penalties provided in Section 10-50 of the Act.
- g) Beginning January 1, 2016, every licensed distributor of tobacco products in this State is required to show proof of the tax having been paid as required by the Act by displaying its Tobacco Products License number on every sales invoice issued to a retailer in this State. [35 ILCS 143/10-37]
- h) Every distributor who purchases tobacco products for shipment into Illinois from a point outside Illinois shall procure invoices in duplicate covering each shipment and shall, if the Department so requires, furnish one copy of each invoice to the Department at the time of filing the return required by the Act. [35 ILCS 143/10-40]

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.26 Invoices Relating to Packages of Little Cigars

- a) Every sales invoice for packages of little cigars containing other than 20 or 25 little cigars issued by a stamping distributor to a person who is not a stamping distributor shall contain both the stamping distributor's Tobacco Products License number and Cigarette Tax Distributor's License number or Cigarette Use Tax Distributor's License number and shall state that the tax imposed by the Act has been or will be paid or that the sale is exempt in whole or in part, stating the exemption claimed. [35 ILCS 143/10-29]
- b) Any stamping distributor, distributor or wholesaler who knowingly falsely states on the invoice that the tax imposed by the Act has been or will be paid, or any officer or employee of a corporation, member or employee of a partnership, or manager, member or employee of a limited liability company that is a stamping distributor, distributor, or wholesaler, who, as such officer, employee, manager, or member, knowingly causes to be issued an invoice on behalf of such entity, that the person knowingly falsely states that the tax imposed by the Act has been or will be paid, is guilty of a Class 4 felony. [35 ILCS 143/10-29(b)]
- c) Whenever any sales invoice issued by a stamping distributor, distributor or wholesaler for the sale of packages of little cigars containing other than 20 or 25 little cigars does not comply with Section 10-28(b) of the Act or Section 10-29(a) of the Act by indicating that the tax has been or will be paid or that the sale is exempt in whole or in part, a prima facie presumption shall arise that the tax imposed by Section 10-10 of the Act has not been paid on the little cigars listed on the sales invoice. A person who is not a stamping distributor and is unable to rebut this presumption is in violation of the Act and is subject to the penalties provided in the Act. [35 ILCS 143/10-29(c)]

(Source: Added at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.27 Manufacturers – Sale of Little Cigars

Manufacturers that are not stamping distributors may not sell little cigars to consumers in this State or to distributors, wholesalers or retailers, unless the distributors, wholesalers or retailers are stamping distributors. Manufacturers that are not stamping distributors may sell little cigars only to stamping distributors. Manufacturers that are not stamping distributors are

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

prohibited from delivering little cigars to locations where sales of little cigars to consumers or users take place. [35 ILCS 143/10-26]

(Source: Added at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.28 Retailers – Purchase and Possession of Tobacco Products

The Act provides that any retailer who receives tobacco products on which the tax has not been or will not be paid by another distributor is considered a distributor and must obtain a distributor's license, file returns and pay the tax on those tobacco products. Effective July 1, 2013, the Act imposes new restrictions on retailers, i.e., a retailer may no longer purchase little cigars on which the tax has not been or will not be paid by a stamping distributor, regardless of whether the retailer possesses a distributor license under the Act. Beginning January 1, 2016, retailers licensed under Section 660.16 must obtain all tobacco products for sale only from stamping distributors, licensed distributors or wholesalers.

- a) Packages of Little Cigars Containing 20 or 25 Little Cigars
- 1) Retailers are prohibited from possessing unstamped packages of little cigars containing 20 or 25 little cigars at locations where retailers make sales of little cigars to consumers or users. Retailers that are also stamping distributors are prohibited from possessing unstamped little cigars at locations where those retailers make sales of packages of little cigars containing 20 or 25 little cigars to consumers or users. [35 ILCS 143/10-27(a)]
 - 2) Retailers that are not stamping distributors shall purchase stamped packages of little cigars containing 20 or 25 little cigars for resale only from stamping distributors, distributors, or wholesalers. Retailers who are not stamping distributors may not purchase or possess unstamped packages of little cigars containing 20 or 25 little cigars. [35 ILCS 143/10-27(a)]
- b) Packages of Little Cigars Containing Other Than 20 or 25 Little Cigars
For purchases of packages of little cigars containing other than 20 or 25 little cigars, retailers who are not stamping distributors may not purchase or possess such packages of little cigars, unless the retailer receives an invoice from a stamping distributor, distributor, or wholesaler stating the tax on the packages has been or will be paid. Retailers shall retain the invoices for inspection by the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Department. If a retailer maintaining multiple retail locations notifies the Department in writing that it maintains its invoices at a centralized business location, the Department shall have the authority to inspect invoices at the centralized business location at all times during the usual business hours of the day and the Department may grant the retailer 3 business days to produce the invoices at the retail location at which the request was made. [35 ILCS 143/10-27(b)]

- c) Notwithstanding anything to the contrary in the Act or this Part, a retailer unknowingly possessing contraband little cigars obtained from a stamping distributor, distributor, or wholesaler or other person engaged in the business of selling tobacco products or knowingly possessing contraband little cigars obtained from a stamping distributor is not subject to penalties for that purchase or possession if the retailer, within 48 hours after discovering that the little cigars are contraband little cigars, excluding Saturdays, Sundays, and holidays: notifies the Department and the person from whom the little cigars were obtained, orally and in writing, that he or she possesses contraband little cigars; places the contraband little cigars in one or more containers and seals those containers; and places on the containers the following or similar language: "Contraband Little Cigars. Not For Sale." All contraband little cigars in the possession of a retailer remain subject to forfeiture under the provisions of the Act. [35 ILCS 143/10-27(c)]
- d) No retailer shall possess tobacco products without either a proper invoice indicating that the tobacco products tax was paid by a distributor for the tobacco products in the retailer's possession or other proof that the tax was paid by the retailer if it has purchased tobacco products on which tax has not been paid as required by the Act. [35 ILCS 143/10-37]
- e) Beginning January 1, 2016, a person who possesses a retailer's license under Section 660.16 shall obtain tobacco products for sale only from a licensed distributor or licensed secondary distributor. [35 ILCS 143/10-22]

(Source: Added at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.29 Wholesalers – Possession of Little Cigars

- a) Packages of Little Cigars Containing 20 or 25 Little Cigars

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Wholesalers are prohibited from possessing unstamped packages of little cigars containing 20 or 25 little cigars unless the wholesalers are stamping distributors. [35 ILCS 143/10-28(a)]

- b) Packages of Little Cigars Containing Other Than 20 or 25 Little Cigars
- 1) For purchases of packages of little cigars containing other than 20 or 25 little cigars, wholesalers who are not stamping distributors may not purchase or possess such packages of little cigars, unless the wholesalers receive an invoice from a stamping distributor, distributor, or wholesaler stating the tax on the packages has been or will be paid. Wholesalers shall retain those invoices for inspection by the Department. [35 ILCS 143/10-28(b)]
- 2) Every sales invoice for packages of little cigars containing other than 20 or 25 little cigars issued by a wholesaler to a person who is not a stamping distributor shall state that the tax imposed by the Act has been or will be paid. If a wholesaler maintaining multiple wholesale locations notifies the Department in writing that it maintains its invoices at a centralized business location, the Department shall have the authority to inspect invoices at the centralized business location at all times during the usual business hours of the day and the Department may grant the wholesaler 3 business days to produce the invoices at the wholesale location at which the request was made. [35 ILCS 143/10-28(b)]

(Source: Added at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.30 Exempt Sales

- a) Sales of tobacco products, excluding little cigars, by distributors or wholesalers who will not sell the product to a retailer or consumer are exempt from the tax imposed by the this Act. For example, sales by a distributor to another distributor as sales for resale are exempt from the tax imposed by the this Act. Sales of tobacco products to retailers or consumers are not exempt sales (unless the retailer is a registered distributor; see subsection (f)).
- b) *The tax is not imposed upon any activity in the business as a distributor in interstate commerce or otherwise, to the extent to which that activity may not, under the Constitution and Statutes of the United States, be made the subject of*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

taxation by this State. (Section 10-10 of the Act) Sales of tobacco products, excluding little cigars, delivered by a distributor to persons located outside of Illinois are exempt from the tax imposed by thethis Act.

- c) Sales of tobacco products, excluding little cigars, to retailers who will deliver the tobacco products outside of Illinois are exempt.
- d) The tax imposed by the Act shall not apply to sales or other disposition of tobacco products to the United States Government or any entity of the United States government. For instance, sales of tobacco products to U.S. Veterans' Hospitals and U.S. Military personnel through officially recognized agencies physically located at military bases are exempt from the tax imposed by the Act.
- e) The tax imposed by the Act shall not apply to sales of tobacco products to penal institutions for use in a Correctional Industries program that makes, manufactures, or fabricates tobacco products for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. However, sales of tobacco products to a penal institution that will sell tobacco products through its commissary are taxable.
- f) Under certain circumstances, a blanket Certificate of Resale may be provided by a purchaser to a distributor. These circumstances include the following:
 - 1) Retailers who purchase tobacco products, excluding little cigars, for delivery outside of Illinois are exempt under subsection (c). However, when the retailer may deliver tobacco products, excluding little cigars, outside of Illinois but may deliver some within Illinois and when it is impracticable, at the time of purchasing the tobacco products, for the retailer to determine in which way he or she will dispose of the tobacco products, the retailer may certify to the distributor that he or she is buying all of the tobacco products, excluding little cigars, for resale and provide a blanket Certificate of Resale to the distributor. A retailer may provide such a certificate only if he or she is registered as a distributor under the Act and agrees to assume responsibility for reporting and remitting tax on his or her taxable Illinois sales (e.g., sales to consumers or retailers).
 - 2) Often times, a distributor registered under the Act will also sell tobacco products to consumers. This distributor may similarly find it impracticable, at the time of purchasing the tobacco products, to determine

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

in which way he or she will dispose of the tobacco products. Consequently, except for little cigars, the distributor may provide the selling distributor with a blanket Certificate of Resale and assume responsibility for reporting and remitting tax on his or her taxable sales to consumers.

- g) A distributor making an exempt sale of tobacco products shall document this exemption by obtaining a certification of exemption or resale from the purchaser containing the distributor's name and address, the purchaser's name and address, the date of purchase, the purchaser's signature, the purchaser's tobacco products tax license number, if applicable, and a statement that the purchaser is purchasing for one of the purposes or activities identified in subsections (a) through (e) or is assuming responsibility for reporting and remitting tax as provided for under subsection (f).
- h) *A retailer must be a stamping distributor to make tax exempt sales of packages of little cigars containing 20 or 25 little cigars for use outside of this State. A retailer who is a stamping distributor making sales of stamped packages of little cigars for use outside of this State may file a claim for credit for such sales with the Department on forms and in the manner provided by the Department. [35 ILCS 143/10-27(a)] A retailer must be a stamping distributor to make tax exempt sales of packages of little cigars containing other than 20 or 25 little cigars for use outside of this State. A retailer who is a stamping distributor making sales of packages of little cigars containing other than 20 or 25 little cigars for use outside of this State on which the tax has been or will be paid by another stamping distributor or was paid by the retailer may file a claim for credit for those sales with the Department on forms and in the manner provided by the Department. [35 ILCS 143/10-27(b)]*
- i) *A wholesaler must be a stamping distributor to make tax exempt sales of packages of little cigars containing 20 or 25 little cigars for use outside of this State. A wholesaler who is a stamping distributor making sales of stamped packages of little cigars for use outside of this State may file a claim for credit for those sales with the Department on forms and in the manner provided by the Department. [35 ILCS 143/10-28(a)] A wholesaler must be a stamping distributor to make tax exempt sales of packages of little cigars containing other than 20 or 25 little cigars for use outside of this State. A wholesaler who is a stamping distributor making sales of packages of little cigars containing other than 20 or 25 little cigars for use outside of this State on which the tax has been or will be paid by*

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

another stamping distributor or was paid by the wholesaler may file a claim for credit for those sales with the Department on forms and in the manner provided by the Department. [35 ILCS 143/10-28(b)]

(Source: Amended at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.35 Claims for Credit

- a) If it appears, after a claim is therefor filed with the Department, that an amount of tax or penalty has been paid that was not due under the Act, whether as the result of a mistake of fact or an error of law, except as hereinafter provided, then the Department shall issue a credit memorandum or refund to the person who made the erroneous payment or, if that person has died or become incompetent, to his legal representative, as such.
- b) If it is determined that the Department should issue a credit or refund under the Act, the Department will first apply the amount thereof against any amount of tax or penalty due under the Act from the person entitled to such credit or refund. For this purpose, if proceedings are pending to determine whether any tax or penalty is due under the Act from such person, the Department may withhold issuance of the credit or refund pending the final disposition of such proceedings and may apply such credit or refund against any amount found to be due to the Department under the Act as a result of such proceedings. The balance, if any, of the credit or refund shall be issued to the person entitled thereto.
- c) If no tax or penalty is due and no proceeding is pending to determine whether such taxpayer is indebted to the Department for tax or penalty, the credit memorandum or refund shall be issued to the claimant; or (in the case of a credit memorandum) the credit memorandum may be assigned and set over by the lawful holder thereof, subject to reasonable rules of the Department, to any other person who is subject to the Act, and the amount thereof shall be applied by the Department against any tax or penalty due or to become due under the Act from such assignee.
- d) As to any claim filed under this Section hereunder with the Department on and after each January 1 and July 1, no amount of tax or penalty erroneously paid (either in total or partial liquidation of a tax or penalty under the Act) more than 3 years prior to ~~that such~~ January 1 ~~or and~~ July 1, respectively, shall be credited or refunded.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- e) In case the Department determines that the claimant is entitled to a refund, ~~thesuch~~ refund shall be made only from such appropriation as may be available for that purpose. If it appears unlikely that the amount appropriated would permit everyone having a claim allowed during the period covered by such appropriation to elect to receive a cash refund, the Department will make ~~thesesuch~~ refunds only in hardship cases (i.e., in cases in which the claimant cannot use a credit memorandum). The two most likely situations where this would be the case are the situation in which the claimant has discontinued business and the situation in which the claimant will have a small volume of liability to the Department in the foreseeable future, but receives such a large credit memorandum that it might take the claimant a long time to liquidate the memorandum by using it to pay current taxes. In these instances, the claimant probably would have to sell the credit memorandum at a loss in order to realize anything from it within any reasonable period of time.
- f) *All of the provisions of Sections 6, 6a, and 6b of the Retailers' Occupation Tax Act regarding credit memoranda, claims and refunds that are not inconsistent with the Act, apply to distributors of tobacco products to the same extent as if those provisions were included in the Act. References in the incorporated Sections of the Retailers' Occupation Tax Act to retailers, to sellers, or to persons engaged in the business of selling tangible personal property mean distributors when used in the Act. References in the incorporated Sections to sales of tangible personal property mean sales of tobacco products when used in the Act. [35 ILCS 143/10-45]*

(Source: Amended at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.40 Credit for Stamps that Are Damaged, Unused, Destroyed or Affixed to Packages of Little Cigars Returned to the Manufacturer

- a) When a stamping distributor wishes to receive credit for stamps that have been affixed to packages of little cigars, the stamping distributor shall file a claim on a form prescribed by the Department.
- b) If the Department sends one or more of its representatives to witness the destruction of the stamps, the Department may charge the stamping distributor for travel expenses, such as lodging, meals and mileage.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- c) If a greater number of stamps in a certain series of stamps is destroyed than is included in the claim for credit, the excess number of stamps destroyed in that series of stamps will not be credited. If a lesser number of stamps in a certain series of stamps is destroyed than is included in the claim for credit, the actual number of stamps destroyed in that series will be credited. If stamps are destroyed in a certain series of stamps not listed in the claim for credit, credit for stamps in that series will not be made.
- d) Claims for credit for tax stamps will be approved only when the claim indicates that the packages of little cigars involved are unsalable and are to be shipped by the claimant in interstate commerce, by a common carrier or through the United States mails, to a designated consignee outside Illinois, or when the claim indicates that the packages of little cigars involved are unsalable and are to be destroyed by the claimant, when the claim indicates that the packages of little cigars involved have been improperly stamped (e.g., over-stamped, under-stamped) or when the claimant returns unused or damaged stamps.
- e) It is mandatory upon a stamping distributor to destroy (in the presence of a Department representative or representatives if the Department so requires) Illinois stamps that are affixed to packages of little cigars in connection with a claim to the Department for credit of stamps, if the stamping distributor has improperly stamped packages of little cigars by affixing Illinois tax stamps in an amount that is insufficient to evidence full payment of the tax.
- f) Claims for credit of tax stamps affixed to packages of little cigars will not be approved unless the stamping distributor filing the claim has title to the packages of little cigars covered by the claim and is carrying Illinois tax-stamped little cigars in his or her inventories.
- g) If a claim discloses that, subsequent to the destruction of the stamps, the unstamped packages of little cigars are to be shipped in interstate commerce to a designated out-of-state consignee, credit for the stamps will not be made unless and until the stamping distributor submits to the Department, to support his or her claim, an affidavit from the manufacturer that receives and destroys the stamps. If an affidavit cannot be obtained, a waybill, freight bill or bill of lading, issued by a common carrier, or an insurance receipt or registry receipt issued by the U.S. Postal Service (USPS), or a USPS receipt Form 3817, proving that the packages of little cigars have actually been shipped by the stamping distributor in interstate

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

commerce, by common carrier or through the United States mails, to the out-of-state consignee designated in the claim, will be accepted.

- h) Subsequent to the destruction of tax stamps affixed to packages of little cigars, credit for the stamps will not be made if a review of pertinent returns filed by the stamping distributor reveals that the tax stamps scheduled in the claim have not been included in the stamping distributor's inventories.
- i) In connection with any claim for credit of Illinois tax stamps, in addition to the types of proof specified, the Department reserves the right to require additional proof in support of any claim as may appear to be necessary.
- j) If the Department approves a claim for credit for tax stamps, the Department (subject to the same limitations as those provided for in Section 660.35) may issue an assignable credit memorandum or refund to the stamping distributor or the stamping distributor's legal representative. Under no circumstances will a claim for credit be approved in an amount that exceeds the amount paid by the stamping distributor for the stamps that are the subject of the claim.

(Source: Added at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.45 License Actions: Revocations, Cancellations and Suspensions

- a) The Department has the power, after notice and an opportunity for a hearing, to revoke a license issued by the Department if the holder of the license fails to file a return, or to pay the tax, fee, penalty, or interest shown in a filed return, or to pay any final assessment of tax, fee, penalty, or interest, as required by the Act or any other tax or fee Act administered by the Department. [20 ILCS 2505/2505-380(a)]
- b) The Department may refuse to issue a license if a person who is named as the owner, a partner, a corporate officer, or, in the case of a limited liability company, a manager or member, of the applicant on the application for the license, is or has been named as the owner, a partner, a corporate officer, or in the case of a limited liability company, a manager or member, on the application for the certificate of registration, permit, or license of a person that is in default for moneys due under the Act or any other tax or fee Act administered by the Department. For purposes of this Section only, in determining whether a person is in default for moneys due, the Department shall include only amounts established as a final liability within the 20 years prior to the date of the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Department's notice of refusal to issue the certificate of registration, permit, or license. For purposes of this Section, "person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of any court. [20 ILCS 2505/2505-380(b)]

- c) The Department may, after notice and a hearing, revoke, cancel, or suspend the license of any distributor and, beginning January 1, 2016, any retailer who violates any of the provisions of the Act. The notice shall specify the alleged violation or violations upon which the revocation, cancellation, or suspension proceeding is base. [35 ILCS 143/10-25(a)]
- d) Upon a determination that a distributor has violated Section 15(e) of the Tobacco Product Manufacturers' Escrow Enforcement Act of 2003 or any regulation adopted pursuant thereto, the Department may revoke or suspend the license of any distributor in the manner provided by Section 10-25 of the Tobacco Products Tax Act of 1995. [30 ILCS 167/30(a)]
- e) The Department may, by application to any circuit court, obtain an injunction restraining any person who engages in business as a distributor of tobacco products without a license (either because his or her license has been revoked, canceled, or suspended or because of a failure to obtain a license in the first instance) from engaging in that business until that person, as if that person were a new applicant for a license, complies with all of the conditions, restrictions, and requirements of Section 10-20 of the Act and qualifies for and obtains a license. Refusal or neglect to obey the order of the court may result in punishment for contempt. [35 ILCS 143/10-25(d)]
- f) Beginning January 1, 2016, failure to comply with the provisions of Section 660.26(c) may be grounds for revocation of a distributor's or retailer's license in accordance with Section 10-25 of the Act or Section 6 of the Cigarette Tax Act. [35 ILCS 143/10-37]
- g) Retailers; Violations of Minimum-Age Tobacco Laws Training Programs Beginning January 1, 2016:
 - 1) If the retailer has a training program that facilitates compliance with minimum-age tobacco laws, the Department shall suspend for 3 days the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

license of that retailer for a fourth or subsequent violation of the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act, as provided in Section 2(a) of that Act. For the purposes of this Section, any violation of Section 2(a) of the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act [720 ILCS 675] occurring at the retailer's licensed location, during a 24-month period, shall be counted as a violation against the retailer.

- 2) If the retailer does not have a training program that facilitates compliance with minimum-age tobacco laws, the Department shall suspend for 3 days the license of that retailer for a second violation of the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act, as provided in Section 2(a-5) of that Act.
- 3) If the retailer does not have a training program that facilitates compliance with minimum-age tobacco laws, the Department shall suspend for 7 days the license of that retailer for a third violation of the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act, as provided in Section 2(a-5) of that Act.
- 4) If the retailer does not have a training program that facilitates compliance with minimum-age tobacco laws, the Department shall suspend for 30 days the license of a retailer for a fourth or subsequent violation of the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act, as provided in Section 2(a-5) of that Act.
- 5) A training program that facilitates compliance with minimum-age tobacco laws must include at least the following elements:
 - A) it must explain that only individuals displaying valid identification demonstrating that they are 18 years of age or older shall be eligible to purchase cigarettes or tobacco products; and
 - B) it must explain where in the establishment, at the time of purchase, a clerk can check identification for a date of birth.
- 6) The training may be conducted electronically. Each retailer that has a training program shall require each employee who completes the training program to sign a form attesting that the employee has received and

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

completed tobacco training. The form shall be kept in the employee's file and may be used to provide proof of training. [35 ILCS 143/10-25(c)]

(Source: Added at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.50 Penalties, Interest and Procedures

- a) The provisions of the Uniform Penalty and Interest Act [35 ILCS 735] that are not inconsistent with the Act apply to the enforcement of the Act. See Section 3-1A of the Uniform Penalty and Interest Act.
- b) When the amount due is under \$300, any distributor who fails to file a return, willfully fails or refuses to make any payment to the Department of the tax imposed by the Act, or files a fraudulent return, or any officer or agent of a corporation engaged in the business of distributing tobacco products to retailers and consumers located in this State who signs a fraudulent return filed on behalf of the corporation, or any accountant or other agent who knowingly enters false information on the return of any taxpayer under the Act is guilty of a Class 4 felony.
- c) When the amount due is under \$300, any person who accepts money that is due to the Department under the Act from a taxpayer for the purpose of acting as the taxpayer's agent to make the payment to the Department, but who fails to remit the payment to the Department when due, is guilty of a Class 4 felony.
- d) When the amount due is \$300 or more, any distributor who files, or causes to be filed, a fraudulent return, or any officer or agent of a corporation engaged in the business of distributing tobacco products to retailers and consumers located in this State who files or causes to be filed or signs or causes to be signed a fraudulent return filed on behalf of the corporation, or any accountant or other agent who knowingly enters false information on the return of any taxpayer under the Act is guilty of a Class 3 felony.
- e) When the amount due is \$300 or more, any person engaged in the business of distributing tobacco products to retailers and consumers located in this State who fails to file a return, willfully fails or refuses to make any payment to the Department of the tax imposed by the Act, or accepts money that is due to the Department under the Act from a taxpayer for the purpose of acting as the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

taxpayer's agent to make payment to the Department but fails to remit that payment to the Department when due is guilty of a Class 3 felony.

- f) Any person who violates any provision of Section 10-20 of the Act and, beginning January 1, 2016, Sections 10-21 and 10-22 of the Act, fails to keep books and records as required under the Act, or willfully violates a rule or regulation of the Department for the administration and enforcement of the Act, is guilty of a Class 4 felony. A person commits a separate offense on each day that he or she engages in business in violation of Section 10-20 of the Act and, beginning January 1, 2016, Section 10-21 or 10-22 of the Act.
- g) Any taxpayer or agent of a taxpayer who, with the intent to defraud, purports to make a payment due to the Department by issuing or delivering a check or other order upon a real or fictitious depository for the payment of money, knowing that it will not be paid by the depository, is guilty of a deceptive practice in violation of Section 17-1 of the Criminal Code of 2012.
- h) Beginning January 1, 2016, any person who violates any provision of Sections 10-20, 10-21 and 10-22 of the Act, fails to keep books and records as required under the Act, or willfully violates a rule or regulation of the Department for the administration and enforcement of the Act, is guilty of a business offense and may be fined up to \$5,000. A person commits a separate offense on each day that he or she engages in business in violation of Sections 10-20, 10-21 and 10-22 of the Act.
- i) Beginning January 1, 2016, when the amount due is under \$300, any retailer who fails to file a return, willfully fails or refuses to make any payment to the Department of the tax imposed by the Act, or files a fraudulent return, or any officer or agent of a corporation engaged in the retail business of selling tobacco products to purchasers of tobacco products for use and consumption located in this State who signs a fraudulent return filed on behalf of the corporation, or any accountant or other agent who knowingly enters false information on the return of any taxpayer under the Act is guilty of a Class A misdemeanor for a first offense and a Class 4 felony for each subsequent offense.
- j) Beginning January 1, 2016, when the amount due is \$300 or more, any retailer who fails to file a return, willfully fails or refuses to make any payment to the Department of the tax imposed by the Act, or files a fraudulent return, or any officer or agent of a corporation engaged in the retail business of selling tobacco

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

products to purchasers of tobacco products for use and consumption located in this State who signs a fraudulent return filed on behalf of the corporation, or any accountant or other agent who knowingly enters false information on the return of any taxpayer under the Act is guilty of a Class 4 felony.

- k) A prosecution for a violation described in subsections (b) through (j) may be commenced within 3 years after the commission of the act constituting the violation. [35 ILCS 143/10-50]
- l) Beginning January 1, 2016, any person who knowingly acts as a retailer of tobacco products in this State without first having obtained a license to do so in compliance with Section 10-21 of the Act or a license in compliance with Section 4g of the Cigarette Tax Act shall be guilty of a Class A misdemeanor for the first offense and a Class 4 felony for a second or subsequent offense. Each day the person operates as a retailer without a license constitutes a separate offense. [35 ILCS 143/10-53]
- m) Beginning January 1, 2016, the Department may impose a civil penalty on distributors and retailers not to exceed \$1,000 for each violation of Section 10-37 of the Act. [35 ILCS 143/10-37]
- n) Any person whose principal place of business is in the State and who is charged with a violation under Section 10-50 of the Act shall be tried in the county where his or her principal place of business is located unless he or she asserts a right to be tried in another venue. If the taxpayer does not have his or her principal place of business in this State, however, the hearing must be held in Sangamon County unless the taxpayer asserts a right to be tried in another venue. [35 ILCS 143/10-50]
- o) Any person aggrieved by any decision of the Department under this Part may, within 60 days after notice of the decision, protest in writing and request a hearing. Upon receiving a written request for a hearing, the Department shall give notice to the person requesting the hearing of the time and place fixed for the hearing and shall hold a hearing in conformity with the provisions of this Part and then issue its final administrative decision in the matter to that person. In the absence of a protest and request for a hearing within 60 days, the Department's decision shall become final without any further determination being made or notice given.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- p) Except as provided by the Constitution of the United States, the Constitution of the State of Illinois, or any statutes of this State, including, but not limited to, the State Officers and Employees Money Disposition Act [30 ILCS 230], the Tax Tribunal established pursuant to the Illinois Independent Tax Tribunal Act of 2012 [35 ILCS 1010] shall have original jurisdiction over all determinations of the Department reflected on a Notice of Deficiency, Notice of Tax Liability, Notice of Claim Denial, or Notice of Penalty Liability issued under the Tobacco Products Tax Act of 1995 or the Uniform Penalty and Interest Act. Jurisdiction of the Tax Tribunal is limited to Notices of Tax Liability, Notices of Deficiency, Notices of Claim Denial, and Notices of Penalty Liability when the amount at issue in a notice, or the aggregate amount at issue in multiple notices issued for the same tax year or audit period, exceeds \$15,000, exclusive of penalties and interest. In notices solely asserting either an interest or penalty assessment, or both, the Tax Tribunal shall have jurisdiction over cases in which the combined total of all penalties or interest assessed exceeds \$15,000. [35 ILCS 1010/1-45]

(Source: Added at 40 Ill. Reg. 10954, effective July 29, 2016)

Section 660.55 Incorporation by Reference

- a) All of the provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 6, 6a, 6b, 6c, 8, 9, 10, 11, 11a, and 12 of the Retailers' Occupation Tax Act, and all applicable provisions of the Uniform Penalty and Interest Act [35 ILCS 735] that are not inconsistent with the Act, apply to distributors of tobacco products to the same extent as if those provisions were included in the Act. References in the incorporated Sections of the Retailers' Occupation Tax Act to retailers, to sellers, or to persons engaged in the business of selling tangible personal property mean distributors when used in the Act. References in the incorporated Sections to sales of tangible personal property mean sales of tobacco products when used in the Act. [35 ILCS 143/10-45]
- b) All of the provisions of Sections 7, 8, 8a, 16, 18a, 18b, 18c, 22, 23, 24, 26, 27, and 28a of the Cigarette Tax Act that are not inconsistent with the Act shall apply, as far as practicable, to the subject matter of the Act to the same extent as if those provisions were included in the Act. References in the incorporated Sections to sales of cigarettes mean sales of little cigars in packages of 20 or 25 little cigars. [35 ILCS 143/10-45]

(Source: Added at 40 Ill. Reg. 10954, effective July 29, 2016)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Compassionate Use of Medical Cannabis Patient Registry
- 2) Code Citation: 77 Ill. Adm. Code 946
- 3)

<u>Section Numbers</u> :	<u>Emergency Actions</u> :
946.10	Amendment
946.25	New Section
946.30	Amendment
946.35	New Section
946.60	Amendment
946.200	Amendment
946.201	Amendment
946.205	Amendment
946.210	Amendment
946.220	Amendment
946.240	Amendment
946.290	Amendment
946.300	Amendment
946.310	Amendment
946.315	New Section
946.500	Amendment
- 4) Statutory Authority: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130]
- 5) Effective Date of Rules: August 1, 2016
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rulemaking will not expire before the end of the 150-day period.
- 7) Date Filed with the Index Department: August 1, 2016
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The Department is adopting these emergency amendments to implement PA 99-519, effective June 30, 2016, which requires the adoption of emergency rules within 30 days of the effective date of the Act to expand and clarify the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

eligibility requirements and conditions for which medical cannabis may be used by persons who are diagnosed with various debilitating conditions or are terminally ill for the purpose of participation in the Compassionate Use of Medical Cannabis Pilot Program. The amendments are necessary to aid the Department in approving registration identification cards for qualifying patients to assure access to medical cannabis-infused food products for treating or alleviating symptoms associated with one or more debilitating conditions.

Section 5-45 of the Illinois Administrative Procedure Act (IAPA) defines "emergency" as "the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare." The situation that requires this emergency rulemaking constitutes an "emergency" because without this rulemaking persons who are diagnosed with Post-Traumatic Stress Syndrome (PTSD) or with a terminal illness will not be able to apply for a Medical Cannabis Registry Identification Card to access to potentially life-sustaining therapy through the use of medical cannabis products. Immediate adoption of these emergency rules will ensure that the Department is able to approve medical cannabis registration cards for these conditions.

- 10) A Complete Description of the Subjects and Issues Involved: This rulemaking implements PA 99-519, effective June 30, 2016, to set forth the requirements for qualifying patients to participate in the Department's Compassionate Use of Medical Cannabis Patient Registry Program. The amendments provide for additional debilitating conditions; add an eligibility category for persons diagnosed with a terminal illness; make changes in the physician written certification; change fees to correspond with the lengthened time frame for a valid registry identification card; add requirements for increasing the adequate supply of medical cannabis and make other changes.
- 11) Are there any proposed rulemakings to this Part pending? Yes, see page 10751 of this issue of the *Illinois Register*.
- 12) Statement of Statewide Policy Objective: This rulemaking will not create or expand a State mandate.
- 13) Information and questions regarding these rules shall be directed to:

Elizabeth Paton
Assistant General Counsel
Division of Legal Services
Department of Public Health

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICESPART 946
COMPASSIONATE USE OF MEDICAL CANNABIS PATIENT REGISTRY

SUBPART A: GENERAL PROVISIONS

Section

- 946.10 Definitions
[EMERGENCY](#)
- 946.15 Referenced Materials
- 946.20 Debilitating Medical Conditions
- 946.25 [Terminal Illness](#)
[EMERGENCY](#)
- 946.30 Addition of Debilitating Medical Conditions
[EMERGENCY](#)
- 946.35 [Medical Cannabis Advisory Committee](#)
[EMERGENCY](#)
- 946.40 Limitations and Penalties
- 946.50 Notifications to the Department
- 946.60 Confidentiality
[EMERGENCY](#)
- 946.70 Applicability to the Smoke Free Illinois Act

SUBPART B: QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

Section

- 946.200 Application for Registry Identification Card for Qualifying Patients and Designated Caregivers
[EMERGENCY](#)
- 946.201 Application for Registry Identification Card for Qualifying Patients under 18 Years of Age
[EMERGENCY](#)
- 946.205 Deadlines for Submission of Application for Registry Identification Card
[EMERGENCY](#)
- 946.210 Fees
[EMERGENCY](#)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 946.220 Fingerprint-Based Criminal History Records Check
[EMERGENCY](#)
- 946.230 General Provisions
- 946.240 Persons Receiving Medical Care at U.S. Department of Veterans Affairs Facilities
[EMERGENCY](#)
- 946.250 Disposal of Medical Cannabis by Qualifying Patients
- 946.260 Responsibilities of Designated Caregivers
- 946.270 Revocation of a Registry Identification Card
- 946.275 Suspension of a Registry Identification Card
- 946.280 Medical Cannabis Obtained from a Medical Cannabis Dispensing Organization
- 946.290 Renewal of Registry Identification Cards
[EMERGENCY](#)

SUBPART C: PHYSICIAN REQUIREMENTS

- Section
- 946.300 Qualifications of the Certifying Physician
[EMERGENCY](#)
- 946.310 Physician Written Certification
[EMERGENCY](#)
- [946.315 Waiver for Increasing the Adequate Supply of Medical Cannabis](#)
[EMERGENCY](#)
- 946.320 Records Maintained by the Physician and Department

SUBPART D: CANNABIS-INFUSED PRODUCTS

- Section
- 946.400 Manufacture of Cannabis-Infused Products
- 946.410 Sale and Distribution of Cannabis-Infused Products
- 946.420 Preparation
- 946.430 Health Hazards

SUBPART E: ENFORCEMENT

- Section
- 946.500 Circuit Court Review
[EMERGENCY](#)

AUTHORITY: Implementing and authorized by the Compassionate Use of Medical Cannabis

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Pilot Program Act [410 ILCS 130].

SOURCE: Adopted at 38 Ill. Reg. 17367, effective July 29, 2014; emergency amendment at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 7712, effective May 15, 2015; emergency amendment at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days.

SUBPART A: GENERAL PROVISIONS

Section 946.10 Definitions**EMERGENCY**

"Act" means the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

"Adequate supply" means 2.5 ounces of usable cannabis during a period of 14 days and that is derived solely from an intrastate source. (Section 10(a)(1) of the Act)

"Administer" or "Administration" means the direct introduction of medical cannabis into the body of a person, whether by inhalation, ingestion, or any other means.

"Bona-fide physician-patient relationship" means a relationship in which the physician has ongoing responsibility for the assessment, care and treatment of a patient's debilitating medical condition, or a symptom of the patient's debilitating medical condition, ~~for which the physician has certified to the Department that the qualifying patient would receive therapeutic or palliative benefit from the medical use of cannabis.~~

"Cannabis" means *marihuana, hashish and other substances which are identified as including any parts of the plant Cannabis sativa and including any and all derivatives or subspecies, such as Indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination. (Section 3(a) of the Cannabis Control Act)

"Caregiver" or "designated caregiver" means a person who is designated by a qualifying patient as the person authorized, on the qualifying patient's behalf, to possess, obtain from a certified medical cannabis dispensary, dispense and assist in the administration of medical cannabis.

"Cultivation center" means a facility operated by an organization or business that is registered by the Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis. (Section 10(e) of the Act)

"DD214" means a certified DD214 Certificate of Release or Discharge from Active Duty Member Copy 4 or State Director of Veteran Affairs Copy 6; a certified DD214 Report of Separation from Active Duty Copy 2; or equivalent certified document indicating character of service and dates of service. A DD214 can be certified by the State Department of Veterans' Affairs, county veteran's officials, and the federal Department of Veterans Affairs.

~~"DEA Registration Certificate" means a certificate to prescribe controlled substances issued by the U.S. Department of Justice's Drug Enforcement Administration.~~

"Debilitating medical condition" means cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, agitation of Alzheimer's disease, cachexia/wasting syndrome, muscular dystrophy, severe fibromyalgia, spinal cord disease, including but not limited to arachnoiditis, Tarlov cysts, hydromyelia, syringomyelia, Rheumatoid arthritis (RA), fibrous dysplasia, spinal cord injury, traumatic brain injury (TBI) and post-concussion syndrome, Multiple Sclerosis, Arnold-Chiari malformation and Syringomyelia, Spinocerebellar Ataxia (SCA), Parkinson's disease, Tourette's syndrome, Myoclonus, Dystonia, Reflex Sympathetic Dystrophy, RSD (Complex Regional Pain Syndromes Type I), Causalgia, CRPS (Complex Regional Pain

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Syndromes Type II), Neurofibromatosis, Chronic Inflammatory Demyelinating Polyneuropathy, Sjogren's syndrome, Lupus, Interstitial Cystitis, Myasthenia Gravis, Hydrocephalus, nail-patella syndrome, residual limb pain, seizures (including those characteristic of epilepsy); and post-traumatic stress disorder (PTSD) or the treatment of these conditions; or any other debilitating medical condition that is added pursuant to the statute or by the Department by rule as provided in Section 946.30. (Section 10(h) of the Act)

"Department" means the Illinois Department of Public Health.

"Director" means the Director of the Illinois Department of Public Health or his or her designee.

"Dispensing organization district" or "District" means one of the 43 geographically dispersed areas identified in the Act and by the Department of Financial and Professional Regulation where one or more dispensing organizations may be located.

"Evidence-based medical research" means documentation of published, peer-reviewed best evidence on research related to the use of medical cannabis, which includes up-to-date information from relevant, valid research about the effects of medical cannabis on different forms of diseases and conditions, its use in health care, the potential for harm from exposure, and other relevant medical information.

"Excluded offense" means: *~~a violent crime defined in Section 3 of the Rights of Crime Victims and Witnesses Act or a substantially similar offense that was classified as a felony in the jurisdiction where the person was convicted; or a violation of a state or federal controlled substance law, the Cannabis Control Act, or the Methamphetamine and Community Protection Act, that was classified as a felony in the jurisdiction where the person was convicted, except that the Department may waive this restriction if the person demonstrates to the Department's satisfaction that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use.~~*

This exception does not apply if the conviction was under state law and involved a violation of an existing medical cannabis law. (Section 10(1-5)10(1) of the Act)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

"Fingerprint-based criminal history records check" means a fingerprint-based criminal history records check conducted by the Illinois State Police in accordance with the Uniform Conviction Information Act (UCIA).

"Health care facility" means any and all facilities and agencies licensed by the ~~Illinois Department of Public Health~~, including, but not limited to, those registered under the Hospital Licensing Act, Nursing Home Care Act, Ambulatory Surgical Treatment Center Act, Alternative Health Care Delivery Act, Hospice Program Licensing Act, Specialized Mental Health Rehabilitation Act of 2013 and any nursing facility operated by the Illinois Department of Veterans' Affairs.

"ISP" means the Illinois State Police.

"Livescan" means an inkless electronic system designed to capture an individual's fingerprint images and demographic data in a digitized format that can be transmitted to ISP for processing. The data is forwarded to the ISP Bureau of Identification (BOI) over a virtual private network (VPN) and then processed by ISP's Automated Fingerprint Identification System (AFIS). Once received at the BOI for processing, the inquiry may be forwarded electronically to the Federal Bureau of Investigation (FBI) for processing.

"Livescan vendor" means an entity licensed by the Department of Financial and Professional Regulation to provide commercial fingerprinting services under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004.

"Medical cannabis" means cannabis and its constituent cannabinoids, such as tetrahydrocannabinol (THC) and cannabidiol (CBD), used as an herbal remedy or therapy to treat disease or alleviate symptoms. Medical cannabis can be administered in a variety of ways, including, but not limited to: vaporizing or smoking dried buds; using concentrates; administering tinctures or tonics; applying topicals such as ointments or balms; or consuming medical cannabis-infused food products.

"Medical cannabis container" means a sealed, traceable, food compliant, tamper resistant, tamper evident container or package used for the purpose of containment of medical cannabis. (Section 10(n) of the Act)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

"Medical cannabis dispensing organization" or "Dispensing organization" means a facility operated by an organization or business that is registered by the Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing medical cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients. (Section 10(o) of the Act)

"Medical cannabis-infused product" means food, oils, ointments, sodas or teas, capsules or other products containing usable cannabis that are not smoked. (Section 10(q) of the Act)

"Petitioner" means an applicant who seeks to add debilitating medical conditions to those listed in Section 10(h) of the Act as allowed under Section 946.30.

"Private residence" means the part of a structure used as a dwelling, including, without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home or assisted living facility shall not be considered a private residence.

"Promptly" means as soon as reasonably practicable, but not later than five days.

"Public place" means any place where an individual could reasonably be expected to be observed by others, including all parts of buildings owned in whole or in part or leased by the State or a unit of local government. A "public place" does not include health care facilities, as defined in this Part, or private residences unless the private residence is used to provide child care, foster care or other similar social service care on the premises.

"Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition. (Section 10(t) of the Act)

~~"Quorum" means a majority of the appointed members of the advisory committee being present in person or participating through video conference or by telephonic means.~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

"Reasonable amount" means the amount of cannabis that is specified in statute as a misdemeanor amount in the jurisdiction where the person was convicted.

"Registered qualifying patient" means a qualifying patient who has been approved by the Department and has been issued a registry identification card.

"Registry identification card" or "medical cannabis patient registry card" means a document issued by the Department that identifies a person as a current registered qualifying patient or registered designated caregiver. (Section 10(v) of the Act)

"Resident" means a person who maintains a legal place of residence in the State of Illinois.

"Reviewing physician" means a physician currently licensed under the Medical Practice Act of 1987 or who possesses a current, active medical license issued by another state, who has conducted a review of the medical records from other physician treating a qualifying patient who is under 18 years of age for the purpose of confirming the diagnosis of debilitating medical conditions as defined in the Act~~attesting that the qualifying patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the qualifying patient's debilitating medical condition.~~

"Spinal cord injury" means damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity.

"Terminal illness" means a debilitating condition or other illness for which the qualifying patient has received a diagnosis for a life expectancy of six months or less.

"Tincture" means cannabis flowered tops and leaves that are soaked in liquid, usually an alcohol solution, transferring the THC and other cannabinoid to the liquid. The tincture may be added to foods and liquids, applied to the skin, or consumed directly by drinking a small quantity or placing a few drops under the tongue.

"Tetrahydrocannabinol" or "THC" means the primary active ingredient in cannabis.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

"VA" means federal Department of Veterans Affairs.

"Veteran" means person who served in one of the five active-duty Armed Services or their respective Guard or Reserve units, and who was discharged or released from service under conditions other than dishonorable.

"VA hospital" means a health care facility operated by the federal Department of Veterans Affairs-Veterans Health Administration providing hospital and outpatient health care services to U.S. military service veterans.

"VA official hospital medical records" means records from the VA documenting medical conditions and dates of treatment in the VA healthcare system.

~~*"Violent crime" means any felony in which force or threat of force was used against the victim, or any offense involving sexual exploitation, sexual conduct or sexual penetration, or a violation of Section 11-20.1, 11-20.1B, or 11-20.3 of the Criminal Code of 1961 or the Criminal Code of 2012, domestic battery, violation of an order of protection, stalking, or any misdemeanor which results in death or great bodily harm to the victim or any violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or death, and includes any action committed by a juvenile that would be a violent crime if committed by an adult. For the purposes of this definition, "personal injury" shall include any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility. A Type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene; or a substantially similar offense that was tried and convicted as a felony in the jurisdiction where the qualifying patient or designated caregiver was convicted. (Section 3(e) of the Rights of Crime Victims and Witnesses Act and Section 10(1)(1) of the Act)*~~

"Waiver" means a waiver of an excluded offense granted by the Department solely based upon the results of a fingerprint-based criminal history records check if the person demonstrates to the Department's satisfaction that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use. (Section 10(1)(2) of the Act)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

"Written certification" means a document dated and signed by a physician, stating that in the physician's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition; that the qualifying patient has a debilitating medical condition and specifying the debilitating medical condition the qualifying patient has; and that the physician is treating or managing treatment of the patient's debilitating condition. patient is under the physician's care for the debilitating medical condition. A written certification shall be made only in the course of a bona-fide physician-patient relationship, after the physician has completed an assessment of the qualifying patient's medical history, reviewed relevant records related to the patient's debilitating condition, and conducted a physical examination. (Section 10(y) of the Act)

(Source: Amended by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days)

Section 946.25 Terminal Illness
EMERGENCY

An individual who submits an application for a registry identification card as someone who is terminally ill as defined in Section 946.10 shall have all fees and fingerprinting requirements waived. (Section 60(c-10) of the Act)

- a) A qualifying patient who has been diagnosed with a terminal illness shall register with the Department on forms and in a manner prescribed by the Department.
- b) To qualify for a registry identification card, a qualifying patient with a diagnosis of terminal illness shall:
 - 1) Be a resident of the State of Illinois at the time of application and remain a resident during participation in the program.
 - 2) Meet the definition of terminal illness in Section 946.10.
 - 3) Have a signed, written attestation specifying that the qualifying patient has a terminal illness, on a form provided by the Department, submitted by a

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

physician who meets the requirements set forth in the Act, along with an application for a registry identification card.

- 4) Complete an application on a form provided by the Department and submit a copy of his or her Illinois driver's license, Temporary Visitor's Driver's License or state identification card. If the individual does not have an Illinois driver's license or state identification card, a color copy of a current passport will be accepted.
- 5) Provide a current digital passport-sized photograph meeting the criteria specified in Section 946.200(b)(6).
- c) A veteran or spouse of a veteran who is receiving care for a debilitating condition at a VA hospital, as specified in Section 946.240, shall sign a written attestation indicating they have been diagnosed with a terminal illness and shall submit one year of official VA hospital medical records from the VA using VA Form 10-5345 and provide a copy of his or her DD214 indicating character and dates of service.
- d) A qualifying patient under the age of 18 diagnosed with a terminal illness will not be required to obtain a written certification from a reviewing physician.
- e) A patient with a terminal illness may specify a designated caregiver. A qualifying patient under age 18 may have two designated caregivers as described in Section 946.201(c).
- f) A qualifying patient shall not possess a school bus permit or a Commercial Driver's License. (Section 30 of the Act). Persons who possess such licenses should revoke them prior to submitting an application for a medical cannabis registry identification card.
- g) Applications submitted by an applicant diagnosed with a terminal illness shall be approved or denied within 14 business days, not including State holidays, of the submission of their complete application. (Section 60(c-10) of the Act) The time period for approval or denial will not include the time necessary for the Secretary of State verification process to be completed or the printing, mailing and receipt of the registry identification card by the patient.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- h) Persons whose diagnosis is no longer terminal after a period of six months and their designated caregiver, may submit an application for a registry identification card in accordance with Section 946.200 or Section 946.201 and pay all applicable fees specified in Section 946.210.

(Source: Added by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days)

Section 946.30 Addition of Debilitating Medical Conditions**EMERGENCY**

Residents may petition the Department to add debilitating medical conditions to those listed in Section 10(h) of the Act and Section 946.20. The Department will accept petitions ~~annually~~^{annually twice}. The ~~annual petition open~~ period for accepting petitions will be for a one-month period from January 1 through January 31 ~~and again from July 1 through July 31~~ each year. Petitions received outside of the open periods specified in this Section will not be reviewed and will be returned to the resident submitting the petition.

- a) *During the open period, the Department will accept petitions from any resident requesting the addition of a new debilitating medical condition or disease to the list of approved debilitating medical conditions for which the use of cannabis has been shown to have a therapeutic or palliative effect. The Department shall provide public notice 30 days before the open period for accepting petitions, which shall describe the time period for submission, the required format of the submission, and the submission address, which is set forth in Section 946.205. (Section 45(b) of the Act)*

~~The Department will convene a Medical Cannabis Advisory Board (Advisory Board) composed of 16 members, including:~~

- ~~1) One medical cannabis patient advocate or designated caregiver;~~
- ~~2) One parent or designated caregiver of a person under age 18 who is a qualified medical cannabis patient;~~
- ~~3) Two registered nurses or nurse practitioners;~~
- ~~4) Three registered qualifying patients, including one veteran; and~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 5) ~~Nine healthcare practitioners with current professional licensure in their field. The Advisory Board shall be composed of healthcare practitioners representing the following areas. At least one appointed healthcare practitioner shall have direct experience related to the health care needs of veterans and at least one individual shall have pediatric experience:~~
- ~~A) Neurology;~~
 - ~~B) Pain management;~~
 - ~~C) Medical oncology;~~
 - ~~D) Psychiatry or mental health;~~
 - ~~E) Infectious disease;~~
 - ~~F) Family medicine;~~
 - ~~G) General primary care;~~
 - ~~H) Medical ethics;~~
 - ~~I) Pharmacy;~~
 - ~~J) Pediatrics; or~~
 - ~~K) Psychiatry or mental health for children or adolescents.~~
- b) ~~The Advisory Board shall review petitions and recommend to the Department additional debilitating conditions or diseases that would benefit from the medical use of cannabis.~~
- e) ~~Members of the Advisory Board will be appointed by the Governor.~~
- ~~1) Members shall serve a term of four years or until a successor is appointed and qualified. If a vacancy occurs, the Governor will appoint a replacement to complete the original term created by the vacancy.~~
 - ~~2) Members shall select a chairperson.~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 3) ~~Members may serve multiple terms.~~
 - 4) ~~Members shall not have an affiliation with, serve on the board of, or have a business relationship with a registered cultivation center or a registered medical cannabis dispensary.~~
 - 5) ~~Members shall disclose any real or apparent conflicts of interest that may have a direct bearing of the subject matter, such as relationships with pharmaceutical companies, biomedical device manufacturers, or corporations whose products or services are related to the medical condition or disease to be reviewed.~~
 - 6) ~~Members will not be paid but will be reimbursed for travel expenses incurred while fulfilling the responsibilities of the Advisory Board.~~
- d) ~~The Advisory Board shall convene at least twice per year to:~~
- 1) ~~Review petitions received from residents of Illinois for the addition of debilitating medical conditions or diseases that would benefit from the medical use of cannabis.~~
 - 2) ~~Conduct a public hearing to review the petitions received.~~
 - 3) ~~Review conditions previously reviewed by the Advisory Board and accepted by the Department for the purposes of determining whether to recommend the revision of the list of debilitating medical conditions or to review new medical and scientific evidence pertaining to currently approved conditions.~~
 - 4) ~~Recommend the approval or denial of each petitioner's request by submitting a written report to the Department within 60 days after conducting the public hearing. The written report shall include a medical justification for the recommendation based upon the individual or collective expertise of the members of the advisory board. The medical justification shall delineate between the findings of fact made by the Advisory Board and the scientific conclusions of evidence-based medical research.~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- e) ~~During the open period, the Department will accept petitions from any resident requesting the addition of a new debilitating medical condition or disease to the list of approved debilitating medical conditions for which the use of cannabis has been shown to have a therapeutic or palliative effect. The Department will provide public notice 30 days before the open period for accepting petitions, describing the time period for submission, the required format of the submission, and the submission address, which is set forth in Section 946.205.~~
- b)f) ~~Each petition shall be limited to one proposed debilitating medical condition or disease. (Section 45(c) of the Act)~~Each petition shall be limited to one proposed debilitating medical condition or disease.
- c)g) ~~A petitioner shall file one original petition in the format provided by the Department and in the manner specified by the Department. For a petition to be processed and reviewed, the following information shall be included: (Section 45(d) of the Act)~~A petitioner shall file one original petition in the format provided by the Department and two paper copies, along with a CD/DVD or flash drive containing the petition and all associated documents in electronic form, with the Department by certified U.S. mail. For a petition to be processed and submitted to the Advisory Board, the following information shall be included:
- 1) ~~The petition, prepared on forms provided by the Department.~~
- 1)2) ~~A specific description of the medical condition or disease that is the subject of the petition. A specific description of the medical condition or disease that is the subject of the petition. The petitioner shall not submit broad categories, e.g., all mental illnesses. Each petition shall be limited to a single condition or disease. Information about the proposed condition or disease shall include:~~Each petition shall be limited to a single condition or disease. Information about the proposed condition or disease shall include:
- A) The extent to which the condition or disease itself and/or the treatments cause severe suffering, such as severe and/or chronic pain, severe nausea and/or vomiting, or otherwise severely impair a person's ability to carry on with activities of daily living;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- B) Information about why conventional medical therapies are not sufficient to alleviate the suffering caused by the disease or condition and its treatment;
- C) The proposed benefits from the medical use of cannabis specific to the medical condition or disease;
- D) Evidence from the medical community and other experts supporting the use of medical cannabis to alleviate suffering caused by the condition or disease and/or treatment;
- E) Letters of support from physicians or other licensed health care providers knowledgeable about the condition or disease, including, if feasible, a letter from a physician with whom the petitioner has a bona-fide physician-patient relationship;
- F) Any additional medical, testimonial or scientific documentation; and
- G) An electronic copy of all materials submitted.
- ~~A) The extent to which the condition or disease itself and/or the treatments cause severe suffering, such as severe and/or chronic pain, severe nausea and/or vomiting, or otherwise severely impair a person's ability to carry on with activities of daily living;~~
- ~~B) Information about why conventional medical therapies are not sufficient to alleviate the suffering caused by the disease or condition and its treatment;~~
- ~~C) The proposed benefits from the medical use of cannabis specific to the medical condition or disease;~~
- ~~D) Evidence from the medical community and other experts supporting the use of medical cannabis to alleviate suffering caused by the condition or disease and/or treatment;~~
- ~~E) Letters of support from physicians or other licensed health care providers knowledgeable about the condition or disease, including,~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

~~if feasible, a letter from a physician with whom the petitioner has a bona fide physician-patient relationship;~~

~~F) Any additional medical, testimonial or scientific documentation; and~~

~~G) An electronic copy of all materials submitted.~~

~~2) Upon receipt of a petition, the Department shall determine whether the petition meets the standards for submission and, if so, will accept the petition for further review; or whether the petition does not meet the standards for submission and, if so, shall deny the petition without further review.~~

~~3) If the petition does not fulfill the standards for submission, the petition shall be considered deficient. The Department shall notify the petitioner, who may correct any deficiencies and resubmit the petition during the next open period.~~

~~3) Upon review of materials submitted pursuant to subsection (g)(2), the Department will determine whether:~~

~~A) The petition meets the standards for submission and, if so, will accept the petition for further review; or~~

~~B) The petition does not meet the standards for submission and, if so, will deny the petition without further review.~~

~~4) If the petition does not fulfill the standards for submission, the petition will be considered deficient. The Department will notify the petitioner, who may correct any deficiencies and resubmit the petition during the next open period.~~

~~5) If the petition is accepted, the Department will refer the petition documents to the Advisory Board for review.~~

~~d)h) The petitioner may withdraw his or her petition by submitting a written statement to the Department indicating withdrawal.The petitioner may withdraw his or her~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

~~petition by submitting a written statement to the Department indicating withdrawal.~~

- e) Upon review of accepted petitions, the Director will consult with Department staff to analyze the clinical and scientific merit of the petitions. This consultation will occur before the Director renders a final decision regarding the acceptance or denial of the proposed debilitating medical conditions or diseases. (Section 45(f) of the Act) The Department's analysis will be recorded in a format prescribed by the Department.
- f) The Department will approve or deny a petition within 180 days after its submission. (Section 45(a) of the Act)
- g) All petitions to add debilitating conditions submitted to the Department in January 2016 will be reviewed in accordance with Section 946.30.
- i) ~~The Advisory Board shall have a minimum of 30 days to review the petitions before convening a public hearing.~~
- j) ~~The Advisory Board shall convene a public hearing to review all petitions accepted by the Department pursuant to Section f(4)(B) requesting the addition of medical conditions or diseases to the list of debilitating medical conditions that would benefit from the medical use of cannabis.~~
 - 1) ~~The Department will provide a notice of public hearing setting forth the date, time and location of the hearing, a brief description of the petitions received, and information on the requirements for public comment or statement of intent to present technical evidence, as required by the Open Meetings Act. The Department will publish a notice of the hearing on its website to provide notice to the public.~~
 - 2) ~~Meetings of the Advisory Board shall be in accordance with the Open Meetings Act.~~
 - 3) ~~Any meeting consisting of a quorum of the Advisory Board members held for the purpose of evaluating, discussing or otherwise formulating specific opinions concerning the recommendation of a petition filed pursuant to this Part shall be declared a public hearing open to the public at all times,~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

~~unless a portion of the hearing is closed to protect information made confidential by applicable State or federal laws.~~

- ~~4) A petitioner may request to close a portion of the hearing to protect the disclosure of confidential information. The request for closure of the hearing shall be submitted to the same address as the initial submission set forth in Section 946.205. The request must be received by the Department at least 48 hours prior to the hearing.~~
- k) Any individual or an association of individuals who wishes to present technical evidence at the hearing shall file a statement of intent, no later than 15 days prior to the date of the hearing. The statement of intent to present technical evidence shall include:
 - 1) Name of the person filing the statement;
 - 2) Indication of whether the person filing the statement supports or opposes the petition at issue;
 - 3) Name of each witness;
 - 4) Estimate of the length of the direct testimony of each witness;
 - 5) List of exhibits, if any, to be offered into evidence at the hearing; and
 - 6) Summary or outline of the anticipated direct testimony of each witness.
- l) ~~Upon final determination, the Advisory Board shall provide the Director a written report of findings recommending either the approval or denial of the petitioner's request. The written report of findings shall include a medical justification for the recommendation based upon the individual or collective expertise of the Advisory Board membership. The medical justification shall delineate between the findings of fact made by the Advisory Board and scientific conclusions of evidence based medical research. The written report of findings shall protect information by applicable State or federal laws (e.g., FOIA or HIPAA).~~
- m) ~~Upon review of the Advisory Board's recommendations, the Director will render a final decision regarding the acceptance or denial of the proposed debilitating medical conditions or diseases.~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- n) ~~*The Department will approve or deny a petition within 180 days after its submission during the biannual petition period. (Section 45 of the Act)*~~

(Source: Amended by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days)

Section 946.35 Medical Cannabis Advisory Board
EMERGENCY

- a) *The Department shall convene a Medical Cannabis Advisory Board (Advisory Board) composed of 16 members, including (Section 45(q) of the Act):*
- 1) *One medical cannabis patient advocate or designated caregiver;*
 - 2) *One parent or designated caregiver of a person under age 18 who is a qualified medical cannabis patient;*
 - 3) *Two registered nurses or nurse practitioners;*
 - 4) *Three registered qualifying patients, including one veteran; and*
 - 5) *Nine health care practitioners with current professional licensure in their field. The Advisory Board shall be composed of health care practitioners representing the following areas:*
 - A) *Neurology;*
 - B) *Pain management;*
 - C) *Medical oncology;*
 - D) *Psychiatry or mental health;*
 - E) *Infectious disease;*
 - F) *Family medicine;*
 - G) *General primary care;*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- H) *Medical ethics;*
- I) *Pharmacy;*
- J) *Pediatrics; or*
- K) *Psychiatry or mental health for children or adolescents.*

At least one appointed health care practitioner shall have direct experience related to the health care needs of veterans and at least one individual shall have pediatric experience.

- b) *Members of the Advisory Board shall be appointed by the Governor.*
 - 1) *Members shall serve a term of four years or until a successor is appointed and qualified. If a vacancy occurs, the Governor shall appoint a replacement to complete the original term created by the vacancy.*
 - 2) *The Governor shall select a chairperson.*
 - 3) *Members may serve multiple terms.*
 - 4) *Members shall not have an affiliation with, serve on the board of, or have a business relationship with a registered cultivation center or a registered medical cannabis dispensary.*
 - 5) *Members shall disclose any real or apparent conflicts of interest that may have a direct bearing of the subject matter, such as relationships with pharmaceutical companies, biomedical device manufacturers, or corporations whose products or services are related to the medical condition or disease to be reviewed.*
 - 6) *Members shall not be paid but will be reimbursed for travel expenses incurred while fulfilling the responsibilities of the Advisory Board.*
- c) *The Advisory Board shall convene at the call of the Chair to:*
 - 1) *Examine debilitating conditions or diseases that would benefit from the medical use of cannabis, and;*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 2) *Review any new medical and scientific evidence pertaining to currently approved debilitating conditions.*
- 3) *The Advisory Board shall issue an annual report of its activities each year.*

(Source: Added by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days)

Section 946.60 Confidentiality**EMERGENCY**

- a) The following information received and records kept by the Department for purposes of administering this Part are subject to all applicable federal privacy laws, are confidential, are exempt from the Illinois Freedom of Information Act, and are not subject to disclosure to any individual or public or private entity, except as necessary for authorized employees of the Department to perform official duties of the Department pursuant to this Part:
 - 1) Applications or renewals, their contents and supporting information submitted by qualifying patients and designated caregivers, including information regarding designated caregivers and physicians;
 - 2) The individual names and other information identifying persons to whom the Department has issued registry identification cards; and
 - 3) All medical records provided to the Department in connection with an application for a registry identification card.
- b) Department hard drives or other data recording media that are no longer in use and that contain cardholder information will be destroyed.
- c) Data subject to this Section shall not be *combined or linked in any manner with any other list or database and shall not be used for any purpose not provided by this Part or the Act.* (Section 150(a) of the Act)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- d) Any dispensing information required to be kept under Section 135 or 150 of the Act or under this Part will identify cardholders by their registry identification numbers and not contain names or other personally identifying information.
- e) The Department of Agriculture, the Department of Financial and Professional Regulation and the Illinois State Police may verify registry identification cards. Law enforcement personnel shall have access to the Department's on-line verification system to verify application date and application status of qualifying patients who have submitted an application for a registry identification card.
- f) This Section does not preclude the following notifications:
 - 1) Department employees may notify law enforcement if information submitted to the Department is suspected to be falsified or fraudulent.
 - 2) The Department may notify State or local law enforcement about alleged criminal violations of this Part.
 - 3) The Department will notify the Department of Financial and Professional Regulation if there is reasonable cause to believe that a physician has:
 - A) Issued a written certification without a bona-fide physician-patient relationship; or
 - B) Issued a written certification to a person who was not under the physician's care for the debilitating medical condition; or
 - C) Failed to abide by the acceptable and prevailing standard of care when evaluating a patient's medical condition.
- g) The Department will share, disclose, and forward patient information as required by Section 60(e) of the Act.

(Source: Amended by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days)

SUBPART B: QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Section 946.200 Application for Registry Identification Card for Qualifying Patients and Designated Caregivers**EMERGENCY**

- a) A qualifying patient who has been issued a written certification who seeks to use medical cannabis for palliative or therapeutic benefit to treat or alleviate the symptoms associated with the patient's debilitating condition, and the qualifying patient's designated caregiver, when applicable, shall register with the Department on forms and in a manner prescribed by the Department.
- b) To qualify for a registry identification card, a qualifying patient shall:
 - 1) Be a resident of the State of Illinois, as defined in subsection (c), at the time of application and remain a resident during participation in the program;
 - 2) Have a qualifying medical condition for which the use of medical cannabis will provide help with treating or alleviating the pain, nausea and other symptoms associated with the condition or be diagnosed with a terminal illness;
 - 3) Have a signed, written certification ~~for the use of medical cannabis~~ meeting the requirements of this Part;
 - 4) Complete the fingerprint-based background check and not have been convicted of an offense specified under Section 65(b) of the Act, unless diagnosed with a terminal illness.
- c) Residency. For purposes of this Part, the qualifying patient and designated caregiver, if any, shall be a resident of the State of Illinois if the individual:
 - 1) Physically resides in the State of Illinois, or has taken verifiable actions to make Illinois his or her home indefinitely with no present intent to reside in another state.
 - 2) Provides proof of Illinois residency by submitting at least two of the following items with the application for a registry identification card. The address on the documentation provided shall match the address on the application. Persons; persons who are homeless shall only be required to

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

submit a Notarized Homeless Status Certification (available at https://www.cyberdriveillinois.com/publications/pdf_publications/dsd_a230.pdf):

- A) Pay stub or electronic deposit receipt, issued less than 60 days prior to the application date, that shows evidence of the applicant's withholding for State income tax;
- B) Valid voter registration card with an address in Illinois;
- C) Valid, unexpired Illinois [Driver's License](#), [Illinois Temporary Visitor Driver's License](#), ~~driver's license~~ or other State identification card issued by the Illinois Secretary of State in the name of the applicant in accordance with the Illinois Identification Card Act [or a current military identification card](#);
- D) Bank statement (dated less than ~~90~~60 days prior to application) [or credit card statement \(dated less than 60 days prior to application\)](#);
- E) Deed/title, mortgage or rental/lease agreement; [property tax bill](#);
- F) Insurance policy ([current coverage for automobile](#), homeowner's, [health or medical](#), or renter's);
- G) Medical claim or statement of benefits (from [a hospital or health clinic or private insurance company or public \(government\) agency](#), dated less than ~~12 months~~90 days prior to application) ~~or Social Security Disability Insurance Statement or Supplemental Security Income Benefits Statement~~;
- H) [Persons enrolled in the federal Social Security Disability Income \(SSDI\) or Supplemental Security Income \(SSI\) disability program may submit a "Benefit Verification Letter" from the Social Security Administration; showing the individual's name and address and the type of benefits received. The letter must be dated within the last year. A copy of the letter may be obtained on-line at <https://www.ssa.gov/myaccount/> or by contacting the Social Security Administration. The annual cost of living increase letter mailed to recipients of social security benefits will not be accepted.](#)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- ~~JH~~ Tuition invoice/official mail from college or university, dated less than the 12 months prior to application; ~~or~~
- ~~JJ~~ Utility bill, including, but not limited to, those for electric, water, refuse, telephone land-line, cellular phone, cable or gas, issued less than 60 days prior to application; or;
- ~~K~~ W-2 form from the most recent tax year.
- d) To apply for a registry identification card, a qualifying patient shall submit a completed application to the Department on the required forms, which shall include, at a minimum, the following items:
- 1) Written certification for the use of medical cannabis meeting the requirements of this Part issued by a physician who meets the requirements set forth in the Act and the Medical Practice Act of 1987 and dated less than 90 days prior to the application;
 - 2) Proof of Illinois residency of the qualifying patient, as specified in subsection (c);
 - 3) Proof of identity of the qualifying patient;
 - 4) Proof of the qualifying patient's age;
 - 5) Photograph of the qualifying patient and designated caregiver, if applicable, as follows:
 - A) Current digital passport-size photograph~~image~~, taken no more than 30 calendar days before the submission of the application;
 - B) Taken against a plain background or backdrop;
 - C) At least 2 inches by 2 inches in size;
 - D) In natural color; and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- E) That provides an unobstructed front view of the full face. A full-faced photograph must be taken without any obstruction of the applicant's facial features or any items covering any portion of the face. Prescription glasses and religious head coverings not covering any areas of the open face will be allowed. [Head coverings for persons diagnosed and undergoing treatment for cancer will be allowed.](#)
- i) A qualifying patient or designated caregiver will not be required to submit to a photograph if sufficient justification is provided by the qualifying patient or caregiver to establish that a photograph would be in violation of or contradictory to the qualifying patient's or designated caregiver's religious convictions. If a qualifying patient or designated caregiver declares that the use of a photograph is against his/her religious convictions, the qualifying patient or designated caregiver will be given an affidavit to be completed. This affidavit contains designated areas for a detailed written explanation of the reasons why a photograph is against the qualifying patient's or designated caregiver's religious convictions, a place for the qualifying patient's or designated caregiver's signature and date, the designation of the religious sect or denomination involved, space for a minister or other religious leader to apply his/her signature attesting to the explanation the qualifying patient or designated caregiver has offered, along with the date and official title of the minister or religious leader.
- ii) The ~~affidavit~~[Affidavit](#) shall be submitted to the Department. The Director will appoint a committee of three Department employees to review each affidavit. The committee shall submit a recommendation to the Director for his or her final decision.
- iii) If the qualifying patient or designated caregiver meets all other application requirements of this Part, the Department will issue a non-photo temporary registry identification card, not to exceed 90 days in duration, to allow for medical cannabis use privileges during the determination

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- iv) Upon approval by the Department, a valid registry identification card without a photograph will be issued and can be renewed. The card will be mailed to the qualifying patient's home address.
- 6) Designation of the medical cannabis dispensing organization where the qualifying patient will receive his or her medical cannabis. Only one medical cannabis dispensing organization may be selected at any time, however, the patient is able to submit a request to change the selected dispensary by notifying the Department.~~During 2014, and later if the Department so elects, a qualifying patient may designate the dispensing organization district in which he or she expects to obtain his or her medical cannabis.~~
- 7) Completion of the designated caregiver application if applicable.
- 8) Payment of the applicable application fee (see Section 946.210) by check or money order. If the qualifying patient or caregiver is applying on-line, the Department will accept credit card payments.

(Source: Amended by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days)

Section 946.201 Application for Registry Identification Card for Qualifying Patients under 18 Years of Age
EMERGENCY

- a) A qualifying patient under 18 years of age shall register with the Department on forms and in a manner prescribed by the Department. The designated caregiver shall complete the application for registry identification card for a qualifying patient under 18 years of age. Once the qualifying patient becomes 18 years of age, he or she must submit a full application for a registry identification card as specified in Section 946.200. Qualifying patients who become 18 years of age during the time period in which their registry identification card is valid may apply for a registry identification card either immediately or during the normal renewal period. Until that time, the registry identification card shall be subject to the conditions applicable to the registered qualifying patient under age 18.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- b) To qualify for a registry identification card, a qualifying patient under 18 years of age shall:
- 1) Be a resident of the State of Illinois, as defined in subsection (c), at the time of application and remain a resident during participation in the program;
 - 2) Be diagnosed with any debilitating medical condition listed in Section 946.310 for which medical cannabis may be used to treat or alleviate the pain, nausea or other symptoms associated with the condition or have a diagnosis of terminal illness.
- c) The application for a registry identification card for a qualifying patient under 18 years of age shall include the following:
- 1) Two signed written certifications for the use of medical cannabis:
 - A) A signed written certification as specified in Section 946.310; and
 - B) A signed written certification from a reviewing physician indicating that a comprehensive review of the qualifying patient's medical records from other physicians treating the qualifying patient has been conducted;
 - 2) Identify a designated caregiver (custodial parent or legal guardian) who shall complete an application for a caregiver registry identification card as specified in Section 946.200;
 - A) A qualifying patient under 18 years of age may identify two designated caregivers if both biological parents or two legal guardians have significant decision-making responsibilities over the qualifying patient; or
 - B) If only one biological parent or legal guardian has significant decision-making responsibilities for the qualifying patient under 18 years of age, then a second designated caregiver may be identified.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 3) A completed, signed Medical Cannabis Custodial Parent and Legal Guardian Attestation form. This form can be downloaded from the Illinois Department of Public Health website at <http://idph.state.il.us/>; and
 - 4) If applicable, provide proof of guardianship documentation.
- d) Residency. For purposes of this Part, the qualifying patient and custodial parent or legal guardian shall be residents of the State of Illinois.
- e) The designated caregiver shall provide proof of Illinois residency by submitting the following items with the application for a registry identification card. Persons who are homeless shall be required to submit only a Notarized Homeless Status Certification (available at https://www.cyberdriveillinois.com/publications/pdf_publications/dsd_a230.pdf):
- 1) A copy of the caregiver's unexpired Illinois [Driver's License or Illinois Temporary Visitor Driver's License](#)~~driver's license~~; or
 - 2) A copy of the caregiver's unexpired Illinois identification card; or
 - 3) A copy of the caregiver's unexpired U.S. passport.
- f) To apply for a registry identification card for a qualifying patient under 18 years old, the designated caregiver shall submit a completed application to the Department on the required forms, which shall include, at a minimum, the following items:
- 1) A written certification for the use of medical cannabis meeting the requirements of this Part, issued by a physician who meets the requirements set forth in the Act and the Medical Practice Act of 1987, and dated less than 90 days prior to the application;
 - 2) A signed written certification from a reviewing physician indicating that a comprehensive review of the qualifying patient's medical records from other physicians treating the qualifying patient has been conducted. This physician shall meet the requirements set forth in the Medical Practice Act of 1987 or shall provide proof of a current, active medical license issued by another state.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 3) Proof of Illinois residency of the qualifying patient, as specified in subsection (c);
- 4) Proof of identity of the qualifying patient (copy of the qualifying patient's birth certificate);
- 5) Proof of the qualifying patient's age. A copy of the qualifying patient's birth certificate shall fulfill this requirement;
- 6) Current digital passport-size photograph of the designated caregiver, as follows:
 - A) Taken no more than 30 calendar days before the submission of the application;
 - B) Taken against a plain background or backdrop;
 - C) At least 2 inches by 2 inches in size;
 - D) In natural color; and
 - E) That provides an unobstructed front view of the full face. A full-faced photograph must be taken without any obstruction of the applicant's facial features or any items covering any portion of the face. Prescription glasses and religious head coverings not covering any areas of the open face will be allowed.
 - i) A designated caregiver for a qualifying patient under 18 years old will not be required to submit a photograph if sufficient justification is provided by the caregiver to establish that a photograph would be in violation of or contradictory to the designated caregiver's religious convictions. If a designated caregiver declares that the use of a photograph is against his/her religious convictions, the designated caregiver will complete an affidavit on a form provided by the Department. The affidavit contains designated areas for a detailed written explanation of the reasons why a photograph is against the designated caregiver's religious convictions; a place for the designated

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

caregiver's signature and date, the designation of the religious sect or denomination involved; space for a minister or other religious leader to apply his/her signature attesting to the explanation the designated caregiver has offered; and the date and official title of the minister or religious leader.

- ii) The affidavit shall be submitted to the Department. The Director will appoint a committee of three Department employees to review each affidavit. The committee shall submit a recommendation to the Director for his or her final decision.
 - iii) If the designated caregiver meets all other application requirements of this Part, the Department will issue a non-photo temporary registry identification card, not to exceed 90 days in duration, to allow for medical cannabis use privileges during the determination.
 - iv) Upon approval by the Department, a valid registry identification card without a photograph will be issued and can be renewed. The card will be mailed to the designated caregiver's home address.
- 7) Designation of the medical cannabis dispensing organization where the designated caregiver will obtain medical cannabis on behalf of the qualifying patient under 18 years of age.
 - 8) Completion of the Medical Cannabis Parent and Legal Guardian Attestation form.
 - 9) If applicable, submission of proof of guardianship documentation.
 - 10) Payment of the applicable application fee (see Section 946.210) by check or money order. If the patient or caregiver is applying on-line, the Department will accept credit card payments.

(Source: Amended by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Section 946.205 Deadlines for Submission of Application for Registry Identification Card
EMERGENCY

A qualifying patient who has been issued a physician written certification who seeks to use medical cannabis for palliative or therapeutic benefit for the patient's debilitating condition, and the qualifying patient's designated caregiver when applicable, shall register with the Department on forms and in a manner prescribed in this Part.

- a) ~~Applications Beginning January 1, 2015, applications~~ for registry identification cards will be accepted year round.
- b) Application Submission
 - 1) Applications for registry identification cards shall be submitted electronically through the Department's website (www.idph.state.il.us) or shall be sent via U.S. mail to the following address:

Division of Medical Cannabis
Illinois Department of Public Health
535 West Jefferson Street
Springfield, IL 62761-0001
 - 2) Applications for registry identification cards not submitted electronically or to the above address shall be considered deficient.
- c) *The Department of Public Health shall send a notification to a registered qualifying patient or designated caregiver 90 days prior to the expiration date on the registry identification card. (Section 70 of the Act)*
- d) *To maintain a valid registry identification card, a registered qualifying patient and designated caregiver must annually resubmit, at least 45 days prior to the expiration date stated on the registry identification card, a completed renewal application (see Section 946.200), renewal fee (see Section 946.210) and accompanying documentation (see Section 946.200). (Section 70 of the Act)*

(Source: Amended by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Section 946.210 Fees**EMERGENCY**

- a) Except as set forth in subsection (b), the registration, renewal and replacement card fees are as specified in this subsection (a). All fees submitted to the Department shall be non-refundable. Annually, the Department may revise these fees:
- 1) ~~Qualifying Annual qualifying~~ patient application fee ~~(\$300)~~ (\$100)
(valid for three years)
 - 2) ~~Qualifying Annual application fee for a~~ Qualifying patient under 18 years of age ~~application fee~~ (includes one caregiver application fee) ~~(valid for three years)~~ (\$300) (\$100)
 - 3) ~~Caregiver or second caregiver for a patient under 18 years of age Annual caregiver~~ application fee ~~(valid for three years)~~ (\$75) (\$25)
 - 4) Replacement card fee \$25
 - 5) Returned check fee \$35
- b) The Department may reduce registration and renewal card fees for a qualifying patient enrolled in the federal Social Security Disability Income (SSDI) or the Supplemental Security Income (SSI) disability programs, with submission of proof as described in subsection (b)(2), and for veterans with proof of service as described in subsection (b)(3).
- 1) ~~Reduced Annual reduced~~ qualifying patient application fee ~~(valid for three years)~~ (\$150) (\$50)
 - 2) The applicant enrolled in the federal Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) disability program shall submit a "Benefit Verification Letter" from the Social Security Administration, showing the individual's name and address and the type of benefits received. The letter must be dated within the last year. A copy of the letter may be obtained on-line at <https://www.ssa.gov/myaccount/> or

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

~~by contacting the Social Security Administration. The annual cost of living increase letter mailed to recipients of social security benefits will not be accepted shall submit a copy of a letter or other documentation from the Social Security Administration identifying the qualifying patient and showing the amount of monthly SSDI and SSI benefits to be received by the qualifying patient during the current year of application.~~

- 3) Veterans shall provide a copy of their DD214.
- c) Registered qualifying patients seeking to add a designated caregiver after a registry identification card has been issued shall submit a fee of \$75 for the designated caregiver application and an additional \$25 replacement card fee to print a new registry identification card for the registered qualifying patient.

(Source: Amended by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days)

Section 946.220 Fingerprint-Based Criminal History Records Check
EMERGENCY

~~No person convicted of an excluded offense shall be eligible to receive a registry identification card. No person who has been convicted of a felony under the Illinois Controlled Substances Act, Cannabis Control Act, or Methamphetamine Control and Community Protection Act, or similar provisions in a local ordinance or other jurisdiction is eligible to receive a registry identification card. (Section 65(b) of the Act)~~

- a) The Illinois State Police (ISP) will act as the Department's agent for purposes of receiving electronic fingerprints and conducting background checks of each qualifying patient and designated caregiver, if applicable, applying for a registry identification card.
 - 1) The ISP will conduct background checks for conviction information contained within ISP and Federal Bureau of Investigation (FBI) criminal history databases to the extent allowed by law.
 - 2) For verification of any statutorily imposed duty to conduct background checks pursuant to the Act, ISP will transmit the results of the background check to the Department.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 3) The electronic background checks will be submitted as outlined in the Illinois Uniform Conviction Information Act or ISP rules at 20 Ill. Adm. Code 1265.30 (Electronic Transmission of Fingerprints).
- b) Each qualifying patient and designated caregiver, if applicable, applying for a registry identification card shall have his or her fingerprints collected electronically by a livescan vendor licensed by the Illinois Department of Financial and Professional Regulation, and transmitted to ISP for processing no more than 30 days prior to the date of application or renewal for a registry identification card. If the qualifying patient is under age 18 at the time of application, no fingerprint collection shall be necessary for the qualifying patient; however, the designated caregiver shall comply with the requirements of this Section.
- 1) The qualifying patient or designated caregiver shall submit to the Department, with the registry card application or renewal, a copy of the livescan request form and the receipt provided by the livescan fingerprint vendor containing the Transaction Control Number (TCN) as proof that fingerprints have been collected.
 - 2) Registry card applications submitted, except those for persons with a diagnosis of terminal illness in accordance with Section 946.25, without a copy of the livescan request form and receipt will be considered incomplete and will not be processed until fingerprinting is completed.
 - 3) Any fees associated with the livescan fingerprint-based criminal history records check shall be the responsibility of the individual seeking a registry identification card and will be collected by the livescan vendor at the time of fingerprinting.
 - 4) If the fingerprints are rejected by ISP, the qualifying patient or designated caregiver shall have his or her fingerprints collected electronically by a licensed livescan vendor a second time.
 - 5) If equipment malfunction or other special circumstances make electronic transmission of fingerprint data impractical, the Department will allow use of paper fingerprint records.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 6) A qualifying patient who is unable to be fingerprinted due to an amputation, deformed or missing fingers, or fingerprints which are worn or missing due to age or illness, may seek a waiver from the livescan process from the Department by explaining in writing why a fingerprint background check cannot be processed. If approved, the Department will provide a name-based background check form.
- A) The qualifying patient shall be responsible for all fees associated with the name-based background check.
- B) Disability or immobility shall not be accepted as a reason for waiving the fingerprint background check.
- c) The Department will obtain from ISP a State and federal criminal records check for each qualifying patient applying for a registry identification card and for each designated caregiver identified on a qualifying patient registry application.
- d) The Department will maintain the results of the criminal history records check for the time period associated with the registry identification card or the registered qualifying patient and designated caregiver, if any, and in accordance with the State Records Act, after which the documentation shall be destroyed.
- e) Denial of Application or Renewal
- 1) The Department may deny an application or renewal for a qualifying patient or a designated caregiver who has been convicted of an excluded offense in accordance with this subsection (e).
- A) Denial of a designated caregiver will not automatically result in the denial of a qualifying patient application.
- B) The qualifying patient shall identify a new designated caregiver within 15 days after receiving notice of the denial of his or her designated caregiver application or shall indicate that a designated caregiver is not required.
- C) The Department will not deny an application for a registry identification card based solely on the qualifying patient's or designated caregiver's conviction for an excluded offense for a

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

violation of a State or federal controlled substance law that was classified as a felony if his or her conviction was for the possession, cultivation, transfer or delivery of a reasonable amount of cannabis intended for medical use and the termination of the last sentence was 10 or more years prior to application.

2) Exception

If the qualifying patient or designated caregiver has been convicted of any excluded offenses, the Department may approve a registry identification card pursuant to this Part *if the person demonstrates that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use.* (Section [10\(1\)\(1-5\)](#)~~10(1)(2)~~ of the Act) In determining whether to waive a conviction for excluded offenses, the Department will:

- A) Review the criminal records and the qualifying patient's medical history to determine whether the patient had been diagnosed with the debilitating medical condition at the time of the offense; and
- B) Determine whether the offense consisted of conduct for which, had it occurred on or after January 1, 2014, would likely have been protected by the Act and would likely not have resulted in a conviction.

3) Qualifying Patients Under 18 Years of Age

- A) Denial of a designated caregiver (custodial parent or legal guardian) because of an excluded offense will not automatically result in the denial of an application for a qualifying patient under 18.
- B) The custodial parent or legal guardian shall identify a new designated caregiver within 15 days after receiving notice of the denial of his or her designated caregiver application. The custodial parent or legal guardian shall execute an Authorization and Consent form designating a person over 21 years of age to act as the designated caregiver for the qualifying patient under 18.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- f) The Department will not waive convictions for violations of the medical cannabis laws of Illinois or any other State or jurisdiction.

(Source: Amended by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days)

Section 946.240 Persons Receiving Medical Care at U.S. Department of Veterans Affairs Facilities

EMERGENCY

- a) A qualifying patient who is *a veteran* or spouse of a veteran *who has received treatment at a VA hospital is deemed to have a bona-fide physician-patient relationship with a VA physician if the patient has been seen for his or her debilitating condition at the VA hospital in accordance with VA hospital protocols.* (Section 60 of the Act)
- b) A veteran or spouse of a veteran receiving care for a debilitating condition at a VA hospital shall not be required to submit a written certification from a physician.
- c) A veteran or spouse of a veteran receiving care for a debilitating condition at a VA hospital shall register with the Department on the Registry Identification Card application (see Section 946.200) and shall comply with all other requirements specified in this Part.
- d) To qualify for a patient registry identification card, a qualifying patient who is a veteran or spouse of a veteran and receiving medical care and treatment at a VA hospital shall:
- 1) Be a resident of the State of Illinois, as defined in Section 946.200(c), at the time of application and remain a resident during participation in the program;
 - 2) Have a qualifying medical condition or be diagnosed with a terminal illness;
 - 3) Provide a copy of his or her official hospital medical records requested from the VA using VA Form 10-5345;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 4) Provide a copy of his or her DD214 or equivalent certified document indicating character and dates of service, [or if the spouse of a veteran, a copy of the veteran's documents as described](#);
- 5) Complete the fingerprint-based background check and not have been convicted of an excluded offense; and
- 6) Be at least 18 years of age.

(Source: Amended by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days)

Section 946.290 Renewal of Registry Identification Cards**EMERGENCY**

No less than 45 days prior to the expiration of a registry identification card, the qualifying patient and designated caregiver, if one is indicated, may apply for renewal of his or her registry identification card as follows:

- a) Submit a completed renewal application for the qualifying patient and designated caregiver, if one is indicated, to the Department on the required forms and include:
 - 1) One clear photocopy of a U.S. or State government-issued photo ID, such as a driver's license, as proof of identity;
 - 2) Proof of Illinois residency by meeting the requirements specified in Section 946.200(c); and
 - 3) A signed and dated written physician's certification ~~for the use of medical cannabis~~ meeting the requirements of this Part and dated not more than 90 days prior to the application renewal date. A qualifying patient who is a veteran [or spouse of a veteran](#) and receiving medical care for his or her qualifying medical condition at a VA hospital shall submit his or her official VA Medical Record instead of a written physician's certification;
- b) Designate the medical cannabis dispensing organization where the qualifying patient will receive his or her medical cannabis; and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- c) Pay the required application fee (see Section 946.210).
- d) Registered qualifying patient's and designated caregivers who applied and received a registry identification card, which was approved for a 12-month period, before July 31, 2016 may choose to extend their registry identification card by submitting a request for extension on forms provided by the Department and paying the difference between the fees specified in Section 946.210 and the fee already paid at the time of original application. No fingerprint background check or physician certification shall be required. The Department will issue a new registry identification card for an additional two years.

(Source: Amended by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days)

SUBPART C: PHYSICIAN REQUIREMENTS

Section 946.300 Qualifications of the Certifying Physician
EMERGENCY

- a) A doctor of medicine or osteopathy who has a current, valid license under the Medical Practice Act of 1987 and has a current valid controlled substances license under Article III of the Illinois Controlled Substances Act ~~and DEA registration~~ may issue a written certification for ~~recommend the use of medical cannabis to~~ a qualifying patient if the physician:
- 1) ~~Has~~ is in a bona-fide physician-patient relationship with the qualifying patient. The bona-fide physician-patient relationship may not be limited to issuing a written certification for the patient ~~to use medical cannabis~~ or a consultation simply for that purpose.
 - 2) Complies with generally accepted standards of medical practice, the Medical Practice Act of 1987 and applicable State and federal rules specific to physician practice (e.g., HIPAA rules).
 - 3) Has responsibility for the ongoing care and treatment of the qualifying patient's debilitating condition, provided that the ongoing treatment and care shall not be limited to or for the primary purpose of certifying a debilitating medical condition or providing a consultation solely for that purpose.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 4) Has completed an in-person full assessment of the patient's medical history and current medical condition, including a personal physical examination, not more than 90 days prior to making the certification for medical cannabis. The assessment of the qualifying patient's current medical condition shall include, but not be limited to, symptoms, signs and diagnostic testing related to the debilitating medical condition.
 - 5) Certifies that the qualifying patient is under the physician's care, either for the qualifying patient's primary care or for his or her debilitating medical condition or symptoms of a debilitating medical condition.
 - 6) Confirms that he or she completed an assessment for the qualifying patient's medical history, including reviewing medical records from other treating physicians from the previous 12 months.
 - 7) ~~Explains the potential risks and benefits of the medical use of cannabis to the qualifying patient.~~
- b) The physician shall not:
- 1) Except as provided in subsection (c), *accept, solicit, or offer any form of remuneration from or to a qualifying patient, primary caregiver, cultivation center, or dispensing organization, including each principal officer, board member, agent, and employee;*
 - 2) *Offer a discount or any other item of value to a qualifying patient who uses or agrees to use a particular primary caregiver or dispensing organization to obtain medical cannabis;*
 - 3) *Conduct a personal, in person, physical examination of a patient for purposes of diagnosing a debilitating medical condition at a location where medical cannabis is sold or distributed or at the address of a principal officer, agency, or employee or a medical cannabis organization;*
 - 4) *Hold a direct or indirect economic interest in a cultivation center or dispensing organization if he or she recommends the use of medical*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

cannabis to qualified patients or is in a partnership with a physician who recommends medical cannabis;

- 5) *Serve on the board of directors or as an employee of a cultivation center or dispensing organization;*
 - 6) *Refer qualifying patients to a cultivation center, a dispensing organization, or an individual who seeks to become a designated caregiver;*
 - 7) *Advertise in a cultivation center or a dispensing organization. (Section 35 of the Act)*
- c) *The physician may accept payment from a qualifying patient for the fee associated with the personal physical examination required prior to issuing the written certification for the qualifying patient. (Section 35 of the Act)*

(Source: Amended by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days)

Section 946.310 Physician Written Certification
EMERGENCY

- a) A certification ~~confirming the patient's debilitating medical condition~~~~indicating that a qualifying patient is recommended for the use of medical cannabis~~ shall be written on a form provided by the Department and shall include, at minimum, the following:
- 1) The qualifying patient's name, date of birth, home address and primary telephone number;
 - 2) The physician's name, address, telephone number, e-mail address, medical license number, indication of specialty or primary area of clinical practice, if any, and ~~active controlled substances license under the Illinois Controlled Substances Act~~~~DEA registration number~~;
 - 3) The length of time the qualifying patient has been under the care of the physician;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 4) The qualifying patient's debilitating medical condition;
 - 5) ~~Additional comments, if necessary, that would be useful in assessing the qualifying patient's application for use of medical cannabis;~~
 - 5)6) A statement that the physician has confirmed a diagnosis of a debilitating medical condition; is treating or managing treatment of the patient's debilitating condition; has a bona-fide physician-patient relationship; has conducted an in-person physical examination; has conducted a review of the patient's medical history, including reviewing medical records from other treating physicians, if any, from the previous 12 months; ~~and has explained the potential risks and benefits of the use of medical cannabis to the qualifying patient;~~ and
 - 6)7) The physician's signature and date.
- b) The physician written certification does not constitute a prescription for medical cannabis.
- b) *A patient may apply for a waiver where a physician provides a substantial medical basis in a signed, written statement asserting that, based on the patient's medical history, in the physician's professional judgment, 2.5 ounces is an insufficient adequate supply for a 14 day period to properly alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. (Section 10(a)(2) of the Act)*
- 1) ~~The waiver recommendation shall be on a Physician Waiver Recommendation form provided by the Department.~~
 - 2) ~~The waiver shall describe in the physician's professional opinion why 2.5 ounces is an insufficient supply for a 14 day period.~~
 - 3) ~~The waiver shall describe how the qualifying patient will benefit from an increased supply.~~
 - 4) ~~The waiver shall include a statement by the physician indicating the amount of medical cannabis that would be a sufficient supply for the qualifying patient's debilitating medical condition and provide a recommendation for the length of time the waiver should be in effect.~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 5) ~~If the Department approves the waiver, the amount of medical cannabis recommended by the physician shall be noted on the registry identification card.~~
- c) Applications for qualifying patients under 18 years old shall require a written certification from a physician and a reviewing physician.

(Source: Amended by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days)

Section 946.315 Waiver for Increasing the Adequate Supply of Medical Cannabis EMERGENCY

A patient may apply for a waiver where a physician provides a substantial medical basis in a signed, written statement asserting that, based on the patient's medical history, in the physician's professional judgment, 2.5 ounces is an insufficient adequate supply for a 14-day period to properly alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. (Section 10(a)(2) of the Act)

- a) The waiver recommendation shall be on a form provided by the Department.
- b) The waiver shall describe in the physician's professional opinion why 2.5 ounces is an insufficient adequate supply for a 14-day period.
- c) The waiver shall describe how the qualifying patient will benefit from an increased supply.
- d) The waiver shall include a statement by the physician indicating the amount of medical cannabis that would be a sufficient supply for the qualifying patient's debilitating medical condition.
- e) If the Department approves the waiver, the amount of medical cannabis recommended by the physician shall be noted on the registry identification card.

(Source: Added by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days)

SUBPART E: ENFORCEMENT

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Section 946.500 Circuit Court Review**EMERGENCY**

- a) *Denial of an application or renewal is considered a final Department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Circuit Court. (Section 65 of the Act)*
- b) *The suspension or revocation of a registration is a final Department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Circuit Court. (Section 185 of the Act)*
- c) *The approval or denial of any petition pursuant to Section 946.30 is a final decision of the Department, subject to judicial review. Jurisdiction and venue are vested in the Circuit Court. (Section 45 of the Act)*
- d) *All final administrative decisions of the Department of Public Health are subject to direct judicial review under the provisions of the Administrative Review Law and the rules adopted under that Law. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. (Section 155 of the Act)*
- e) If any final Department action is appealed in Circuit Court pursuant to this Section, the record on review shall include the following:
 - 1) The application or petition submitted;
 - 2) Any written documentation considered by the Department in making its final decision with respect to the application or petition. ~~With respect to petitions for the addition of a medical condition or disease as referenced in Section 946.30, the record on review shall include:~~
 - A) ~~Any written report made by the Medical Cannabis Advisory Board to the Department, to the extent that the report actually materially discusses the medical condition or disease proposed in the petition;~~
 - B) ~~Any public minutes of an Advisory Board meeting at which the medical condition or disease proposed in the petition is materially discussed;~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- €) ~~Any statement of intent to present technical evidence, as referenced in Section 946.30(k), to the extent that the technical evidence relates to the medical condition or disease proposed in the petition;~~
- 3) Any written correspondence between the Department and the person submitting the application or petition, provided that the correspondence either played a material role in the final decision rendered by the Department; made a material argument to the Department with respect to the application or petition; or would be helpful to the Circuit Court in reviewing the matter because the correspondence provides helpful procedural background.
- f) If the materials in the record on review contain any confidential information as defined in Section ~~946.60~~~~946.80~~, either the information shall be redacted, as appropriate, or the entirety or portions of the record on review shall be filed under seal so as to retain the confidentiality of, without limitation, patient medical records or Departmental documents or data.

(Source: Amended by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

- 1) Heading of the Part: The Illinois Oil and Gas Act
- 2) Code Citation: 62 Ill. Adm. Code 240
- 3) Section Number: 240.134
- 4) Date Proposal published in *Illinois Register*: 40 Ill. Reg. 2095; January 29, 2016
- 5) Date Adoption published in *Illinois Register*: 40 Ill. Reg. 7051; May 6, 2016
- 6) Date Request for Expedited Correction published in *Illinois Register*: 40 Ill. Reg. 8018; June 3, 2016
- 7) Adoption Effective Date: April 22, 2016
- 8) Correction Effective Date: April 22, 2016
- 9) Reason for Approval of Expedited Correction: At the time of adoption, some subsections were mislabeled. References in the text to subsections are also being corrected.

The full text of the Corrected Rulemaking begins on the following page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 240

THE ILLINOIS OIL AND GAS ACT

SUBPART A: GENERAL PROVISIONS

Section	
240.10	Definitions
240.20	Prevention of Waste (Repealed)
240.30	Jurisdiction (Repealed)
240.40	Enforcement of Act (Repealed)
240.50	Delegation of Authority (Repealed)
240.60	Right of Inspection (Repealed)
240.70	Right of Access (Repealed)
240.80	Sworn Statements (Repealed)
240.90	Additional Reports (Repealed)
240.100	When Rules Become Effective (Repealed)
240.110	Notice of Rules (Repealed)
240.120	Forms (Repealed)
240.125	Notice
240.130	Hearings – Notices (Repealed)
240.134	Lease Validation Petitions
240.135	Falsification or Misstatement of Information
240.131	Unitization Hearings
240.132	Integration Hearings
240.133	Hearings to Establish Pool-Wide Drilling Units
240.140	Violations Not Requiring Formal Action
240.150	Notice of Violation
240.155	Civil Complaint
240.160	Director's Decision
240.170	Cessation Order (Repealed)
240.180	Enforcement Hearings and Enforcement Cessation Orders
240.185	Cessation of Oil Production Operations
240.186	Cessation of Conditions Creating an Imminent Danger to Public Health and Safety and the Environment
240.190	Temporary Relief Hearings
240.195	Subpoenas

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

SUBPART B: PERMIT APPLICATION PROCEDURES FOR PRODUCTION WELLS

Section	
240.200	Applicability
240.210	Application for Permit to Drill, Deepen or Convert to a Production Well
240.220	Contents of Application
240.230	Authority of Person Signing Application
240.240	Additional Requirements for Directional Drilling
240.245	Additional Requirements for Horizontal Drilling
240.250	Issuance of Permit to Drill or Operate
240.251	Revocation of Permit to Drill
240.255	Conversion of a Production Well to a Water Well
240.260	Change of Well Location
240.270	Application for Approval of Enhanced Recovery Injection and Disposal Operations (Repealed)
240.280	Duration of Underground Injection Well Orders (Repealed)

SUBPART C: PERMIT APPLICATION PROCEDURES FOR CLASS II UIC WELLS

Section	
240.300	Applicability
240.305	Transfer of Management (Recodified)
240.310	Application for Permit to Drill, Deepen, or Convert or Amend to a Class II UIC Well
240.311	Application for Freshwater Aquifer Exemption
240.312	Freshwater Aquifer Exemptions
240.320	Contents of Application
240.330	Authority of Person Signing Application
240.340	Proposed Well Construction and Operating Parameters
240.350	Groundwater and Potable Water Supply Information
240.360	Area of Review
240.370	Public Notice
240.380	Issuance of Permit
240.385	Conversion of a Class II Well to a Water Well
240.390	Permit Amendments
240.395	Update of Class II UIC Well Permits Issued Prior to July 1, 1987

SUBPART D: SPACING OF WELLS

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

Section	
240.400	Definitions
240.410	Drilling Units
240.420	Well Location Exceptions within Drilling Unit
240.430	Drilling Unit Exceptions
240.440	More Than One Well on a Drilling Unit
240.450	Directional Drilling
240.455	Horizontal Drilling
240.460	Modified Drilling Unit
240.465	Special Drilling Unit
240.470	Establishment of Pool-Wide Drilling Units Based Upon Reservoir Characteristics

SUBPART E: WELL DRILLING,
COMPLETION AND WORKOVER REQUIREMENTS

Section	
240.500	Definitions
240.510	Department Permit Posted
240.520	Drilling Fluid Handling and Storage
240.525	Saltwater or Oil Based Drilling Fluid Handling and Storage
240.530	Completion Fluid and Completion Fluid Waste Handling and Storage
240.540	Drilling and Completion Pit Restoration
240.550	Disposal of General Oilfield Wastes and Other Wastes

SUBPART F: WELL CONSTRUCTION, OPERATING AND REPORTING
REQUIREMENTS FOR PRODUCTION WELLS

Section	
240.600	Applicability
240.605	Drilled Out Plugged Hole (DOPH) Notification
240.610	Construction Requirements for Production Wells
240.620	Remedial Cementing of Leaking Wells
240.630	Operating Requirements
240.640	Reporting Requirements
240.650	Confidentiality of Well Data
240.655	Mechanical Integrity Testing for Class II Injection Wells (Repealed)
240.660	Monitoring and Reporting Requirements for Enhanced Recovery Injection and Disposal Wells (Repealed)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

- 240.670 Avoidable Waste of Gas (Repealed)
240.680 Escape of Unburned Gas Prohibited (Repealed)

SUBPART G: WELL CONSTRUCTION, OPERATING
AND REPORTING REQUIREMENTS FOR CLASS II UIC WELLS

Section

- 240.700 Applicability and Definitions
240.710 Surface and Production Casing Requirements for Newly Drilled Class II UIC Wells
240.720 Surface and Production Casing Requirements for Conversion to Class II UIC Wells
240.730 Surface and Production Casing Requirements for Existing Class II UIC Wells
240.740 Other Construction Requirements for Class II UIC Wells
240.750 Operating Requirements for Class II UIC Wells
240.760 Establishment of Internal Mechanical Integrity for Class II UIC Wells
240.770 Establishment of External Mechanical Integrity for Class II UIC Wells
240.780 Reporting Requirements for Class II UIC Wells
240.790 Confidentiality of Well Data
240.795 Commercial Saltwater Disposal Well
240.796 Operating and Reporting Requirements, Hydraulic Fracturing Operations, Seismicity

SUBPART H: LEASE OPERATING REQUIREMENTS

Section

- 240.800 Definitions
240.805 Lease and Well Identification
240.810 Tanks, Tank Batteries and Containment Dikes
240.815 Permanent Well Site Equipment Setback
240.820 Flowlines
240.830 Power Lines
240.840 Equipment Storage
240.850 Concrete Storage Structures
240.860 Pits
240.861 Existing Pit Exemption For Continued Production Use
240.862 Existing Pit Exemption For Alternative Use
240.870 Leaking Unpermitted Drill Hole
240.875 Leaking Previously Plugged Well

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

240.880	Initial Spill Notification
240.890	Crude Oil Spill Remediation Requirements
240.891	Crude Oil Spill Waste Disposal and Remediation
240.895	Produced Water Spill Remediation Requirements

SUBPART I: LIQUID OILFIELD WASTE HANDLING AND DISPOSAL

Section	
240.900	Definitions
240.905	Application for Permit to Operate a Liquid Oilfield Waste Transportation System
240.906	Application for a Liquid Oilfield Waste Transportation Vehicle Permit
240.910	Inspection of Vehicles (Tanks)
240.920	Issuance of Liquid Oilfield Waste Transportation System and Vehicle Permits
240.925	Liquid Oilfield Waste Recordkeeping Requirements
240.926	Liquid Oilfield Waste Transportation System and Vehicle Operating Requirements
240.930	Produced Water
240.940	Crude Oil Bottom Sediments
240.945	Lease Road Oiling
240.950	Crude Oil Spill Waste Disposal (Repealed)
240.960	Oil Field Brine Hauling Permit Conditions (Repealed)
240.970	Inspection of Vehicles (Repealed)
240.980	Transfer of Permits (Repealed)
240.985	Revocation of Oil Field Brine Hauling Permit (Repealed)
240.990	Records and Reporting Requirements (Repealed)
240.995	Bonds – Blanket Surety Bond (Repealed)

SUBPART J: VACUUM

Section	
240.1000	Definitions
240.1005	Applicability
240.1010	Application for Vacuum Permit
240.1020	Contents of Application
240.1030	Authority of Person Signing Application
240.1040	Notice and Hearing
240.1050	Issuance of Permit
240.1060	Permit Amendments

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

SUBPART K: PLUGGING OF WELLS

Section

240.1105	Plugging of Non-Productive Wells (Repealed)
240.1110	Definitions
240.1115	Plugging Responsibility
240.1120	Plugging of Uncased Wells
240.1130	Plugging and Temporary Abandonment of Inactive Production Wells
240.1131	Extension of Future Use Status for Production Wells (Repealed)
240.1132	Plugging and Temporary Abandonment of Inactive Class II UIC Wells
240.1140	General Plugging Procedures and Requirements
240.1150	Specific Plugging Procedures
240.1151	Procedures for Plugging Coal Seams
240.1160	Plugging Fluid Handling and Storage
240.1170	Plugging Fluid Waste Disposal and Well Site Restoration
240.1180	Lease Restoration
240.1181	Lease Restoration Requirements (Repealed)
240.1190	Filing Plugging Report

SUBPART L: REQUIREMENTS FOR OTHER TYPES OF WELLS

Section

240.1200	Applicability
240.1205	Application for Permit to Drill a Test Well or Drill Hole
240.1210	Contents of Application for Permit to Drill or Convert to an Observation, Gas Storage Well or Service Well (Repealed)
240.1220	Contents of Application for Coal Test Hole, Mineral Test Hole, Structure Test Hole, or Coal or Mineral Groundwater Monitoring Well
240.1230	Authority of Person Signing Application
240.1240	Issuance of Permit
240.1250	When Wells Shall Be Plugged and Department Notification
240.1260	Plugging and Restoration Requirements
240.1270	Confidentiality
240.1280	Converting to Water Well

SUBPART M: PROTECTION OF WORKABLE COAL BEDS

Section

240.1300	Introduction
----------	--------------

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

240.1305	Permit Requirements in Mine Areas
240.1310	Workable Coal Beds Defined
240.1320	Mining Board may Determine Presence of Coal Seams
240.1330	Well Locations Prohibited
240.1340	Notice to Mining Board
240.1350	Casing and Protective Work
240.1360	Operational Requirements Over Active Mine
240.1370	Inspection of Vehicles (Recodified)
240.1380	Transfer of Permits (Recodified)
240.1385	Revocation of Oil Field Brine Hauling Permit (Recodified)
240.1390	Records and Reporting Requirements (Recodified)
240.1395	Bonds – Blanket Surety Bond (Recodified)

SUBPART N: ISSUANCE OR TRANSFER OF PERMIT TO OPERATE

Section

240.1400	Definitions
240.1405	Transfer of Management (Repealed)
240.1410	Applicability
240.1420	Notification
240.1425	Authority of Person Signing Transfer Notification
240.1430	Responsibilities of Current Permittee
240.1440	Responsibilities of New Permittee or Proposed New Permittee
240.1450	Authority of Persons Signing Notification
240.1460	Conditions for and Effect of Issuance or Transfer of Permit to Operate
240.1465	Condition for and Effect of Transfer of PRF Wells
240.1470	Revocation of Permit to Operate
240.1480	Involuntary Transfer
240.1485	Administrative Record Correction
240.1490	Transfer Hearings

SUBPART O: BONDS

Section

240.1500	When Required, Amount and When Released
240.1510	Definitions
240.1520	Bond Requirements
240.1530	Forfeiture of Bonds

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

SUBPART P: WELL PLUGGING AND RESTORATION PROGRAM

Section

- 240.1600 Definitions
- 240.1610 Plugging Leaking or Abandoned Wells
- 240.1620 Plugging Orphaned Wells
- 240.1625 Plugging Abandoned Wells Through Landowner Grant
- 240.1630 Emergency Well Plugging, Emergency Repair Work, Emergency Projects
- 240.1635 Emergency Well Plugging and Emergency Project Reimbursement
- 240.1640 Repayment of Funds
- 240.1650 Authorization for a Permittee to Operate Its Wells Placed into the Plugging and Restoration Fund Program for Abandonment
- 240.1660 Authorization for a Permittee to Operate Its Wells Placed into the Plugging and Restoration Fund Program for Non-Payment of Annual Well Fees

SUBPART Q: ANNUAL WELL FEES

Section

- 240.1700 Fee Liability
- 240.1705 Amount of Assessment
- 240.1710 Annual Permittee Reporting
- 240.1720 When Annual Well Fees are Due
- 240.1730 Opportunity to Contest Billing
- 240.1740 Delinquent Permittees

SUBPART R: REQUIREMENTS IN UNDERGROUND GAS STORAGE FIELDS
AND FOR GAS STORAGE AND OBSERVATION WELLS

Section

- 240.1800 Applicability
- 240.1805 Definitions
- 240.1810 Submission of Underground Gas Storage Field Map
- 240.1820 Permit Requests in a Underground Gas Storage Field
- 240.1830 Application for Permit to Drill or Convert Wells
- 240.1835 Content of Application for Permit to Drill or Convert to an Observation or Gas Storage Well
- 240.1840 Authority of Person Signing Application
- 240.1850 Issuance of Permit
- 240.1852 Gas Storage and Observation Well, Construction, Operating and Reporting

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

	Requirements
240.1855	Well Drilling Completion and Workover Requirements
240.1860	Storage Field Operating Requirements
240.1865	Liquid Oilfield Waste Disposal
240.1870	Plugging of Gas Storage and Observation Wells

SUBPART S: REQUIREMENTS FOR SERVICE WELLS

Section	
240.1900	Applicability
240.1905	Application for Permit to Drill or Convert to Other Types of Wells or Drill Holes
240.1910	Contents of Application for Permit to Drill or Convert to a Service Well
240.1920	Authority of Person Signing Application
240.1930	Issuance of Permit
240.1940	When Wells Shall Be Plugged and Department Notification
240.1950	Plugging and Restoration Requirements
240.1960	Converting to Water Well

AUTHORITY: Implementing and authorized by the Illinois Oil and Gas Act [225 ILCS 725].

SOURCE: Adopted November 7, 1951; emergency amendment at 6 Ill. Reg. 903, effective January 15, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5542, effective April 19, 1982; codified at 8 Ill. Reg. 2475; amended at 11 Ill. Reg. 2818, effective January 27, 1987; amended at 14 Ill. Reg. 2317, effective January 25, 1990; recodified at 14 Ill. Reg. 3053; amended at 14 Ill. Reg. 13620, effective August 8, 1990; amended at 14 Ill. Reg. 20427, effective January 1, 1991; amended at 15 Ill. Reg. 2706, effective January 31, 1991; recodified at 15 Ill. Reg. 8566; recodified at 15 Ill. Reg. 11641; emergency amendment at 15 Ill. Reg. 14679, effective September 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 15493, effective October 10, 1991; amended at 16 Ill. Reg. 2576, effective February 3, 1992; amended at 16 Ill. Reg. 15513, effective September 29, 1992; expedited correction at 16 Ill. Reg. 18859, effective September 29, 1992; emergency amendment at 17 Ill. Reg. 1195, effective January 12, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2217, effective February 8, 1993; amended at 17 Ill. Reg. 14097, effective August 24, 1993; amended at 17 Ill. Reg. 19923, effective November 8, 1993; amended at 18 Ill. Reg. 8061, effective May 13, 1994; emergency amendment at 18 Ill. Reg. 10380, effective June 21, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16361, effective November 18, 1994; amended at 19 Ill. Reg. 10981, effective July 14, 1995; amended at 21 Ill. Reg. 7164, effective June 3, 1997; emergency amendment at 22 Ill. Reg. 988, effective December 22, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 8422, effective April 28, 1998; amended at 22 Ill. Reg. 8845, effective April 28, 1998; amended

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

at 22 Ill. Reg. 22314, effective December 14, 1998; amended at 25 Ill. Reg. 9045, effective July 9, 2001; amended at 35 Ill. Reg. 13281, effective July 26, 2011; amended at 38 Ill. Reg. 18717, effective August 29, 2014; amended at 38 Ill. Reg. 22052, effective November 14, 2014; amended at 40 Ill. Reg. 7051, effective April 22, 2016; expedited correction at 40 Ill. Reg. 11042, effective April 22, 2016.

SUBPART A: GENERAL PROVISIONS

Section 240.134 Lease Validation Petitions

- a) The following definitions are applicable to this Subpart:

"Current Permittee" means the permittee of record for wells located within the prior oil and gas leases.

"New Oil and Gas Leases" means recorded operative oil and gas lease instruments or assignments of those oil and gas leases or recorded after the prior oil and gas leases, submitted by the proposed permittee in support of an application for a permit to operate, drill, deepen, transfer, amend or convert to a well subject to this Part and describing all or a portion of the lands described in the prior oil and gas leases.

"Prior Oil and Gas Leases" means recorded oil and gas lease instruments or assignments of those oil and gas leases in place when the Department granted the current permittee a permit to operate, drill, deepen, transfer, amend or convert to a well subject to this Part on the lands covered by the prior oil and gas leases.

"Proposed Permittee" means the person seeking to obtain a new permit to operate, drill, deepen, transfer, amend or convert to a well subject to this Part that is located on lands covered by prior oil and gas leases upon which a current permittee was previously granted a permit by the Department.

- b) **Petition**

A proposed permittee seeking a permit to operate, drill, deepen, transfer, amend or convert to a well subject to this Part that is located on lands subject to a prior oil and gas lease or leases under which the current permittee was previously granted a permit by the Department may submit a petition requesting the Department to determine whether the new oil and gas leases submitted by the proposed permittee in support of the permit application are operative on the basis

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

that the prior oil and gas leases covering the same lands have terminated due to nondevelopment or nonproduction.

- c) Contents of the petition shall include:
- 1) the name and address of the proposed permittee;
 - 2) the proposed permittee's reason for requesting a determination from the Department;
 - 3) a copy of prior oil and gas leases at issue;
 - 4) a copy of new oil and gas leases at issue; and
 - 5) a copy of an *affidavit of nondevelopment or nonproduction* signed by the mineral owners or other *knowledgeable individuals familiar with the history of development and production of oil or gas as to the lands* (Section 6.2 of the Act) covered by the prior oil and gas leases, and properly recorded in the county where the lands subject to the new oil and gas leases are located.
- d) Execution and Filing
- 1) The petition to validate the new oil and gas leases in accordance with this Section shall be sent to the Department offices located at One Natural Resources Way, Springfield IL 62702.
 - 2) Every petition shall be signed by the proposed permittee or his or her representative and the proposed permittee's address shall be stated on the petition. The signature of the proposed permittee or his or her representative constitutes a certificate by him or her that he or she has read the petition and that, to the best of his or her knowledge, information and belief, there are good grounds to support the petition. The petition shall be accompanied by a *nonrefundable application fee* in the amount of *\$1,000* (Section 6.2 of the Act).
 - 3) If the Department finds the petition deficient relative to the requirements of subsection (b) or (c), the petition shall not be accepted and the Department shall return the petition to the proposed permittee with a

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

statement of the deficiencies. The Department shall return any unaccepted petition within 30 days after its receipt. The proposed permittee shall have 60 days to remedy the deficiencies and resubmit the petition to the Department. If the proposed permittee does not respond to the Department within 60 days, the petition shall be dismissed.

- e) Review of Petition; Rebuttable Presumption
- 1) Within 14 days after receipt of the petition, the Department shall review the petition and determine if it creates a rebuttable presumption that the prior oil and gas leases have terminated due to nondevelopment or nonproduction and are of no further force and effect and that the new oil and gas leases are operative and effective.
 - 2) *To create a rebuttable presumption, affidavits of nondevelopment or nonproduction from knowledgeable individuals familiar with the history of development and production of oil or gas from those lands, together with other evidence provided to or available from the Department, shall reasonably indicate that there has been no development or production of oil and gas on the lands described in the prior oil and gas leases for at least 24 consecutive months subsequent to the expiration of the primary term or any extension of the primary term as set forth in the leases.* (Section 6.2 of the Act)
 - 3) Upon a determination of a rebuttable presumption that the prior oil and gas leases are terminated, the Department shall notify the proposed permittee of the finding and send notice to the current permittee as set forth in subsection (fg).
 - 4) If the Department previously denied a petition based on prior oil and gas leases that are later subject to a court order or judgment declaring that the prior oil and gas leases are terminated, the proposed permittee shall submit the judgment to the Department. Upon receipt and review of the court order or judgment, the Department will issue a final order declaring the prior oil and gas leases terminated as set forth in subsection (pq).
- (fg) Service of Determination on Current Permittee
Upon the Department's determination of a rebuttable presumption that the prior oil and gas leases have terminated due to nonproduction or nondevelopment and

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

are of no further force and effect and that the new oil and gas leases are operative and effective, *the Department shall serve the current permittee notice* of the determination according to the notice requirements set forth in Section 240.125. The current permittee shall have *30 days* from the receipt of notice *to request a hearing to rebut the presumption* that the prior oil and gas leases have terminated. (Section 6.2 of the Act)

- ~~gh~~) Default for Failure to Request Hearing
Failure by the current permittee to request a hearing within 30 days after receipt of the notice of the Department's determination, as set forth in subsection ~~(fg)~~, will result in default and issuance of a final order by the Department finding that the prior oil and gas leases have terminated and that the new oil and gas leases are operative and effective as set forth in subsection ~~(pg)~~.
- ~~hi~~) Scheduling and Notice of Hearing
Following a timely request for hearing by the current permittee, the Department will schedule a hearing at which the current permittee can rebut the presumption that the prior oil and gas leases have terminated. Notice of the hearing shall be served on the current permittee and the proposed permittee by the Department according to Section 240.125 at least 14 days prior to the hearing.
- ~~ij~~) Pre-Hearing Conferences
Upon his or her own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet for a conference in order to:
- 1) Simplify the factual and legal issues presented by the hearing request;
 - 2) Receive stipulations and admissions of fact and of the contents and authenticity of documents;
 - 3) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and
 - 4) Discuss and resolve other matters that may tend to expedite the disposition of the hearing request and to assure a just conclusion.
- ~~jk~~) Hearing

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

- 1) **Conduct of Hearing**

Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order, and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the power to:

 - A) Administer oaths and affirmations;
 - B) Receive relevant evidence;
 - C) Regulate the course of the hearing and the conduct of the parties and their counsel;
 - D) Consider and rule upon procedural requests;
 - E) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony, and set reasonable limits on the amount of time each witness may testify;
 - F) Require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record.
- 2) **Hearing Location**

All hearings under this Subpart shall be conducted in the Department's offices located in Springfield, Illinois. However, the Department may conduct a hearing under this Subpart at a site located closer than Springfield, Illinois to the production and injection/disposal well identified in the Notice of Hearing if facilities are available and satisfactory to the Department.
- 3) **Appearances**

Every interested person wishing to participate at the hearing shall enter an appearance in writing. The Hearing Officer shall determine if the interested person will be allowed to enter as a party of record. The Hearing Officer shall base that determination on the same standards used to determine parties in Circuit Court.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

- 4) Right to Counsel
 - A) All participants in the hearing shall have the right to be represented by counsel.
 - B) An attorney appearing in a representative capacity in any proceeding under this Subpart shall file a written notice of appearance identifying his or her name, address and telephone number and identifying the party represented.
- 5) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.
- 6) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit information necessary to reach a decision on the petition.
- 7) When applicable, the following shall be addressed prior to receiving evidence:
 - A) The proposed permittee may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the case.
 - B) Ruling may be made on any pending motions.
 - C) Any other preliminary matters appropriate for disposition prior to presentation of evidence may be addressed.

k4) Evidence

- 1) Admissibility

A party shall be entitled to present his or her case by oral or documentary evidence, to submit rebuttal evidence, and to conduct cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence received by the presiding Hearing Officer shall exclude evidence that is irrelevant, immaterial or unduly repetitious. The

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under those rules of evidence may be admitted, except when it would have been precluded by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.

2) Official Notice

Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of that fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.

3) Order of Proof

The proposed permittee shall open the proof. Other parties of record shall be heard immediately following the proposed permittee. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

4) Briefs

The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine is consistent with the Department's responsibility for an expeditious decision.

l#) Testimony

Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department and included in the record.

m#) Postponement or Continuance of Hearing

A hearing may be postponed or continued for due cause by the Hearing Officer upon his or her own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing.

- n) Default After Hearing Requested
If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may proceed to make its decision in the absence of that party. If the failure to appear at the pre-hearing conference or hearing is due to an emergency situation beyond the party's control, and the Department is notified of the situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed pursuant to subsection (m). Emergency situations include sudden unavailability of counsel, sudden illness of a party or his or her representative, or similar situations beyond the party's control.
- o) Hearing Officer Recommended Findings
After the conclusion of the hearing, the Hearing Officer shall render recommended findings of fact, recommended conclusions of law, and recommendations as to the disposition of the case. If the Hearing Officer finds that the affidavits and other evidence provided at the hearing or available to the Department reasonably indicate that there has been no development or production of oil and gas on the lands described in the prior oil and gas leases for at least 24 consecutive months subsequent to the expiration of the primary term or any extension of the primary term as set forth in the prior oil and gas leases, the Hearing Officer shall recommend whether the rebuttable presumption was not overcome and that the prior oil and gas leases have terminated and are of no further force and effect or that the new oil and gas leases are operative and effective.
- p) Order – Final Administrative Decision
- 1) The Director shall review the administrative record in conjunction with the Hearing Officer's recommended findings of fact, recommended conclusions of law, and recommendations as to the disposition of the case.
 - 2) If, after this review, the Director finds that the rebuttable presumption was overcome by the current permittee, the Department shall enter a Final Administrative Order that the prior oil and gas leases are still in force and effect and the new oil and gas leases are not operative and effective.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EXPEDITED CORRECTION

- 3) If, after this review, the Director finds that the rebuttable presumption was not overcome by the current permittee, the Department shall enter a Final Administrative Order that the prior oil and gas leases have terminated and are of no further force and effect and that the new oil and gas leases are operative and effective. The Final Administrative Order shall:
- A) State that the prior oil and gas leases have terminated and are of no further force and effect and that the new oil and gas leases are operative and effective.
 - B) Order the *current permittee to properly plug all nonplugged and nontransferred wells within the lease boundaries of the prior leases.* (Section 6.2 of the Act)
 - C) Order that *if the current permittee fails to properly plug all nonplugged and nontransferred wells within 30 days after the issuance of the Order, the remaining nonplugged and nontransferred wells shall be deemed abandoned and included in the Department's Oil and Gas Well Site Plugging and Restoration Program* (see Subpart K). (Section 6.2 of the Act)
 - D) The proposed permittee shall have no obligation to acquire the permits of the current permittee as to the lands that are the subject of the petition.
- 42) In no case shall the Department issue the Order later than *90 days after receipt of a valid petition.* (Section 6.2 of the Act)
- 53) The Director's Order is a final administrative decision of the Department and is subject to judicial review under the Administrative Review Law [735 ILCS 5/Art. III].
- 64) *Department determinations under this Section shall not have res judicata or collateral estoppel effect in any judicial proceedings.* (Section 6.2 of the Act)

(Source: Added at 40 Ill. Reg. 7051, effective April 22, 2016; expedited correction at 40 Ill. Reg. 11042, effective April 22, 2016)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Reports
- 2) Code Citation: 77 Ill. Adm. Code 2520
- 3) The Notice of Adopted Repealer being corrected appeared at: 40 Ill Reg. 10050; July 22, 2016
- 4) The information being corrected is as follows: The effective date of the repeal was incorrectly stated as June 11, 2016. The correct date is July 11, 2016. JCAR regrets the error.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Hospital Price Information
- 2) Code Citation: 77 Ill. Adm. Code 2530
- 3) The Notice of Adopted Repealer being corrected appeared at: 40 Ill Reg. 10052; July 22, 2016
- 4) The information being corrected is as follows: The effective date of the repeal was incorrectly stated as June 11, 2016. The correct date is July 11, 2016. JCAR regrets the error.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

NOTICE OF FAILURE TO REMEDY
OBJECTION TO PROPOSED RULEMAKING

POLLUTION CONTROL BOARD

- 1) Heading of Part: Permits
- 2) Code Citation: 35 Ill. Adm. Code 309
- 3) Section Numbers:

309.104	309.201	309.202
309.203	309.204	309.242
309.263		
- 4) Notice of Proposed Rulemaking published in *Illinois Register*: 39 Ill. Reg.15103;
November 20, 2015
- 5) Summary of Rulemaking: Allows NPDES permit holders who missed the renewal application deadline (180 days before their current permits are set to expire) to ask EPA for a deadline waiver, and sets timelines for consideration of that request. Updates the requirements for non-NPDES permits (e.g., construction or operating permits). Authorizes EPA to require the modification or renewal of an operating permit for reasons such as a change in the requirements applicable to the permittee, inaccuracy on the permit application, or permittee's noncompliance.
- 6) JCAR Action: Objection (40 Ill. Reg. 5232; March 25, 2016)
- 7) Basis for JCAR Action: At its meeting on 3/8/16, the Joint Committee on Administrative Rules objected to Section 309.263(c) of the above-referenced rulemaking because PCB has declined to provide the standards for when EPA will require modification or renewal of a non-NPDES permit and when it will not.
- 8) Agency Response: Refusal. PCB declined (in a 5-0 vote) to modify this rulemaking and offered 3 reasons: (1) The rule, as written, does comply with the IAPA because it gives open-ended examples of how EPA's discretion might be used. (2) Removing EPA's discretion to waive the modification/renewal requirement would create a burden on licensees required to modify their permits for extremely minor cases. (3) Because qualifying EPA's discretion in this matter would be a substantive change to the rulemaking, the proposal would have to be supported by evidence in the record, and thus,

the rulemaking would have to be reopened for public comment.

- 9) Basis for JCAR Determination of Failure to Remedy: PCB refused to modify this rulemaking by providing standards for when EPA will require modification or renewal of a non-NPDES permit and when it will not. Sec. 5-20 of the IAPA requires agencies to provide standards for the exercise of their discretion. At its 7/12/16 meeting, JCAR found that the Pollution Control Board had not remedied this Objection. JCAR voted to issue this Notice of Failure to Remedy for publication in the next *Illinois Register*.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring Agency to publish information concerning Private Letter Rulings and General Information Letters in the *Illinois Register*:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1

2. Summary of Information:

Index of Department of Revenue Sales and Miscellaneous Tax Private Letter Rulings and General Information Letters issued for the Second Quarter of 2016. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act. (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Construction Contractors	Miscellaneous
Delivery Charges	Nexus
Enterprise Zones	Pollution Control Facilities
Exempt Organizations	Sale at Retail
Farm Machinery & Equipment	Service Occupation Tax
Gas Revenue Tax	
Miscellaneous	

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50¢ per page for each page over one. Copies of

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov/.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

3. Name and address of person to contact concerning this information:

Beverly Langenfeld
Legal Services Office
101 West Jefferson Street
Springfield IL 62794

217/782-2844

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2016 SECOND QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

CONSTRUCTION CONTRACTORS

ST 16-0015-GIL 04/25/16 Persons who sell signs may incur a Retailers' Occupation Tax, Service Occupation Tax or Use Tax liability, depending upon the circumstances of the particular sale. See 86 Ill. Adm. Code 130.2155 (Tax Liability of Sign Vendors); 86 Ill. Adm. Code 140.101 (Basis and Rate of the Service Occupation Tax); 86 Ill. Adm. Code 130.1940 (Construction Contractors and Real Estate Developers) and 86 Ill. Adm. Code 130.2075 (Sales To Construction Contractors, Real Estate Developers and Speculative Builders). (This is a GIL.)

DELIVERY CHARGES

ST 16-0021-GIL 06/31/2016 This letter discusses transportation and delivery charges in light of the decision in *Kean v. Wal-Mart Stores, Inc.*, 235 Ill. 2d 351, 919 N.E.2d 926 (2009). See 86 Ill. Adm. Code 130.415. (This is a GIL.)

ENTERPRISE ZONES

ST 16-0026-GIL 06/20/2016 The enterprise zone building materials exemption is explained in Section 130.1951 of the Department's regulations. See 86 Ill. Adm. Code 130.1951. (This is a GIL.)

EXEMPT ORGANIZATIONS

ST 16-0016-GIL 05/02/2016 Tangible personal property may only be purchased tax free when the sale is made directly to an exempt organization, which possesses a valid and active exemption identification number (E-number). See 35 ILCS 120/2-5(11).

FARM MACHINERY & EQUIPMENT

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

ST 16-0022-GIL 06/02/2016 Off-road equipment used primarily in forestry harvesting and timber operations can qualify for the exemption afforded farm machinery and equipment used primarily in production agriculture, or in State or Federal agricultural programs. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

ST 16-0023-GIL 06/02/2016 The sale of certain types of tangible personal property used in production agriculture is not subject to Illinois Retailers' Occupation Tax and Use Tax. See 35 ILCS 120/2-5(2) and 86 Ill. Adm. Code 130.305. (This is a GIL.)

GAS REVENUE TAX

ST 16-0019-GIL 05/02/2016 The Gas Revenue Tax is imposed upon persons engaged in this State in the business of distributing, supplying, furnishing or selling gas to persons for use or consumption and not for resale. See 86 Ill. Adm. Code 470.110 and 470.185. (This is a GIL.)

MISCELLANEOUS

ST 16-0027-GIL 06/02/2016 Occupation taxes imposed by units of local government that are administered by the Illinois Department of Revenue generally are subject to the same exemptions contained in the State Retailers' Occupation Tax Act. See 86 Ill. Adm. Code 693.120. (This is a GIL.)

MOTOR VEHICLES

ST 16-0018-GIL 05/02/2016 This letter responds to a survey concerning taxation of vehicles. (This is a GIL.)

NEXUS

ST 16-0024-GIL 06/03/2016 A retailer maintaining a place of business in Illinois must collect tax from users in accordance with the Retailers' Occupation Tax

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Act and the Use Tax Act by adding the tax to the selling price of tangible personal property, when sold for use. See 86 Ill. Adm. 150.401. (This is a GIL.)

POLLUTION CONTROL FACILITIES

ST 16-0020-GIL 05/31/2016 The pollution control exemption expired July 1, 2003. See 86 Ill. Adm. Code 130.335. (This is a GIL.)

SALE AT RETAIL

ST 16-0017-GIL 05/02/2016 Persons selling tangible personal property at retail are required to register with the Department prior to making sales at retail. See 86 Ill. Adm. Code 130.701. (This is a GIL.)

SERVICE OCCUPATION TAX

ST 16-0025-GIL 06/09/2016 This letter concerns tax imposed on tangible personal property transferred incident to sales of service to persons covered by Medicaid or Medicare. See 86 Ill. Adm. Code Part 140. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring Agency to publish information concerning Private Letter Rulings and General Information Letters in the *Illinois Register*:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1

2. Summary of Information:

Index of Department of Revenue Sales and Miscellaneous Tax Private Letter Rulings and General Information Letters issued for the First Quarter of 2016. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act. (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Automobile Renting Tax	Miscellaneous
C.O.A.D.	Nexus
Computer Software	Sale for Resale
Construction Contractors	Sale of Service
Food	Service Occupation Tax
Food, Drugs & Medical Appliances	
Gas Revenue Tax	
Gross Receipts	
Hotel Operators' Tax	
Leasing	

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov/.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

3. Name and address of person to contact concerning this information:

Beverly Langenfeld
Legal Services Office
101 West Jefferson Street
Springfield IL 62794

217/782-2844

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2016 FIRST QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

AUTOMOBILE RENTING TAX

ST 16-0013-GIL 03/15/2016 Persons who are engaged in the business of renting automobiles in Illinois under rental terms of one year or less are subject to the Automobile Renting Occupation and Use Tax set forth at 35 ILCS 155/1 et seq. See 86 Ill. Adm. Code 180.101. (This is a GIL).

C.O.A.D.

ST 16-0001-GIL 01/04/2016 A coin-operated amusement device includes any "...device operated or operable by insertion of coins, tokens, chips or similar objects...which returns to the player thereof no money or property or right to receive money or property..." 35 ILCS 510/1. (This is a GIL).

COMPUTER SOFTWARE

ST 16-0003-PLR 03/26/16 This letter discusses the taxability of computer software. See 86 Ill. Adm. Code 130.1935. (This is a PLR.)

CONSTRUCTION CONTRACTORS

ST 16-0007-GIL 02/02/2016 This letter concerns installation of security systems. See 86 Ill. Adm. Code 130.1940. (This is a GIL.).

FOOD

ST 16-0011-GIL 03/24/2016 This letter discusses the applicable sales tax rates for food and candy. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

FOOD, DRUGS & MEDICAL APPLIANCES

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

ST 16-0002-PLR 03/15/16 This letter discusses the rules regarding the taxability of drugs and medical appliances. See 86 Ill. Adm. Code 130.311. (This is a PLR.)

GAS REVENUE TAX

ST 16-0014-GIL 03/16/16 Transactions with customers that are exempt from tax under the Gas Use Tax Law or otherwise incur no tax liability under that Law remain subject to tax under the Gas Revenue Tax Act. 86 Ill. Adm. Code 470.172(b). (This is a GIL.)

GROSS RECEIPTS

ST 16-00005-GIL 02/01/2016 Gross receipts from sales of E15 (a blend of 85% gasoline and 15% ethanol) are subject to Retailers' Occupation Tax without deduction (unlike gasohol and majority blended ethanol fuel, for which deductions are authorized by statute). See 35 ILCS 120/2-10. (This is a GIL.)

ST 16-0010-GIL 02/05/2016 In the absence of explicit agreement, identification of goods to a contract occurs, if the contract is for the sale of future goods, when goods are shipped, marked or otherwise designated by the seller as goods to which the contract refers. See 86 Ill. Adm. Code 130.340. (This is a GIL.)

HOTEL OPERATORS' TAX

ST 16-0001-PLR 01/13/2016 This letter discusses the Hotel Operators' Tax Act. See 86 Ill. Adm. Code 480.101(b)(3). (This is a PLR.)

LEASING

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

ST 16-0003-GIL 01/07/2016 Information regarding sales tax liabilities in lease situations may be found at 86 Ill. Adm. Code 130.220 and 86 Ill. Adm. Code 130.2010. (This is a GIL.)

ST 16-0012-GIL 03/15/2016 Information regarding the tax liabilities in lease situations may be found at 86 Ill. Adm. Code 130.220 and 86 Ill. Adm. Code 130.2010. (This is a GIL.)

MISCELLANEOUS

ST 16-0009-GIL 02/04/2016 Municipal gas taxes imposed under the authority provided in Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2) are not administered by the Department of Revenue. (This is a GIL.)

NEXUS

ST 16-0006-GIL 02/02/2016 This letter responds to a questionnaire regarding nexus. See Quill Corp. v. North Dakota, 112 S. Ct. 1904 (1992). (This is a GIL.)

SALE FOR RESALE

ST 16-0008-GIL 02/04/2016 This letter is a response to a survey regarding drop shipments. For information regarding drop shipments, see the Department's regulation entitled "Drop Shipments," found at 86 Ill. Adm. Code 130.225. (This is a GIL.)

SALE OF SERVICE

ST 16-0004-GIL 01/13/2016 If no tangible personal property is transferred to the customer, then no Illinois Retailers' Occupation Tax or Service Occupation Tax would apply. See 86 Ill. Adm. Code Parts 130 and 140. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

SERVICE OCCUPATION TAX

ST 16-0002-GIL 01/06/2016 Membership fees are generally considered intangibles and are not subject to Retailers' Occupation Tax or Use Tax. If a membership charge entitles the customer to receive an item of tangible personal property or to receive a service and tangible personal property is transferred incident to the service, the charge may result in Retailers' Occupation Tax liability, Service Occupation Tax liability, or Use Tax liability. See 86 Ill. Adm. Code 130.401(d) and 86 Ill. Adm. Code 140.101. (This is a GIL.)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

The Illinois Environmental Protection Agency ("Illinois EPA") Bureau of Air will hold a public hearing on Wednesday, September 14, 2016, at 10:00 a.m. in the Regional Conference Room at the Illinois Department of Transportation Regional Office, 1102 Eastport Plaza Drive in Collinsville IL. The public hearing will be held for the purpose of gathering public comments on the draft "Maintenance Plan for the Illinois Portion of the Metro-East St. Louis Ozone Nonattainment Area for the 2008 8-Hour Ozone Standard" ("Maintenance Plan") and the "Illinois EPA Certification of Emissions Statement Requirement for the 2008 Ozone National Ambient Air Quality Standard" ("Certification of Emissions Statement").

The Maintenance Plan requests that the United States Environmental Protection Agency ("USEPA") redesignate the Metro-East Nonattainment Area to attainment of the 2008 8-hour ozone National Ambient Air Quality Standard ("NAAQS") and sets forth additional information supporting redesignation. The Maintenance Plan also sets forth the State's plan for continued attainment of the 2008 ozone standard for the area for a period of at least ten years after USEPA formally redesignates the area. The Illinois EPA intends to submit the Maintenance Plan to USEPA as a revision to Illinois' State Implementation Plan ("SIP") under the Clean Air Act ("CAA"), 42 USC 7401 et seq.

The Certification of Emissions Statement verifies that the Illinois EPA's current emission statement program, also known as the Annual Emissions Report, which was approved by USEPA into the Illinois SIP on May 15, 2002, remains in place for all Illinois areas designated nonattainment for the 2008 Ozone NAAQS. It also certifies that the existing emissions statement program meets the requirements of Section 182(a)(3)(B) of the CAA for the Chicago and Metro-East nonattainment areas. The Illinois EPA intends to submit the Certification of Emissions Statement to USEPA as a revision to Illinois' SIP under the CAA.

The hearing will be held in accordance with the provisions of the Illinois EPA's "Procedures for Informational and Quasi-Legislative Public Hearings," set forth at 35 Ill. Adm. Code 164. Any questions about the hearing procedures, requests for copies of the hearing rules, or other requests should be directed to Dean Studer, the Illinois EPA's Hearing Officer, at the address and telephone number listed below.

Dean Studer, Hearing Officer
Illinois EPA
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

217/558-8280 or TDD: 217/782-9143

The Hearing Record will close on Friday, October 14, 2016. Written comments will be accepted but must be directed to Dean Studer at the address above, and must be physically received by October 14, 2016.

Copies of the proposed SIP revisions may be viewed by the public during regular business hours (Monday through Friday 8:30 a.m. to 4:30 p.m., except for State holidays) at the following Illinois EPA offices: 1021 North Grand Avenue East, Springfield IL; 2009 Mall Street, Collinsville IL; and 9511 Harrison Street, Des Plaines IL. No walk-in requests for copies of this material will be accommodated, unless advance notice is provided. Requests and public inquiries should be directed to Dean Studer at the address and phone number listed above.

This notice is intended to satisfy the requirements of Section 110(a) and (l) of the CAA regarding public notice for SIP submittals, 42 USC 7410(a) and (l).

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of July 26, 2016 through August 1, 2016. The rulemakings are scheduled for review at the Committee's September 6, 2016 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>
9/14/16	<u>Illinois Community College Board,</u> Administration of the Illinois Public Community College Act (23 Ill. Adm. Code 1501)	5/6/16 40 Ill. Reg. 6923	9/6/16

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 40, Issue 33 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

77 - 640	.....	10728
77 - 946	.....	10751
92 - 1030	.....	10754

ADOPTED RULES

89 - 406	7/29/2016	10769
89 - 408	7/29/2016	10808
14 - 510	7/29/2016	10844
14 - 520	7/29/2016	10858
80 - 1200	8/1/2016	10892
41 - 112	7/29/2016	10918
86 - 100	7/29/2016	10925
86 - 660	7/29/2016	10954

EMERGENCY RULES

77 - 946	8/1/2016	10992
----------	----------------	-------

**APPROVAL OF EXPEDITED
CORRECTION**

62 - 240	4/22/2016	11042
----------	-----------------	-------

NOTICE OF CORRECTIONS

77 - 2520	.....	11061
77 - 2530	.....	11062

**NOTICE OF FAILURE TO REMEDY
JCAR OBJECTIONS**

35 - 309	11063
----------	-------	-------

ORDER FORM

<input type="checkbox"/> Print Version of the Illinois Register <input type="checkbox"/> New <input type="checkbox"/> Renewal	\$290.00 (annually)
<input type="checkbox"/> Back Issues of the Illinois Register (Current Year Only) Volume # _____ Issue# _____ Date _____	\$ 10.00 (each)
<input type="checkbox"/> Microfiche sets of the Illinois Register (1977 – 2004) Specify Year(s) _____	\$ 200.00 (per set)
<input type="checkbox"/> Yearly Index Cumulative/Sections Affected Indices (Current Year)	\$ 5.00 (per set)
(Processing fee for credit cards purchases, if applicable.)	\$ 2.00
TOTAL AMOUNT OF ORDER	\$ _____

Check Make Checks Payable To: **Secretary of State**

<input type="checkbox"/> VISA <input type="checkbox"/> Master Card <input type="checkbox"/> Discover <small>(There is a \$2.00 processing fee for credit card purchases.)</small>
Card #: _____ Expiration Date: _____
Signature: _____

Send Payment To: Secretary of State E-mail: eAdministrativeCode@ilsos.net
 Department of Index Phone: (217) 782-7017
 Administrative Code Division
 111 E. Monroe
 Springfield, IL 62756

Name:	Attention:	ID #:
Address:		
City:	State:	Zip Code:
Phone:	Fax:	E-Mail:

Published by **JESSE WHITE** • Secretary of State
www.cyberdriveillinois.com