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RULES
OF GOVERNMENTAL
AGENCIES



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INTRODUCTION

The Illinois Register is the official State document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register. The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings. The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2010

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

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

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Early Childhood Construction Grant Rules
- 2) Code Citation: 71 Ill. Adm. Code 43
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
43.100	New
43.110	New
43.120	New
43.130	New
43.140	New
43.150	New
43.160	New
43.170	New
43.180	New
- 4) Statutory Authority: Implementing and authorized by the Early Childhood Construction Grants Act [Public Act 0096-0037 and Public Act 0096-1402]
- 5) A Complete Description of the Subjects and Issues Involved: This Part establishes procedures for the review and administration of grants issued pursuant to the Community Health Center Construction Act and Early Childhood Construction Grants. Standards for the determination of priority needs concerning early childhood projects are established based on projects located in communities in the State with the greatest underserved population of young children, utilizing census data and other reliable local early childhood service data. This Part specifies the manner of applying for grants, eligibility requirements, restrictions on the use of grant monies, and the manner in which school districts and other eligible entities must account for the use of grant monies.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Ngozi C. Okorafor
Capital Development Board
James R. Thompson Center
100 West Randolph Street
Suite 14-600
Chicago, Illinois 60601

312/814-6037
ngozi.okorafor@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Early Childhood Centers, Early Childhood Providers, Non-profit Corporations, and Not-for-profit Entities.
 - B) Reporting, bookkeeping or other procedures required for compliance: Progress reports must be submitted to the Capital Development Board. For grants in excess of \$25,000, quarterly reports must be submitted to the Board.
 - C) Types of Professional skills necessary for compliance: Familiarity with grant administration and reporting.
- 14) Regulatory Agenda on which this rulemaking was summarized: The rulemaking was not included on either of the two most recent regulatory agendas because: the need for the rulemaking was not anticipated.

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

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

TITLE 71: PUBLIC BUILDINGS, FACILITIES, AND REAL PROPERTY
CHAPTER I: CAPITAL DEVELOPMENT BOARD
SUBCHAPTER a: RULESPART 43
EARLY CHILDHOOD CONSTRUCTION GRANT RULES

Section

43.100	Definitions
43.110	Eligible Applicants
43.120	Early Childhood Construction Projects Grants Eligibility Requirements
43.130	Award of Early Childhood Construction Project Grants
43.140	Use of Grant Monies
43.150	Evaluation Process
43.160	Grant Award Process
43.170	Reporting
43.180	Payment Schedules

AUTHORITY: Implementing and authorized by Section 5-300 of the School Construction Law [105 ILCS 230/5-300].

SOURCE: Adopted at 34 Ill. Reg. _____, effective _____.

Section 43.100 Definitions

As used in this Part, the following terms shall be defined as follows:

"Act" means Section 5-300 of the School Construction Law [105 ILCS 230/5-300].

"Board" means the Capital Development Board.

"Early Childhood Center" means a facility where a public school district or not-for-profit entity provides educational, health, social and/or child development services to young children, ages 0 to 5 years old, and their families as defined in the Illinois State Board of Education (SBE) Early Childhood Block Grant Program rules (23 Ill. Adm. Code 235).

"Early Childhood Provider" means a public school district or not-for-profit entity that provides educational, health, social and/or child development services to

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

young children, ages 0 to 5 years old, and their families, as defined in Section 235.10 of the SBE Early Childhood Block Grant Program rules.

"Early Childhood Construction Grant" or "Grant" means the Early Childhood Construction Grant created by the Act.

"Early Childhood Construction Project" or "Project" means a project, other than a school construction project, school maintenance project, or school energy efficiency project as defined in Section 5-5 of the School Construction Law, intended to provide for the construction, addition or renovation of an early childhood center, but does not include ongoing operational costs. A project may involve renovation, equipping or expansion of an existing facility or construction or acquisition of a new facility.

"Equipment" means movable equipment, including all items of equipment, other than built-in equipment, necessary and appropriate for the functioning of a particular facility for its specific purpose, and that will be used solely or primarily for purposes related to the early childhood center. Further, equipment is defined as manufactured items that have an extended useful life, are not affixed to a building and are capable of being moved or relocated from room to room or building to building, are not consumed in use, and have an identity and function that will not be lost through incorporation into a more complex unit. The following guidelines should be applied in defining durable, movable equipment:

No commodities will be purchased from bond funds.

Office/household equipment and furniture will be bondable.

Machinery, implements and major tools will be bondable.

Scientific instruments and apparatus will be bondable with the exception of those items that are subject to short useful life, i.e., glassware, tubing, crockery, light bulbs, etc.

Library books, maps, and paintings are not bondable.

Livestock, for any use, is not bondable.

Rolling stock, including cars, trucks and boats and related items are not bondable.

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Spare and replacement parts are not bondable.

Transportation costs and installation costs incurred with an outside source will be considered as part of the equipment cost.

Computer hardware meeting the requirements of this definition is considered bondable.

"Not-for-profit Corporation" means a public charity with a legitimate corporate purpose and formal structure to fulfill its mission that is publicly accountable and exempt from certain federal corporate income taxes under IRC section 501(c)(3).

"Not-for-profit Entity" means an organization:

incorporated under State laws and approved by both the Illinois Secretary of State and the entity's taxing authority; and

operating for educational, charitable, social, religious, civic or humanitarian purposes.

Section 43.110 Eligible Applicants

- a) Eligible applicants for Early Childhood Construction Grants include any public school district or private not-for-profit entity with experience in providing educational, health, social and/or child development services to young children and their families.
- b) If an early childhood center is operated in or by a child care center subject to the licensure requirement of the Illinois Department of Children and Family Services (DCFS), then that child care center must hold the appropriate licensure in accordance with DCFS rules (see 89 Ill. Adm. Code 403 (Licensing Standards for Group Homes), 405 (Licensing Standards for Day Care Agencies), 406 (Licensing Standards for Day Care Homes), 407 (Licensing Standards for Day Care Centers) and 408 (Licensing Standards for Group Day Care Homes)).

Section 43.120 Early Childhood Construction Project Grants Eligibility Requirements

- a) Eligible applicants must meet the following criteria:

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

- 1) Applicants must be willing to enter into a grant agreement with the Board that outlines the roles, responsibilities and obligations of each party;
- 2) Applicants must demonstrate that the facility will be operational upon completion of the capital project, including funding and staffing;
- 3) If applicants are requesting capital grant funds for a portion of the total project costs, applicants must demonstrate that they have or will be able to secure sufficient sources of funding for total costs associated with the entire project;
- 4) Applicants must demonstrate that the proposed new or expanded center addresses the needs of underserved populations of young children in the community;
- 5) Applicants must provide a narrative describing the proposed project, including the following components:
 - A) General project description and rationale;
 - B) New or expanded services/programs to be offered, the number of children to be served by each, and the number of new classrooms and the estimated date/year of completion;
 - C) Site analysis;
 - D) Funding sources and cost estimates;
 - E) Time schedule of major events; and
 - F) Impact, if any, on ability to meet licensing and/or accreditation standards;
- 6) Applicants must provide a description of the population to be served. The description shall include:
 - A) How the eligible population will be recruited;
 - B) The geographic area to be served;

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- C) The estimated number of children and/or families to be enrolled;
- D) Population of children to be served by new/expanded programs, including the ages and percentage of high-need children;
- E) Staff to child ratios for new/expanded programs and, if applicable, proposed changes to current staff to child ratios; and
- F) Other proposed program improvements and components.

Section 43.130 Award of Early Childhood Construction Project Grants

- a) Applicants that are not School Districts with Populations Exceeding 500,000
 - 1) The Board is authorized to make grants to public school districts and not-for-profit entities for early childhood construction projects. These grants shall be paid out of monies appropriated for that purpose. The grants shall be for the purpose of:
 - A) Constructing an addition onto an existing building;
 - B) New construction of a facility or renovations to an existing facility in order to create a new early childhood center;
 - C) Acquisition of facility;
 - D) Purchase or replacement of equipment;
 - E) Safety improvements; and
 - F) Classroom conversions.
 - 2) An applicant that submits a complete and accurate application that is in compliance with this Section and that indicates that the applicant has a qualifying project shall be awarded a grant for the approved project, provided that the available State funding is sufficient to fund the grant.
 - 3) If the available State funding for any fiscal year is insufficient to fund all approved projects, grants shall be awarded in a priority order until the available State funding is exhausted. Priority order permits the Board to

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give preference to *projects located in communities in the State with the greatest underserved population of young children, utilizing Census data and other reliable local early childhood service data* (Section 5-300(c) of the Act).

- b) Applicant School Districts with Populations Exceeding 500,000
A school district with a population exceeding 500,000 that submits a complete and accurate application in compliance with the Act and this Section shall be awarded a grant in the amount provided by the Act provided that State funding is sufficient to fund the grant.

Section 43.140 Use of Grant Monies

- a) A recipient of a grant under the Act and this Part may use the grant monies to do one or more of the following:
- 1) Construction of an addition to an existing building;
 - 2) New construction of a facility or renovations to an existing facility in order to create a new early childhood center;
 - 3) Acquisition of a facility;
 - 4) Purchase or replacement of equipment;
 - 5) Safety improvements; and
 - 6) Classroom conversions.
- b) Grant funds shall not be used for the following:
- 1) To offset existing debt;
 - 2) To supplant existing funds that support a service, program or activity for which grant support is requested;
 - 3) To fund expenses associated with the operations of the early childhood center;
 - 4) To lease/rent space for occupancy;

CAPITAL DEVELOPMENT BOARD

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- 5) To use for sectarian instruction, religious worship or a school or department of divinity; and
- 6) To use for the proportional share of joint use facilities that either provide personal residential space for those who are not students or provide space for business activities unrelated to the educational mission of the early childhood center.

Section 43.150 Evaluation Process

- a) The Board will review applications for eligibility and will notify those applicants that fail to meet eligibility requirements. This does not prohibit applicants from submitting future applications if funding is available.
- b) Applications will be reviewed based upon the following criteria:
 - 1) Documented need for the project with priority given to projects located in those communities in the State with the greatest underserved population of young children.
 - 2) Ability to successfully complete project objectives described in the grant application.
 - 3) Ability to implement and sustain the early childhood center's new operations upon completion of the capital project.
 - 4) Realistic budget and timeline for the completion of the project, including a detailed description of additional funds to be used toward the applicant's financial contribution and the readiness of the project to begin once the grant funds are awarded.

Section 43.160 Grant Award Process

- a) Grants will be awarded by the Board.
- b) Grants shall be subject to the Illinois Grant Funds Recovery Act [30 ILCS 705]. Any grant funds not legally obligated within two years after disbursement by the State shall be returned to the Board within 45 days.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED RULES

- c) Grant funds may only be used for the project described in the grant agreement. The applicant must provide matching funds in an amount equal to 10% of the grant amount. The grant amount shall not exceed more than 90% of the total project expenditures.
- d) Applicants may apply for up to \$5,000,000 per provider per application period and must demonstrate their ability to obtain balance of the funds required for the proposed project.
- e) Grant awards of \$250,000 or more are conditioned upon the recipient's written certification complying with the practices for minority-owned businesses, female-owned businesses, and businesses owned by persons with disabilities of the Business Enterprise for Minorities, Females and Persons with Disabilities Act [30 ILCS 575] and the equal employment practices of Section 2-105 of the Illinois Human Rights Act [775 ILCS 5/2-105].
- f) Grants will be awarded based on the availability of funding within a given application period.
- g) *For grants awarded to not-for-profit corporations for the acquisition or construction of new facilities, the Board or any State agency it designates shall hold title to or place a lien on the facility for a period of 10 years after the date of the grant award, after which title to the facility shall be transferred to the not-for-profit corporation or the lien shall be removed, provided that the not-for-profit corporation has complied with the terms of its grant agreement. (Section 5-300(b-5) of the Act)*

Section 43.170 Reporting

- a) The grant recipient must submit a progress report to the Board. The Board may assist each grant recipient in meeting the goals and objectives stated in the original grant proposal submitted by the recipient, and may assist the grant recipient in ensuring that grant monies are being used for appropriate purposes, and that residents of the community are being served by the early childhood centers established with grant monies.
- b) For grants in excess of \$25,000, the grant recipient must submit quarterly reports to the Board describing the progress of the program, project or use and the related expenditure of the grant funds.

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NOTICE OF PROPOSED RULES

Section 43.180 Payment Schedules

Grant funds will be disbursed as agreed to in the Grant Agreement.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Conditions of Employment
- 2) Code Citation: 80 Ill. Adm. Code 303
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
303.120	Amendment
303.125	Amendment
303.250	Amendment
303.270	Amendment
- 4) Statutory Authority: Authorized by the Personnel Code [20 ILCS 415/8c(2), 415/8e, and 415/9] and the Civil Administrative Code of Illinois [20 ILCS 405/405-10]
- 5) A Complete Description of the Subjects and Issues Involved: In Section 303.120, the changes to subsection (c) permit employees subject to a non-bargaining unit furlough program to utilize vacation and personal days as furlough days to remain in pay status. They further clarify that while an agency may not mandate that an employee take a furlough day on a holiday, an employee may elect to take a furlough day on a holiday. The changes to Section 303.120(d) address how employees electing to utilize vacation or personal days to remain in pay status during furlough shall record that time on their timesheets.

In Section 303.125, the change permits employees to utilize personal leave to remain in pay status during furlough and specifies that such leave may only be taken in one-half- or full day increments and in full compliance with furlough program requirements.

In Section 303.250, the non-substantive changes are intended to make the rules easier to understand. The first sentence of subsection (c) is being moved to Section 303.270 as it is consistent with the subject matter of that Section. The second sentence of subsection (c) is being deleted as redundant to a portion of Section 303.270. The remaining subsections are re-lettered accordingly.

In Section 303.270, the changes include the assignment of letters to the subsections for ease of reading and reference. Subsection (a) remains unchanged. Subsection (b) provides that vacation time, that would otherwise have expired for employees subject to non-bargaining unit furlough programs, will be extended for an additional 12 months. The first sentence of subsection (c) has been moved to this Section from Section 303.250 for ease of understanding. The second paragraph within subsection (c) permits employees to utilize vacation time to remain in pay status during furlough and specifies

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

that such time may only be taken in one-half or full day increments and in full compliance with furlough program requirements.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No
- 11) Statement of Statewide Policy Objective: These amendments affect only the State employees subject to Administrative Order #1 (2010) and do not set out any guidelines that affect local or other jurisdictions in the State.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Mr. Jeff Shuck
CMS Deputy General Counsel – Bureau of Personnel
720 Stratton Office Building, Floor 7
Springfield, Illinois 62706

217/782-5778
- 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: The affected employees will record time off on their time sheets submissions according to the amendments.
 - C) Types of professional skills necessary for compliance: None

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the Department did not anticipate the necessity for the rulemaking when the agendas were filed.

The text of the Proposed Amendments is identical to the text of the Emergency Amendments on page 12985 of this issue of the *Illinois Register*.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985
- 2) Code Citation: 68 Ill. Adm. Code 1175
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1175.100	Amendment
1175.115	Amendment
1175.200	Amendment
1175.205	Amendment
1175.220	Amendment
1175.230	Amendment
1175.235	Amendment
1175.330	Amendment
1175.400	Amendment
1175.405	Amendment
1175.415	Amendment
1175.420	Amendment
1175.430	Amendment
1175.435	Amendment
1175.500	Amendment
1175.510	Amendment
1175.700	Amendment
1175.705	Amendment
1175.715	Amendment
1175.720	Amendment
1175.730	Amendment
1175.735	Amendment
1175.805	Amendment
1175.815	Amendment
1175.1001	Amendment
1175.1005	Amendment
1175.1015	Amendment
1175.1020	Amendment
1175.1030	Amendment
1175.1035	Amendment
1175.1115	Amendment
1175.1200	Amendment
1175.1300	Amendment

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 4) Statutory Authority: Implementing the Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985 [225 ILCS 410] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]
- 5) A complete description of the subjects and issues involved: The proposed amendments add more stringent sanitary, safety and compliance standards. The proposed amendment also amends the required curriculum hours for barbers. The current language requires a minimum of 150 hours of classroom instruction with the remaining 1350 hours left to the discretion of the instructor. The proposed amendment gives the instructor the discretion to allow 1350 hours of practical application or a combination of classroom instruction and practical application. The proposed amendments also amend the Section on school refund policies in accordance with P.A. 96-506. It also provides more explicit guidelines for the application forms. The fee for restoring a lapsed license is also being increased due to the considerable time and resources involved in their processing.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local governments.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Craig Cellini, Rules Coordinator
Department of Financial and Professional Regulation
320 West Washington, 3rd Floor
Springfield, Illinois 62786

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: Those providing the services of barbers, cosmetologists, nail technicians, and esthetics.
 - B) Reporting, bookkeeping, or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Barber, cosmetology, nail technician, and esthetics skills are required.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2010

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

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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1175

THE BARBER, COSMETOLOGY, ESTHETICS,
AND NAIL TECHNOLOGY ACT OF 1985

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SUBPART M: [SALON OR](#) SHOP REGISTRATION

Section

1175.1300	Application for a Barber Shop or Cosmetology, Nail Technology Technician or Esthetics Salon Certificate of Registration
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AUTHORITY: Implementing the Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985 [225 ILCS 410] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 12 Ill. Reg. 20488, effective November 29, 1988; emergency amendments at 13 Ill. Reg. 6810, effective April 10, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15034, effective September 7, 1989; amended at 14 Ill. Reg. 14090, effective August 20, 1990; amended at 16 Ill. Reg. 13276, effective August 18, 1992; amended at 18 Ill. Reg. 4856, effective March 14, 1994; amended at 21 Ill. Reg. 7277, effective May 29, 1997; amended at 23 Ill. Reg. 5749, effective April 30, 1999; amended at 27 Ill. Reg. 19293, effective December 11, 2003; amended at 30 Ill. Reg. 9503, effective May 10, 2006; amended at 34 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 1175.100 Fees

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- a) Licensure fees for cosmetologists, barbers, estheticians, nail technicians, cosmetology teachers, cosmetology clinic teachers, barber teachers, esthetics teachers, esthetics clinic teachers, nail technology teachers and nail technology clinic teachers are:
- 1) License. The fee for a license is \$30 and is to be submitted with the application.
 - 2) Examination. Applicants for any examination shall be required to pay, either to the Department of Financial and Professional Regulation – Division of Professional Regulation (Division) or to the designated testing service, a fee covering the cost of providing the examination.
 - 3) Renewal. The fee for renewal of a license shall be calculated at the rate of \$25 per year.
 - 4) Restoration. The fee for restoration of a license is ~~\$50~~^{\$10} plus payment of all lapsed renewal fees, ~~but not to exceed \$135~~.
 - 5) Restoration From Inactive Status. The fee for restoration of a license from inactive status is the current renewal fee.
 - 6) Endorsement. The fee for a license for a cosmetologist, barber, esthetician, nail technician, cosmetology teacher, barber teacher, esthetics teacher or nail technology teacher licensed under the laws of another jurisdiction is \$45.
- b) Licensure fees for cosmetology schools, barber schools, esthetics schools or nail technology schools are:
- 1) License. The fee for a license is \$150 plus the cost of inspection (\$50).
 - 2) Change of Ownership. The fee for a license resulting from a change of ownership is \$150 plus the cost of inspection (\$50).
 - 3) Change of Location. The fee for a license resulting from a change of location is \$150 plus the cost of inspection (\$50).
 - 4) Change of Name. The fee for a license resulting from a change of name is

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\$20.

- 5) Renewal. The fee for renewal of a license shall be calculated at \$100 per year.
- 6) Expansion. The fee for on-site and off-site expansion is \$50.
- 7) Cosmetology School Approval to Teach Esthetics. The fee for approval to upgrade to teach esthetics shall be the cost of the inspection (\$50).
- 8) Cosmetology School Approval to Teach Nail Technology. The fee for approval to upgrade to teach nail technology shall be the cost of the inspection (\$50).

c) Salon Fees

- 1) Registration. The fee for registration of a barber shop or cosmetology, nail technician or esthetics salon (salon) is \$40.
- 2) Change of Name. The fee for changing the name or address of a registered barber shop or salon is \$20.
- 3) Renewal. The fee for renewal of a registration for a barber shop or salon is calculated at \$20 per year.

d) Sponsor Fees

- 1) Registration. The fee for registration as a continuing education sponsor shall be \$500 ~~pursuant to Section 4-1.5(e) of the Act.~~
- 2) Renewal. The fee for renewal as a continuing education sponsor shall be \$250 every two years ~~pursuant to Section 4-1.5(e) of the Act.~~ If a sponsor allows the registration to lapse, he/she will be required to submit \$500 to restore the registration ~~pursuant to Section 4-1.5(e) of the Act.~~
- 3) State agencies, State colleges and State universities in Illinois who are approved as continuing education sponsors shall be exempt from registration and renewal fees.

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- e) General Fees
- 1) Duplicate/Replacement. The fee for the issuance of a duplicate or replacement license is \$20.
 - 2) Change of Name or Address. The fee for issuance of a license with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Division records when no license is issued.
 - 3) Certification of Record. The fee for certification of a licensee's record for any purpose is \$20.
 - 4) Wall Certificate. The fee for a wall certificate showing licensure is the actual cost of producing such a certificate.
 - 5) Roster. The fee for a roster of persons licensed as cosmetologists, cosmetology teachers, cosmetology clinic teachers, barbers, barber teachers, estheticians, esthetics teachers, esthetics clinic teachers, nail technicians, nail technology teachers, nail technology clinic teachers, cosmetology schools, esthetics schools, nail technology schools, barber schools, and shops and salons is the actual cost of producing such a roster.
 - 6) ~~Inactive Status. The fee to place a license on inactive status, other than during renewal, is \$20.~~

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.115 Sanitary Standards

The sanitary standards set forth in this Section shall be followed by all licensees as appropriate to their practice. Failure to comply with these standards shall be considered unprofessional conduct and may be determined to be a violation pursuant to Section 4-7 of the Act.

- a) Definitions
- 1) "Clean" means free of soil, dust, contaminants or impurities, or recently laundered and unused, or the removal of soil, dust, etc., by washing, sweeping, clearing away, or any other appropriate method "Hospital Grade

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~~Disinfectant" is defined as a disinfectant that is registered with the Environmental Protection Agency as a hospital-level disinfectant and that performs the functions of bactericides (kill harmful bacteria), virucides (kill pathogenic viruses), and fungicides (destroy fungus).~~

- 2) ~~"Disinfect" means the use of a chemical to clean with an agent that eliminates harmful bacteria, fungi and viruses on surfaces that eliminates microbacteria growth.~~
- 3) ~~"Disinfectant Sanitize" means a chemical agent that eliminates harmful bacteria, fungi and viruses to clean with hot water and soap.~~
- 4) ~~"Hospital Grade Disinfectant" means a disinfectant that is registered with the Environmental Protection Agency (EPA) as a hospital-level disinfectant and that performs the functions of bactericides (kill harmful bacteria), virucides (kill pathogenic viruses), and fungicides (destroy fungus).~~

b) Sanitary Requirements

- 1) ~~Adequate disinfecting or sterilizing equipment shall be maintained for the number of licensees, usage requirements, and volume of business. All instruments and tools shall be sanitized before and after each patron and kept in an air tight container until used.~~
- 2) ~~All disinfecting agents, non-disposable manicure implements shall be kept at adequate strengths to maintain effectiveness, be free of residue and be available for immediate use at all times the salon or shop is open for business. Cleaned with a hospital grade disinfectant.~~
- 3) ~~All tools, implements and items that come in direct contact with a client. Manicure tables shall be cleaned and disinfected or disposed of after use on each client with an antibacterial disinfectant.~~
- 4) ~~All non-disposable manicure tools and implements. Clean towels shall be cleaned and disinfected with a hospital grade disinfectant after use on used for each client patron.~~
- 5) ~~All items designed to be disposed of after a single use, such as~~

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orangewood sticks, cotton, gauze, neck strips, nail wipes, tissues, sponges, paper towels, wooden applicators and spatulas, emery boards or porous nail files, buffer blocks, pumice stones, sanding bands or sleeves and disposable nail bits~~Wood sticks and files (except sanitizable file and buffing blocks)~~ shall be disposed of~~discarded~~ after each use.

- 6) New and/or disinfected and cleaned tools shall be stored separately from all others~~Shampoo bowls must be sanitized after each use.~~
- 7) Manicure tables, work stations and facial chairs shall~~Hands must be cleaned and disinfected with a hospital grade disinfectant~~be cleaned and disinfected with a hospital grade disinfectant~~cleaned~~ before and after serving each client~~patron~~.
- 8) Head rests of any chair shall be protected with a disposable cover and changed after each use, or a clean washable towel may also be used.
- 9) Items subject to cross-contamination by re-dipping into a multi-use container such as creams, All cosmetics, astringents, lotions, removers, waxes, moisturizers, masks and oils used within a field of practice shall be dispensed from containers to prevent contamination of the unused portion. Any product that becomes contaminated shall be discarded after use on that particular client~~applied with sanitized or disposable applicators and removed from the container with a sanitary spatula.~~
- 10) Paraffin wax must be used in such a manner that prevents contamination of wax remaining in the paraffin bath or container, such as application with a single use or sanitized spatula or applicator, or disposal of any used wax. Paraffin must be covered when not in use and maintained at a temperature specified by the manufacturer's instructions.
- 11) All articles that come in direct contact with the client's skin that cannot be cleaned or disinfected shall be disposed of immediately after use.
- 12) All clean towels shall be kept in a closed or covered space.
- 13) All clean~~Clean~~ or disposable esthetics sheets, gowns and head coverings shall be kept in a closed or covered space~~used for each patron.~~
~~11) Animals, such as birds and cats, are not permitted (with the exception of animal assistant for the physically impaired). 12) All floors, walls and~~

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- ~~furniture shall be kept clean at all times. 13) All soiled towels shall be kept in a covered container.~~
- 14) Licenses shall observe and follow thorough hand washing with soap and water or any equally effective cleansing solution or waterless hand sanitizer before and after serving each client.~~All clean towels shall be kept in a closed or covered space.~~
- 15) Licenses shall ensure that each client's hands or feet are washed with soap and water or waterless hand sanitizer prior to performing any manicuring or pedicuring services.~~All hair that is swept up from the floor shall be kept in a covered container.~~
- 16) ~~Proper disposal of unused products and packaging is required. 17) Proper disposal and handling of hazardous materials is required. 18) The use of nail products or the distribution of nail products containing monomer Methyl Methacrylate (MMA) is prohibited.~~
- 17) Clean towels shall be used for each client.
- 18) Clean or disposable esthetics sheets, gowns and head coverings shall be used for each client.
- 19) A neck strip or towel shall be placed around the client's neck and changed after each use to prevent direct contact between a common use hair cloth or cape and the client's skin.~~No owner or manager of a salon or shop shall knowingly permit any person suffering from a serious communicable disease, as defined in public health regulations, to work on the premises.~~
- 20) Hair clippings shall not be allowed to accumulate and shall be disposed of in a covered container.~~All owners or managers of salons or shops shall provide adequate ventilation as required by the city, county or municipality and insure that an adequate supply of hot and cold running water is available.~~
- 21) Floor surfaces shall be kept clean, orderly and in good repair.
- 22) Storage drawers for clean tools and implements shall be clean, free of hair and used only for clean tools and implements.

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- 23) All soiled towels shall be kept in a covered container. Containers shall be large and sturdy enough to store soiled items, towels or linens after use.
- 24) Shampoo bowls and sinks shall be clean and free of hair and residue after each use.
- 25) Equipment, mirrors, lights and similar closures, furnishings, attached equipment, decorative materials and fixtures shall be kept clean and in good repair.
- 26) Walls, doors, windows and ceilings shall be clean and free of excessive spots, mildew, condensation or peeling paint.
- 27) Storage cabinets, work stations and vanities shall be kept clean.
- 28) Roller-storage receptacles and contents shall be clean and free of hair and residue.
- 29) Outer surfaces of waste disposal containers shall be kept clean.
- 30) All salons and shops shall provide adequate ventilation as required by the city, county or municipality to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes.
- 31) All salons and shops shall provide a safe and adequate supply of continuous hot and cold running water from an approved source. Sinks located in the restroom do not qualify as a water source.
- 32) Licensees shall have immediate access to a supply of hot and cold running water.
- 33) No owner or manager of a salon or shop shall knowingly permit any person suffering from a serious communicable disease, as defined in public health regulations, to work on the premises.
- 34) No licensee shall be required or permitted to massage any surface of the skin or scalp where the skin is inflamed or where a skin infection or eruption is present.

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- 35) [No licensee shall be required or permitted to work upon a person suffering from a serious communicable disease, as defined in public health regulations.](#)
- 36) [Pets or other animals shall not be permitted in a salon or shop at any time. This prohibition does not apply to an animal assistant for the physically impaired.](#)

- c) Pedicure Equipment Cleaning and Disinfecting Procedures
The following procedures, as developed by the International Nail Technicians Association, shall be followed for all pedicure equipment such as whirlpool pedicure foot spas, self-contained foot basins, sinks and pedicure bowls:
- 1) After each client:
 - A) Drain all water from the foot spa, pedicure basin or bowl;
 - B) Clean the interior surfaces and walls of the foot spas or basin with soap or detergent to remove all visible debris; rinse with clean, clear water;
 - C) Disinfect by spraying the interior surface of the foot basin or bowl with either an EPA-registered disinfectant (demonstrated bactericidal, fungicidal, and virucidal activity used according to manufacturer's instructions), or 10% bleach solution; and
 - D) Wipe dry.
 - 2) At the end of every day, after the last client:
 - A) Perform the procedures of (c)(1);
 - B) Remove the screen from whirlpool basin. All debris trapped behind the screen of each foot spa shall be removed with a brush and soap or detergent; then the screen and the inlet shall be cleaned to remove all visible debris with soap or detergent and water;

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- C) Before replacing the screen, totally immerse the screen in either an EPA-registered disinfectant or 10% bleach solution;
 - D) Fill the basin with warm water and low-sudsing soap, turn the system on and flush the spa system for 5 minutes, then rinse and drain.
- 3) Once every week:
- A) Repeat the procedures of (c)(2); then fill the foot spa or basin with cold water and one tablespoon of 5.25% liquid household bleach (or the equivalent) for each one gallon of water based on the capacity of unit;
 - B) Turn unit on and circulate the bleach solution through the system for 5 to 10 minutes; turn unit off;
 - C) Let the bleach solution sit in the spa or pedicure basin overnight (at least 6-10 hours);
 - D) The following morning, and before the first client, drain bleach solution;
 - E) Fill the basin with clean water, turn the system on and flush the system with clean water and drain.
- 4) Logs:
Make a record of the date and time of the weekly cleaning and disinfecting. The record for the last 90 days shall be readily accessible and available upon client or inspector request. Separate logs for weekly and daily procedures are needed but may be kept in the same document log.

d) [Devices/Equipment](#)

- 1) [All manual or mechanical devices and equipment used in the practice of barbering, cosmetology, esthetics or nail technology must meet all "product registration requirements" imposed by any federal, State, county or local authority.](#)

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- 2) All manual or mechanical devices or equipment used in the practice of barbering, cosmetology, esthetics or nail technology must be used in accordance with the "product safety requirements" imposed by any federal, State, county or local authority.
 - 3) Each licensee must verify, maintain, or be able to access documentation related to any device classified by the FDA that is used in the practice of barbering, cosmetology, esthetics or nail technology.
 - 4) Licensees may not use any manual or mechanical device or equipment unless the use is part of the delivery of services within the licensee's scope of practice and is consistent with the manufacturer's intended use of the device and with client health and safety.
- e) Compliance with All Applicable Regulations
Owners or managers of a salon or shop and licensees shall observe and be subject to all Illinois Department of Public Health, as well as other city, county and State, regulations pertaining to public health and safety. Compliance with building, State fire, plumbing, and electrical regulations is also required.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART B: BARBER

Section 1175.200 Examination – Barber

- a) Eligibility.
 - 1) Each applicant must meet the requirements in Section 2-2(a), (b) and (c) or 2-3(a), (b), (c) and (d) of the Act prior to filing an application for the Division authorized examination.
 - 2) An applicant's training must be received from a barber school approved by the Division that meets the requirements set forth in Subpart C of this Part.
- b) Application. Each applicant shall file an application for examination, on forms provided by the Division, at least 45 days prior to an examination date. The application shall include:

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- 1) An official transcript showing successful completion of the required training outlined in Section 2-2(c) and 2-3(c) and (d) of the Act and a passing grade on the final examination administered by the school as set forth in Section 1175.340;
- ~~2) A complete work history since graduation from barber school;~~
- ~~2)3) Proof of any name change (i.e., marriage license, divorce decree, affidavit, or court order); and~~
- ~~3)4) The required examination fee.~~
- c) Individuals who do not obtain a license within 5 years of graduation from barber school will be required to complete a 250 hour refresher course before they may obtain a license.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.205 Examination – Barber Teacher

- a) Eligibility. Each applicant must meet the requirements in Section 2-4(a), (b), (c) and (d) of the Act prior to filing an application for the barber teacher examination.
- b) Application. Each applicant shall file an application, on forms provided by the Division, at least 45 days prior to an examination date. The application shall include:
 - 1) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order);
 - 2) The required examination fee;
 - 3) Either:
 - A) An official transcript from an approved barber school (see Subpart C) showing successful completion of 500 hours of teacher training as outlined in Section 1175.335 of this Part; employment verification showing at least 3 years of practical experience as a

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registered barber; or

B) An official transcript from an approved barber school showing successful completion of 1000 hours of barber teacher training as outlined in Section 1175.335 of this Part; [and](#)

4) ~~A complete work history since graduation from barber school; and 5)~~A copy of the applicant's current Illinois barber license.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.220 Endorsement

- a) An applicant who is currently licensed as a barber in another jurisdiction and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, which shall include:
- 1) A certification from the state of original licensure stating:
 - A) A brief description of any licensure examination taken and the grades received; and
 - B) Whether the applicant's file contains any record of disciplinary actions taken or pending;
 - 2) Official transcripts from the school attended by the applicant showing the courses completed and the hours received with the school seal affixed or a verification from the licensing authority of the number of hours required for licensure at the time the applicant was originally licensed;
 - 3) Certification of current licensure if other than original licensure;
 - 4) Two completed Verification of Employment forms showing at least 3 years of lawful practice in another jurisdiction if:
 - A) the jurisdiction of original licensure does not require a licensing examination or has not provided an examination score; or
 - B) the applicant is applying under Section 2-4a of the Act;

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- 5) ~~A complete work history showing all employment since graduation from barber school to present;~~ 6) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on any of the documents submitted;
 - 6) 7) The required fee set forth in Section 1175.100; and
 - 7) 8) A copy of the licensing ~~Act~~ applicable on the date of original licensure showing the requirements for licensure if requested by the Division in the application review. The Division will make such a request if the application materials are incomplete.
- b) An applicant who is currently licensed as a barber teacher in another jurisdiction and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, which shall include:
- 1) A certification from the state of original licensure stating:
 - A) A brief description of any licensure examination taken and the grades received; and
 - B) Whether the applicant's file contains any record of disciplinary action taken or pending;
 - 2) Official transcripts from the school attended by the applicant showing the courses completed and the hours received with the school seal affixed or a verification from the licensing authority of the number of hours required for licensure at the time the applicant was originally licensed;
 - 3) Certification of current licensure if other than original licensure;
 - 4) Two Verification of Employment forms shall be submitted by the applicant who completed at least 500 hours of teacher training but less than 1000 hours. A barber teacher applicant shall verify 3 years of lawful practice as a barber;
 - 5) ~~A complete work history showing all employment since graduation from basic barber school to present;~~ 6) Proof of name change (i.e., marriage

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license, divorce decree, affidavit or court order) if name is other than that shown on any of the documents submitted;

~~6)7)~~ A copy of the applicant's barber license or verification from the licensing authority that the applicant has the ability to practice barbering with a barber teacher license;

~~7)8)~~ The required fee set forth in Section 1175.100; and

~~8)9)~~ A copy of the licensing ~~Act~~ applicable on the date of original licensure showing the requirements for licensure if requested by the Division in the application review. The Division will make such a request if the application materials are incomplete.

- c) An applicant for licensure as a barber who is licensed in another jurisdiction shall be given 300 hours of educational credit for every 12 month period during which he/she was lawfully employed as a barber. To obtain credit for work experience, the applicant must submit verification of employment on forms provided by the Division in support of the work experience. A certification of licensure from the jurisdiction in which the lawful practice is claimed must also be submitted.
- d) An applicant applying for licensure as a barber or barber teacher on the basis of endorsement who has previously failed the licensing examination in Illinois shall not be approved for licensure on the basis of endorsement unless and until he/she provides verification of successful completion of a substantially equivalent licensure examination. The successful completion of the substantially equivalent examination must occur after the most recently failed examination attempt in Illinois.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.230 Restoration – Barber

- a) A person applying for restoration of his/her license as a barber ~~that~~~~which~~ has been expired for less than 5 years shall submit an application on forms provided by the Division and \$10 plus payment of lapsed renewal fees as set forth in Section 1175.100(a)(4). If restoring after active military service, the applicant shall submit a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.

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- b) A person applying for restoration of his/her license as a barber ~~that~~^{which} has been expired for 5 years or more shall submit an application on forms provided by the Division along with:
- 1) Verification of employment as a barber in another jurisdiction within the 5 years preceding application for restoration;
 - 2) Certification of licensure from the licensing authority in the jurisdiction of employment;
 - 3) ~~A complete work history showing all employment since the Illinois license lapsed;~~ 4) A completed Restoration Questionnaire;
 - 4) ~~5)~~ The required fee set forth in Section 1175.100; or
 - 5) ~~6)~~ If restoring from active military service, a copy of the applicant's DD-214 and the current renewal fee.
- c) An applicant for restoration who has not maintained a practice in another jurisdiction shall also submit official transcripts showing successful completion of a 250 hour refresher course from a licensed barber or cosmetology school or successful completion of the examination set forth in Section 1175.210 within 2 years before application for restoration.
- d) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the examination.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.235 Restoration – Barber Teacher

- a) A person applying for restoration of a license as a barber teacher ~~that~~^{which} has been expired for less than 5 years shall file an application, on forms provided by the Division, and the required fee. If restoring after active military service, the applicant shall submit a copy of the applicant's DD-214 and the current renewal fee.
- b) A person applying for restoration of a license as a barber teacher ~~that~~^{which} has

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been expired for 5 years or more shall submit an application on forms provided by the Division, along with:

- 1) Verification of employment as a barber teacher in another jurisdiction within the 5 years preceding application for restoration;
 - 2) A certification of licensure from the appropriate licensing authority in the jurisdiction of employment;
 - 3) ~~A complete work history showing all employment since the Illinois teacher license lapsed;~~ 4) A completed [Restoration Questionnaire restoration questionnaire](#);
 - 4) ~~5)~~ The required fee set forth in Section 1175.100; or
 - 5) ~~6)~~ If restoring after active military service, a copy of the applicant's DD-214 form and the current renewal fee.
- c) An applicant for restoration who has not maintained an active teaching practice in another jurisdiction shall also submit official transcripts showing successful completion of a 250 hour barber teacher refresher course or successful completion of the examination set forth in Section 1175.210 within 2 years after applying for restoration of the license.
- d) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the examination.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART C: BARBER SCHOOL

Section 1175.330 Curriculum Requirements – Barber

Each licensed barber school shall provide a [program consisting curriculum](#) of a minimum of 1500 [clock hours of instruction in general theory and practical application](#), as follows:

- a) 150 hours of classroom instruction in general theory ~~that~~ ~~which~~ shall be divided into specific subject areas as specified in subsection (b).

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- b) 1350 hours shall be at the discretion of the instructor based on the instructor's evaluation of the individual student's needs. However, the training shall cover, at least, the following subject areas; ~~set forth in Section 2A-7(4) of the Act.~~

- 1) Barber history;
- 2) Bacteriology;
- 3) Infection control and safe work practices;
- 4) Implements, tools and equipment;
- 5) Anatomy and physiology;
- 6) Chemistry;
- 7) Electricity and light therapy;
- 8) Properties and disorders of the skin;
- 9) Properties and disorders of the hair and scalp;
- 10) Treatment of the hair and scalp;
- 11) Facial and scalp massage;
- 12) Shaving and facial hair design;
- 13) Haircutting and styling;
- 14) Chemical texture services;
- 15) Hair coloring and lightening;
- 16) Barbershop management; and
- 17) Pertinent State and local laws and rules.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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SUBPART D: COSMETOLOGY

Section 1175.400 Examination – Cosmetology

- a) Eligibility.
 - 1) Each applicant must meet the requirements in either Section 3-2(1)(a), (b) and (c) or 3-3(a), (b) and (c) of the Act prior to filing an application for the Division authorized cosmetology examination.
 - 2) An applicant's training must be received from a school of cosmetology approved by the Division that meets the requirements set forth in Subpart E of this Part.
- b) Application. Each applicant shall file an application for examination, on forms provided by the Division, at least 45 days prior to an examination date. The application shall include:
 - 1) An official transcript showing successful completion of the required training outlined in Section 3-2(c) or 3-3(c) of the Act; official transcripts showing successful completion of remedial training when required by Section 1175.410(c) of this Part and a passing grade on the final examination administered by the school as set forth in Section 1175.540;
 - 2) A request, if desired, to take the written examination in the Spanish language;
 - 3) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on any documents submitted;
 - 4) If licensed as a cosmetologist in another state, a certification of licensure from the state of original licensure and from the state of current licensure or most recent practice; and
 - 5) ~~A complete work history since graduation from cosmetology school; and~~ ~~Ⓣ~~The required examination fee.

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(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.405 Examination – Cosmetology Teacher and Cosmetology Clinic Teacher

- a) Eligibility. Each applicant must meet the requirements in Section 3-4(a) and (b) of the Act prior to filing an application for the cosmetology teacher examination.
- b) Application. Each applicant shall file an application, on forms provided by the Division, at least 45 days prior to an examination date. The application shall include:
 - 1) Proof of any name change (i.e., marriage license, divorce decree, affidavit, or court order) if name is other than that shown on any document submitted;
 - 2) The required examination fee;
 - 3) For cosmetology teacher:
 - A) Either:
 - i) An official transcript from an approved school of cosmetology showing successful completion of a program of 500 hours of teacher training as outlined in Section 1175.535 of this Part and 2 employment verification forms showing at least 2 years of practical experience as a licensed cosmetologist; or
 - ii) An official transcript from an approved school of cosmetology (see Subpart E) showing successful completion of a program of 1000 hours of teacher training as outlined in Section 1175.535 of this Part; and
 - B) If licensed as a cosmetology teacher in another state, a certification of licensure from the state of original licensure and from the state of current licensure or most recent practice;
 - 4) For cosmetology clinic teacher:

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- A) an official transcript from an approved school of cosmetology showing successful completion of a program of 250 hours of clinic teacher training in a licensed school of cosmetology; or
- B) Proof that the teacher, within 5 years preceding the examination, has obtained a minimum of 2 years of practical experience working at least 30 full-time hours per week as a licensed cosmetologist and has completed an instructor's institute of 20 hours, as approved by the Division, prior to submitting an application for examination;
and
- 5) ~~A complete work history since obtaining a cosmetologist license from cosmetology school; and 6)~~ A copy of the applicant's current Illinois cosmetology license.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.415 Application for Licensure

- a) Each applicant shall submit to the Division:
 - 1) A signed and completed licensure application that the applicant will receive with the notification of successful completion of the examination;
 - 2) Proof of name change (i.e., marriage license, divorce decree, affidavit or court order) if different from that shown on pre-printed licensure application; and
 - 3) The required fee set forth in Section 1175.100.
- b) Any licensed nail technology teacher or licensed esthetics teacher shall not be required to take the examination set forth in Section 1175.405. An application shall be submitted to the Division that includes:
 - 1) A copy of his/her current nail technician teacher license or esthetics teacher license;
 - 2) A copy of his/her nail technician license or esthetics license;

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3) ~~A complete work history since obtaining a nail technology teacher license or esthetics teacher license;~~ 4) Either:

A) Proof of two years experience as an esthetician or nail technician;
or

B) An official transcript verifying completion of 500 hours of post-graduate school training that includes all subjects in the basic cosmetology curriculum in Section 1175.535, including theory and practice. Presentation of material must include the concepts that are intended to be taught and the skills to be acquired during the various phases of basic education; and

~~4)5)~~ The required fee set forth in Section 1175.100.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.420 Endorsement

- a) An applicant who is currently licensed as a cosmetologist in another jurisdiction and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, that shall include:
- 1) A certification from the state of original licensure stating:
 - A) A brief description of any licensure examination taken and the grades received; and
 - B) Whether the applicant's file contains any record of disciplinary actions taken or pending;
 - 2) Official transcripts from the schools attended by the applicant showing the programs completed and the hours received with the school seal affixed or a verification from the licensing authority of the number of hours required for licensure at the time the applicant was originally licensed;
 - 3) Certification of current licensure if other than original licensure;

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- 4) Two completed Verification of Employment forms showing at least 3 years of lawful practice in another jurisdiction if:
 - A) The jurisdiction of original licensure does not require a licensing examination or has not provided an examination score; or
 - B) The applicant is applying under Section 3-8 of the Act;
 - 5) ~~A complete work history showing all employment since graduation from cosmetology school to present;~~ 6) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on submitted documents;
 - ~~6)7~~ The required fee set forth in Section 1175.100; and
 - ~~7)8~~ A copy of the licensing Act applicable on the date of original licensure showing the requirements for licensure if requested by the Division in the application review. The Division will make such a request if the application materials are incomplete.
- b) An applicant who is currently licensed as a cosmetology teacher or cosmetology clinic teacher in another jurisdiction and who is seeking licensure as a cosmetology teacher or cosmetology clinic teacher in Illinois by endorsement shall file an application, on forms provided by the Division, which shall include:
- 1) A certification from the state of original licensure stating:
 - A) A brief description of any licensure examination taken and the grades received; and
 - B) Whether the applicant's file contains any record of disciplinary action taken or pending;
 - 2) Official transcripts from the schools attended by the applicant showing the programs completed and the hours received with the school seal affixed or a verification from the licensing authority of the number of hours required for licensure at the time the applicant was originally licensed;

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- 3) Certification of current licensure if other than original licensure;
 - 4) One of the Following~~Either~~:
 - A) Two Verification of Employment forms submitted by an applicant who completed a program of at least 500 hours of teacher training. A cosmetology teacher applicant shall verify 2 years of lawful practice as a cosmetologist; or
 - B) Two Verification of Employment forms submitted by an applicant who completed a program of at least 250 hours of clinic teacher training. A cosmetology clinic teacher applicant shall verify 2 years of lawful practice as a cosmetologist; or
 - C) Two completed Verification of Employment forms showing at least 3 years of lawful practice as a cosmetology teacher or cosmetology clinic teacher submitted by an applicant who is applying as a cosmetology teacher or cosmetology clinic teacher on the basis of 3 years of lawful practice;
 - 5) ~~A complete work history showing all employment since graduation from basic cosmetology school to present;~~ 6) Proof of name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on any of the documents submitted;
 - 6)7) The required fee set forth in Section 1175.100; and
 - 7)8) A copy of the licensing Act applicable on the date of original licensure showing the requirements for licensure if requested by the Division in the application review. The Division will make such a request if the application materials are incomplete.
- c) An applicant for licensure as a cosmetologist who is licensed in another jurisdiction shall be given 300 hours of educational credit for every 12 month period during which he/she was lawfully employed as a cosmetologist. To obtain credit for work experience, the applicant must submit verification of employment on forms provided by the Division in support of the work experience. A certification of licensure from the jurisdiction in which the lawful practice is claimed must also be submitted.

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- d) An applicant applying for licensure as a cosmetologist or cosmetology teacher or cosmetology clinic teacher on the basis of endorsement who has previously failed the licensing examination in Illinois shall not be approved for licensure on the basis of endorsement unless and until he/she provides verification of successful completion of a substantially equivalent licensure examination and fulfills the requirements set forth in Section 1175.410(c). The successful completion of the substantially equivalent examination and fulfillment of applicable requalification requirements must occur after the most recently failed examination attempt in Illinois.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.430 Restoration – Cosmetology

- a) Application for Restoration
- 1) A person applying for restoration of a license as a cosmetologist that has expired or been on inactive status for less than 5 years shall submit an application on forms provided by the Division and:
 - A) Pay the required fee set forth in Section 1175.100; and
 - B) Provide evidence of successful completion of 14 hours of continuing education earned within the 2 years immediately preceding the restoration.
 - 2) If restoring after active military service, the applicant shall submit a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.
- b) A person applying for restoration of a license as a cosmetologist that has been expired or been on inactive status for 5 years or more shall submit an application on forms provided by the Division along with either:
- 1) All of the following:
 - A) Verification of employment as a cosmetologist in another jurisdiction within the 5 years preceding application for

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restoration;

- B) Certification of licensure from the licensing authority in the jurisdiction of employment stating that said practice was authorized;
- C) ~~A complete work history showing all employment since the Illinois license lapsed or was placed on inactive status;~~ D) A completed Restoration Questionnaire;
- ~~D)~~E) Evidence of successful completion of 14 hours of continuing education earned within the 2 years immediately preceding restoration if restoring a cosmetology license; and
- ~~E)~~F) The required fee set forth in Section 1175.100; or

2) A copy of the applicant's DD-214 form and the current renewal fee, if restoring from active military service.

- c) An applicant for restoration who has not maintained a practice in another jurisdiction shall also submit official transcripts showing successful completion of a 250 hour refresher course from a licensed cosmetology or barber school or passage of the examination set forth in Section 1175.410 within 2 years prior to or within 2 years after application for restoration. A cosmetology applicant who completes this refresher course or takes the examination shall not be required to complete 14 hours of continuing education.
- d) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the examination.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.435 Restoration – Cosmetology Teacher

- a) A person applying for restoration of a certificate as a licensed cosmetology teacher or cosmetology clinic teacher that has been expired or been on inactive status for less than 5 years shall file an application, on forms provided by the Division. An applicant shall also submit proof of 24 hours of continuing education in accordance with Section 1175.1200 earned within the 2 years

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preceding the restoration and the required fee set forth in Section 1175.100. If restoring after active military service, an applicant shall submit a copy of his/her DD-214 and the current renewal fee.

- b) A person applying for restoration of a license as a cosmetology teacher or cosmetology clinic teacher that has been expired for 5 years or more shall submit an application on forms provided by the Division, along with either:
- 1) All of the following:
 - A) Verification of employment as a cosmetology teacher or cosmetology clinic teacher in another jurisdiction within the 5 years preceding application for restoration;
 - B) Certification of licensure from the licensing authority in the jurisdiction of employment;
 - C) Evidence of successful completion of 24 hours of continuing education earned within the 2 years immediately preceding the restoration;
 - D) ~~A complete work history showing all employment since the Illinois teacher license lapsed;~~ ~~E)~~ A completed Restoration Questionnaire~~restoration questionnaire~~; and
 - ~~E)~~ F) The required fee set forth in Section 1175.100; or
 - 2) If restoring after active military service, a copy of the applicant's DD-214 form and the current renewal fee.
- c) An applicant for restoration of a cosmetology teacher license who has not maintained an active teaching practice in another jurisdiction shall submit official transcripts showing successful completion of a 250 hour cosmetology teacher refresher course or passage of the examination set forth in Section 1175.410 within 2 years prior to or within 2 years after application for restoration of a license. Those who successfully complete a 250 hour refresher course or take the examination shall not be required to complete continuing education before restoring a license.

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- d) An applicant for restoration of a cosmetology clinic teacher license who has not maintained an active teaching practice in another jurisdiction shall submit official transcripts showing successful completion of a 60 hour cosmetology teacher refresher course or passage of the examination set forth in Section 1175.410 within 2 years prior to or within 2 years after application for restoration of a license. Those who successfully complete a 60 hour refresher course or take the examination shall not be required to complete continuing education before restoring a license.
- e) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the examination.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART E: COSMETOLOGY SCHOOLS

Section 1175.500 School Approval Application

- a) An applicant for a cosmetology school license shall submit a completed application to the Division with the following information and documentation:
- 1) A detailed floor plan consistent with the requirements of Section 1175.505 of this Part;
 - 2) A copy of a lease showing at least a 1 year commitment to the use of the school site or certification of ownership of the proposed school site;
 - 3) If owner is a corporation, a copy of the Articles of Incorporation;
 - 4) If owner is a partnership, a listing of all partners and their current addresses;
 - 5) A signed fire inspection report from the local fire inspection authority within 6 months prior to filing an application giving approval for use of the site as a school;
 - 6) A financial statement prepared by a public accountant licensed by the Division pursuant to the Illinois Public Accounting Act who is not an employee of the school, indicating sufficient current finances exist to

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operate the school for at least 3 months;

- 7) A copy of the official student contract to be used by the school, which shall be consistent with the requirements of Section 1175.510 of this Part;
 - 8) A listing of all teachers, including their teacher license numbers, who will be in the school's employ;
 - 9) A copy of the curricula that will be followed;
 - 10) A copy of the school's official transcript; and
 - 11) The required fee set forth in Section [1175.1004-1.5\(d\) of the Act](#).
- b) New schools that wish to offer nail technology and/or esthetics in addition to cosmetology shall comply with Section 1175.805 and 1175.1105.
 - c) When the above items have been received, the Division shall inspect the school premises, prior to school approval, to determine compliance with this Subpart. School operations shall not commence nor shall the school in any way solicit student enrollment, until the school has received written notice of approval from the Division. Approval will be granted if all of the requirements of Subpart E have been met.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.510 Enrollment Agreements and Refund Policies

- a) All licensed cosmetology schools shall have enrollment agreements that meet the requirements of Section 3B-12 of the Act.
- b) All licensed cosmetology schools shall implement refund policies pursuant to Section 3B-13 of the Act and this Part.
 - 1) [When notice of cancellation is given within 5 days after the date of enrollment, all application and registration fees, tuition, and any other charges shall be refunded to the student.](#)
 - 2) *When notice of cancellation is given after the fifth day following*

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enrollment but before the completion of the student's first day of class attendance, the school may retain ~~no more than~~ the application and registration fee, not to exceed \$100 and plus the cost of any books or materials ~~that~~which have been provided by the school and retained by the student (Section 3B-13(b) of the Act). ~~The cost of books, for purposes of refunds, is the cost of the books charged to the student, not the cost of the books to the school.~~

- 3) When notice of cancellation is given after the student's completion of the first day of class attendance but prior to the student's completion of 5% of the course of instruction, the school may retain the application and registration fee, not to exceed \$100, 10% of the tuition, other instructional charges or \$300, whichever is less, and the cost of any books or materials that have been provided by the school and retained by the student.
- 4) When a student has completed 5% or more of the course of instruction, the school may retain the application fee and registration fee, not to exceed \$100 and the cost of any books or materials provided by the school, but shall refund a part of the tuition and other instructional charges in accordance with the requirements of the school's regional or national accrediting agency, if any, or in accordance with subsection (c) of this Section.

~~c)2)~~ For students who enroll in and begin classes, the following schedule of tuition adjustment will be considered to meet the Division standards for refunds shall be made in the following manner:

<u>PERCENTAGE OF TIME TO TOTAL TIME OF COURSE COMPLETED</u>	<u>AMOUNT OF TOTAL TUITION OWED TO THE SCHOOL</u>
0.01% to 4.9%	10%
5% to 9.9%	30%
10% to 14.9%	40%
15% to 24.9%	45%
25% to 49.9%	70%
50% and over	100%

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(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART G: ESTHETICS

Section 1175.700 Examination – Esthetics

- a) Eligibility. Each applicant must meet the following requirements:
- 1) Be at least 16 years of age.
 - 2) Pursuant to Section 3A-2 of the Act:
 - A) Be a high school graduate or its equivalent or be beyond the age of compulsory school attendance; and
 - B) Graduate from an esthetics or cosmetology school approved by the Division to teach esthetics in accordance with Subpart H of this Part, which includes a 750 hour program in the study of esthetics extending over a period of not less than 18 weeks nor more than 4 consecutive years.
- b) Application. Each applicant shall file an application for examination, on forms provided by the Division, at least 45 days prior to an examination date. The application shall include:
- 1) An official transcript showing successful completion of the required training outlined in subsection (a) and a passing grade on the final examination administered by the school as set forth in Section 1175.845; or official transcripts showing successful completion of remedial training (125 hour refresher course) when required by Section 3A-2 of the Act;
 - 2) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if different than shown on the supporting documents;
 - 3) If licensed as an esthetician or holding a related license in another state, a certification of licensure from the state of original licensure and from the state of current licensure or most recent practice; [and](#)

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- 4) ~~A complete work history since graduation from an esthetics school or a cosmetology school approved to teach esthetics; and 5)~~ The required fee set forth in Section 1175.100.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.705 Examination – Esthetics Teacher and Esthetics Clinic Teacher

- a) Eligibility. Each applicant must meet the following requirements pursuant to Section 3A-3 of the Act prior to filing an application for the esthetics teacher examination.
- 1) Be at least 18 years of age;
 - 2) Be a high school graduate or its equivalent;
 - 3) Hold a current license as a cosmetologist or esthetician;
 - 4) For esthetics teacher:
 - A) Complete a program of 500 hours of teacher training in an approved cosmetology or esthetics school and 2 years of experience as a licensed cosmetologist or esthetician within 5 years preceding application; or
 - B) Complete a program of 750 hours of teacher training in a licensed cosmetology school approved to teach esthetics or in an esthetics school; and
 - 5) For esthetics clinic teacher: An official transcript from an approved school of esthetics or cosmetology showing successful completion of a program of 250 hours of clinic teacher training as outlined in Section 1175.536 or 1175.841 of this Part and 2 employment verification forms showing at least 2 years of practical experience as a licensed cosmetologist within 5 years prior to application.
- b) Application. Each applicant shall file an application, on forms provided by the Division, at least 45 days prior to an examination date. The application shall include:

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- 1) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if different than shown on supporting documents;
- 2) The required fee set forth in Section 1175.100;
- 3) For an esthetics teacher:
 - A) An official transcript from an approved school of esthetics or cosmetology showing successful completion of a 500 hour program of teacher training as outlined in Section 1175.535 or 1175.840 of this Part and 2 employment verification forms showing at least 2 years of the last 5 years preceding the examination of practical experience as a licensed esthetician or cosmetologist; or
 - B) An official transcript from an approved school of esthetics or cosmetology showing completion of a program of 750 hours of teacher training as outlined in Section 1175.535 or 1175.840 of this Part;
- 4) For an esthetics clinic teacher:
 - A) An official transcript from an approved school of esthetics or cosmetology showing successful completion of a program of 250 hours of clinic teacher training; or
 - B) Proof that the teacher, within 5 years preceding the examination, has obtained a minimum of 2 years of practical experience working at least 30 full time hours per week as a licensed esthetician and has completed an instructor's institute of 20 hours, approved by the Division, prior to submitting an application for examination;
- 5) ~~A complete work history since graduation from an esthetics or cosmetology school;~~ 6) A copy of the applicant's current Illinois esthetician or cosmetology license;
- 6) For any person who holds a cosmetologist's license, a certificate of competency in the use of machines (steamer, disencrustation machine,

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etc.) utilized in the practice of esthetics. ~~TheSuch~~ certificate shall be from the school of cosmetology or esthetics or the manufacturer of ~~such~~ machines used in esthetics; and

~~7)8)~~ If licensed in another state, a certification of licensure from the state of original licensure and from the state of current licensure or most recent practice.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.715 Application for Licensure

- a) Applicants for licensure based on examination shall submit to the Division:
- 1) A signed and completed licensure application ~~thatwhich~~ the applicant will receive with the notification of successful completion of the examination;
 - 2) Proof of name change (i.e., marriage license, divorce decree, affidavit or court order) if different from that shown on pre-printed licensure application; and
 - 3) The required fee set forth in Section 1175.100.
- b) Cosmetology teachers licensed in Illinois who are applying for an esthetics teacher's license will not be required to take the examination set forth in Section 1175.705. An application shall be submitted to the Division that includes:
- 1) A copy of the applicant's current cosmetology teacher license;
 - 2) ~~A complete work history since completion of teacher training;~~ 3) A certificate of competency in the use of machines (steamer, disencrustation machine, etc.) utilized in the practice of esthetics. ~~TheSuch~~ certificate shall be from the school of cosmetology or esthetics or the manufacturer of ~~such~~-machines used in esthetics; and
 - 3)4) The required fee set forth in Section 1175.100.
- c) A licensed cosmetology teacher who will be teaching esthetics in an approved esthetics school or in a cosmetology school approved to teach esthetics, however,

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will be required to submit a written request to the Division notifying it of his/her intent to teach esthetics.

- 1) The written request shall be accompanied by:
 - A) A copy of his/her cosmetology teacher license; and
 - B) A certificate of competency in the use of machines (steamer, disencrustation machine, etc.) utilized in the practice of esthetics. ~~The~~~~Such~~ certificate shall be from the school of cosmetology or esthetics or the manufacturer of ~~such~~ machines used in esthetics.
- 2) The Division shall issue a letter of authority to the individual that he/she is approved to teach esthetics in Illinois.
- d) Nothing in this Part requires a licensed cosmetologist to obtain a license to practice esthetics or a licensed cosmetology teacher to obtain a license to practice or to teach esthetics.
- e) Nail technology teachers licensed in Illinois who are applying for an esthetics teacher's license will not be required to take the examination set forth in Section 1175.710. An application shall be submitted to the Division that includes:
 - 1) A copy of his/her current nail technology teacher license;
 - 2) A copy of his/her esthetics license;
 - 3) ~~A complete work history since obtaining a nail technology teacher license;~~~~4)Either:~~
 - A) Proof of two years experience as an esthetician; or
 - B) An official transcript verifying completion of 250 hours of Post-Graduate School Training that includes all subjects in the basic esthetics curriculum in Section 1175.835, including theory and practice. Presentation of material must include the concepts that are intended to be taught and the skills to be acquired during the various phases of basic education; and

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~~4)5)~~ The required fee set forth in Section 1175.100.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.720 Endorsement

a) An applicant who is currently licensed as an esthetician in another jurisdiction and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, which shall include:

- 1) A certification from the jurisdiction of original licensure stating:
 - A) A brief description of any licensure examination taken and the grades received; and
 - B) Whether the applicant's file contains any record of disciplinary actions taken or pending;
- 2) Official transcripts from the schools attended by the applicant showing the programs completed and the hours received with the school seal affixed;
- 3) Certification of current licensure if other than original licensure;
- 4) ~~A complete work history showing all employment since graduation from esthetics school to present;~~ ~~5)~~ Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on attached documents;
- ~~5)6)~~ The required fee set forth in Section 1175.100; and
- ~~6)7)~~ A copy of the licensing Act applicable on the date of original licensure showing the requirements for licensure if requested by the Division in the application review. The Division will make such a request if the application materials are incomplete.

b) An applicant who is currently licensed as an esthetics teacher or esthetics clinic teacher in another jurisdiction and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, that

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shall include:

- 1) A certification from the jurisdiction of original licensure stating:
 - A) A brief description of any licensure examination taken and the grades received; and
 - B) Whether the applicant's file contains any record of disciplinary action taken or pending;
- 2) Official transcripts from the schools attended by the applicant showing the programs completed and the hours received with the school seal affixed;
- 3) Certification of current licensure if other than original licensure;
- 4) One of the Following ~~Either~~:
 - A) Two Verification of Employment forms submitted by an applicant who completed a program of at least 500 hours of teacher training. An esthetics teacher applicant shall submit verification of 2 years of lawful practice as an esthetician; or
 - B) Two Verification of Employment forms submitted by an applicant who completed a program of at least 250 hours of clinic teacher training. An esthetics clinic teacher applicant shall submit verification of 2 years of lawful practice as an esthetician; or
 - C) Two Verification of Employment forms indicating 3 years of lawful practice in another jurisdiction submitted by an applicant who is applying as an esthetics teacher or esthetics clinic teacher on the basis of 3 years of lawful practice;
- 5) ~~A complete work history showing all employment since graduation from basic esthetics school to present;~~ 6) Proof of name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on any of the documents submitted;
- 6) The required fee set forth in Section 1175.100; and

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- ~~7)8)~~ A copy of the licensing Act applicable on the date of original licensure showing the requirements for licensure if requested by the Division in the application review. The Division will make such a request if the application materials are incomplete.
- c) An applicant for licensure as an esthetician who is licensed in another jurisdiction shall be given 300 hours of educational credit for every 12 month period during which he/she was lawfully employed as an esthetician. To obtain credit for work experience, the applicant must submit verification of employment in support of the work experience on forms provided by the Division. A certification of licensure from the jurisdiction in which the lawful practice is claimed must also be submitted.
- d) An applicant applying for licensure as an esthetician, esthetics teacher or esthetics clinic teacher on the basis of endorsement who has previously failed the licensing examination in Illinois shall not be approved for licensure on the basis of endorsement unless and until he/she provides verification of successful completion of a substantially equivalent licensure examination and fulfills the requirements set forth in Section 1175.710(c). The successful completion of the substantially equivalent examination and fulfillment of applicable requalification requirements must occur after the most recently failed examination attempt in Illinois.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.730 Restoration – Esthetics

- a) A person applying for restoration of a license as an esthetician that has been expired for less than 5 years shall submit an application on forms provided by the Division and either:
- 1) All of the following:
 - A) pay the required fee; and
 - B) provide evidence of successful completion of 10 hours of continuing education in accordance with Section 1175.1200 of this Part; earned within the 2 years immediately preceding the

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restoration.

- 2) If restoring after active military service, a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.
- b) A person applying for restoration of a license as an esthetician that has been expired for 5 years or more shall submit an application on forms provided by the Division along with either:
- 1) All of the following:
 - A) Verification of employment attesting to lawful practice in another jurisdiction within the 5 years preceding application for restoration;
 - B) Certification from the appropriate licensing authority in the jurisdiction in which lawful practice is claimed;
 - C) ~~A complete work history showing all employment since the Illinois license lapsed or was placed on inactive status;~~ D) A completed Restoration Questionnaire;
 - ~~D)~~E) Evidence of successful completion of 10 hours of continuing education earned within the 2 years immediately preceding restoration; and
 - ~~E)~~F) The required fee set forth in Section 1175.100; or
 - 2) If restoring from active military service, a copy of the applicant's DD-214 and the current renewal fee.
- c) An applicant for restoration who has not maintained a lawful practice (as determined by the laws of that jurisdiction) in another jurisdiction shall also submit official transcripts showing successful completion of a 125 hour esthetics refresher course from an approved cosmetology or esthetics school or pass the esthetics licensure examination pursuant to Section 1175.710 within 2 years prior to or within 2 years after application for restoration. An applicant who completes this refresher course or takes the examination shall not also be required to complete 10 hours of continuing education.

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- d) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the examination.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.735 Restoration – Esthetics Teacher

- a) A person applying for restoration of a license as an esthetics teacher or esthetics clinic teacher that has been expired or been on inactive status for less than 5 years shall submit an application on forms provided by the Division. An applicant shall also submit evidence of successful completion of 20 hours of continuing education in accordance with Section 1175.1210 earned within the 2 years immediately preceding the restoration and the required fee set forth in Section 1175.100. If restoring after active military service, an applicant shall submit a copy of the applicant's Honorable Discharge form (DD-214) and the current renewal fee.
- b) A person applying for restoration of a certificate as an esthetics teacher or esthetics clinic teacher that has been expired for 5 years or more shall submit an application on forms provided by the Division, along with either:
- 1) All of the following:
 - A) Verification of employment as an esthetics teacher or esthetics clinic teacher in another jurisdiction within the 5 years preceding application for restoration;
 - B) A certification from the appropriate licensing authority in the jurisdiction in which lawful practice is claimed;
 - C) Evidence of successful completion of 20 hours of continuing education earned within 2 years immediately preceding restoration;
 - D) ~~A complete work history showing all employment since the Illinois esthetics teacher or esthetics clinic teacher license lapsed;~~ ~~E) A completed Restoration Questionnaire~~ ~~restoration questionnaire~~; and
 - ~~E) F) The required fee set forth in Section 1175.100; or~~

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- 2) If restoring after active military service, a copy of the applicant's DD-214 form and the current renewal fee.
- c) An applicant for restoration of an esthetics teacher license who has not maintained a lawful esthetics teaching practice (as determined by the laws of that jurisdiction) in another jurisdiction shall submit official transcripts showing successful completion of a 125 hour teacher refresher course from an approved esthetics or cosmetology school or pass the esthetics teacher examination in accordance with Section 1175.710 within 2 years prior to application for restoration. An applicant who completes this refresher course shall not also be required to complete 20 hours of continuing education.
- d) An applicant for restoration of an esthetics clinic teacher license who has not maintained an active teaching practice in another jurisdiction shall submit official transcripts showing successful completion of a 60 hour teacher refresher course or passage of the examination set forth in Section 1175.710 within 2 years prior to or within 2 years after application for restoration of a license. Those who successfully complete a 60 hour refresher course or take the examination shall not be required to complete continuing education before restoring a license.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART H: ESTHETICS SCHOOLS

Section 1175.805 Cosmetology Schools Approved to Teach Esthetics

- a) Existing cosmetology schools that wish to provide esthetics instruction shall:
 - 1) provide 200 square feet of space to accommodate 5 work stations and a maximum of 10 students. If attendance exceeds 10 on the clinic floor at any time, an additional 40 square feet is required for each additional work station required by subsection (a)(4)(B) of this Section. The use of this space shall not reduce the square footage for the conduct of an ~~approved~~ approval cosmetology school below the minimum requirements set forth in this Part.
 - 2) File an application with the Division, on forms provided by the Division, which shall include:

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- A) A detailed floor plan;
 - B) A signed copy of fire inspection report from the local fire authority within 6 months prior to application giving approval for use of the site as a school;
 - C) A financial statement prepared by a public accountant licensed by the Division pursuant to the Illinois Public Accounting Act who is not an employee of the school, indicating sufficient current finances exist to operate the school for at least 3 months;
 - D) A copy of the enrollment agreement to be used by the school;
 - E) A copy of the esthetics curriculum;
 - F) A listing of all esthetics and cosmetology teachers, including their teacher license numbers, who will be in the school's employ;
 - G) A copy of the school's official transcript; and
 - H) The required fee set forth in Section 1175.100.
- 3) When the items listed in subsection (a)(2) have been received, the Division shall inspect the school premises, prior to school approval, to determine compliance.
- 4) In addition, the school shall have the following:
- A) At least one facial chair for every 2 students enrolled.
 - B) At least one work station or position for every 2 students.
 - C) Every work station shall have 1 set of facial equipment to include manual, mechanical, or electrical apparatus as follows:
 - i) Steamer
 - ii) Brushing

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- iii) Vacuum/spray machine
 - iv) Glass electrode or high frequency current
 - v) Disencrustation machine
 - vi) One magnification lamp
 - vii) Woods lamp.
- D) Provide an esthetics curriculum in accordance with Sections 1175.835 and 1175.840.
- b) Cosmetology schools approved to teach esthetics shall be required to comply with all provisions in this Part except for Section 1175.810(a) and (b).

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.815 Enrollment Agreements and Refund Policy

- a) All licensed esthetics schools shall have enrollment agreements that meet the requirements of Section 3B-12 of the Act.
- b) All licensed esthetics schools shall implement refund policies pursuant to Section 3B-13 of the Act and this Part.
 - 1) When notice of cancellation is given within 5 days after the date of enrollment, all application and registration fees, tuition, and any other charges shall be refunded to the student.
 - 2) *When notice of cancellation is given after the fifth day following enrollment but before the completion of the student's first day of class attendance, the school may retain ~~no more than~~ the application and registration fee, not to exceed \$100 and plus the cost of any books or materials that have been provided by the school and retained by the student (Section 3B-13(b) ~~of the Act~~). ~~The cost of books for purposes of refunds is the cost of the books charged to the student, not the cost of the books to the school.~~*

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- 3) When notice of cancellation is given after the student's completion of the first day of class attendance but prior to the student's completion of 5% of the course of instruction, the school may retain the application and registration fee, not to exceed \$100, 10% of the tuition, other instructional charges or \$300, whichever is less, and the cost of any books or materials that have been provided by the school and retained by the student.
- 4) When a student has completed 5% or more of the course of instruction, the school may retain the application fee and registration fee, not to exceed \$100 and the cost of any books or materials provided by the school, but shall refund a part of the tuition and other instructional charges in accordance with the requirements of the school's regional or national accrediting agency, if any, or in accordance with subsection (c) of this Section.

~~c)2)~~ For students who enroll in and begin classes, the following schedule of tuition adjustment will be considered to meet the Division standards for refunds~~shall be made in the following manner:~~

<u>PERCENTAGE OF TIME TO TOTAL TIME OF COURSE COMPLETED</u>	<u>AMOUNT OF TOTAL TUITION OWED TO THE SCHOOL</u>
0.01% to 4.9%	10%
5% to 9.9%	30%
10% to 14.9%	40%
15% to 24.9%	45%
25% to 49.9%	70%
50% and over	100%

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART J: NAIL TECHNOLOGY

Section 1175.1001 Examination – Nail Technician

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- a) Eligibility. Each applicant must meet the following requirements:
- 1) Is at least 16 years of age.
 - 2) Pursuant to Section 3C-2 of the Act:
 - A) Is beyond the age of compulsory school attendance or has a certificate of graduation from a school providing secondary education or the recognized equivalent of that certificate; and
 - B) Is a graduate of a cosmetology or nail technology school approved by the Division to teach nail technology in accordance with Subpart K of this Part, that includes a program of 350 hours in the study of nail technology extending over a period of not less than 8 weeks nor more than 2 consecutive years.
- b) Application. Each applicant shall file an application for examination, on forms provided by the Division, at least 45 days prior to an examination date. The application shall include:
- 1) An official transcript showing successful completion of the required program outlined in subsection (a)(2)(B) and a passing grade on the final examination administered by the school as set forth in Section 1175.1145; or, for those retaking the Division examination after 2 unsuccessful attempts, official transcripts showing successful completion of remedial training (60 hour refresher course) as required by Section 3C-7 of the Act;
 - 2) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if a different name appears on supporting documents; [and](#)
 - 3) ~~A complete work history since graduation from a nail technology school or a cosmetology school approved to teach nail technology;~~ and 4) The required fee set forth in Section 1175.100 of this Part.
- c) An applicant who has graduated from a nail technology program in another jurisdiction with less than 350 hours may only acquire a maximum of 50 hours of nail technology training from a licensed Illinois cosmetology school or nail technology school.

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(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.1005 Examination – Nail Technology Teacher or Nail Technology Clinic Teacher

- a) Eligibility. Each applicant must meet the following requirements pursuant to Section 3C-3 of the Act prior to filing an application for the nail technology teacher examination:
- 1) Be at least 18 years of age;
 - 2) Have graduated from high school or its equivalent;
 - 3) Hold a current license as a cosmetologist or nail technician;
 - 4) For nail technology teacher, either:
 - A) Have completed a 500 hour program of teacher training in an approved cosmetology or nail technology school and have at least 2 years of full time experience as a practicing nail technician; or
 - B) Have completed a 625 hour program of teacher training in a school of cosmetology approved in accordance with Section 1175.1105 or school of nail technology approved in accordance with Section 1175.1100; and
 - 5) For nail technology clinic teacher, have completed a 250 hour program of clinic teacher training in an approved cosmetology or nail technology school or within 5 years preceding the examination, has obtained a minimum of 2 years of practical experience working at least 30 full time hours per week as a licensed nail technician and has completed an instructor's institute of 20 hours, as approved by the Division, prior to submitting an application for examination.
- b) Application. Each applicant shall file an application, on forms provided by the Division, at least 45 days prior to the examination date. The application shall include:

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- 1) Proof of any name change (i.e., marriage license, divorce decree, affidavit or court order) if a different name appears on supporting documents;
- 2) The required fee set forth in Section 1175.100;
- 3) For nail technology teacher, either:
 - A) An official transcript from an approved school of nail technology or cosmetology showing successful completion of a 500 hour program of teacher training as outlined in Section 1175.535 or 1175.1140 of this Part and 2 employment verification forms showing at least 2 years of full-time experience as a practicing nail technician; or
 - B) An official transcript from an approved school of nail technology or cosmetology, showing successful completion of a 625 hour program of teacher training as outlined in Section 1175.535 or 1175.1140 of this Part;
- 4) For nail technology clinic teacher:
 - A) An official transcript from an approved school of nail technology or cosmetology showing successful completion of a program of 250 hours of clinic teacher training; or
 - B) Proof that the teacher, within 5 years preceding the examination, has obtained a minimum of 2 years of practical experience working at least 30 full time hours per week as a licensed nail technician and has completed an instructor's institute of 20 hours, approved by the Division, prior to submitting an application for examination.
- 5) ~~A complete work history since graduation from a nail technology or cosmetology school;~~ ~~6)~~ A copy of the applicant's current Illinois nail technology or cosmetology license; and
- ~~6)7)~~ If the applicant is licensed in another state, a certification of licensure from the state of original licensure and from the state in which the applicant predominantly practices and is currently licensed.

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(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.1015 Application for Licensure

- a) Applicants for licensure based on successful completion of the examination shall submit to the Division:
- 1) A completed and signed licensure application that the applicant will receive with the notification of successful completion of the examination;
 - 2) Proof of name change (i.e., marriage license, divorce decree, affidavit or court order) if different from that shown on pre-printed licensure application; and
 - 3) The required fee as set forth in Section 1175.100.
- b) Any cosmetology teacher licensed in Illinois who is applying for a nail technology teacher's license shall not be required to take the examination set forth in Section 1175.1005. An application shall be submitted to the Division that includes:
- 1) A copy of his/her current cosmetology and cosmetology teacher license; and
 - 2) ~~A complete work history since completion of teacher training; and 3)~~ The required fee set forth in Section 1175.100.
- c) Nothing in this Part requires a licensed cosmetologist or licensed cosmetology teacher to obtain a license to practice or to teach nail technology.
- d) Esthetics teachers licensed in Illinois who are applying for a nail technician teacher's license will not be required to take the examination set forth in Section 1175.1010. An application shall be submitted to the Division that includes:
- 1) A copy of his/her current esthetics teacher license;
 - 2) A copy of his/her current nail technician license;
 - 3) ~~A complete work history since completion of esthetics teacher training;~~

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4)Either:

- A) Proof of two years experience as a nail technician; or
- B) An official transcript verifying completion of 250 Post-Graduate School Training that includes all subjects in the basic esthetics curriculum in Section 1175.1140, including theory and practice. Presentation of material must include the concepts that are intended to be taught and the skills to be acquired during the various phases of basic education; ~~and-~~

~~4)5)~~ The required fee set forth in Section 1175.100.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.1020 Endorsement

a) Nail Technician

- 1) An applicant currently licensed as a nail technician in another jurisdiction and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, that shall include:
 - A) A certification from the jurisdiction of original licensure stating:
 - i) A brief description of any licensure examination taken and the scores received; and
 - ii) Whether the applicant's file contains any record of disciplinary actions taken or pending;
 - B) Official transcripts from the school attended by the applicant showing the program completed and the hours received with the school seal affixed;
 - C) Certification of current licensure if other than original licensure;
 - D) ~~A complete work history showing all employment since graduation from nail technology school to present;~~ E) Proof of any name

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change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on attached documents;

~~E)F)~~ The required fee set forth in Section 1175.100; and

~~F)G)~~ Successful completion of the Illinois Nail Technician Licensure Examination.

2) An applicant who has graduated from a nail technology program in another jurisdiction with less than 350 hours may only acquire a maximum of 50 hours of nail technology training from a licensed Illinois cosmetology or nail technology school.

3) If the nail technology school from which the applicant graduated has closed, verification of education hours must come from the original state of licensure.

b) An applicant currently licensed as a nail technology teacher or nail technology clinic teacher in another jurisdiction and who is seeking licensure in Illinois by endorsement shall file an application, on forms provided by the Division, that shall include:

1) A certification from the jurisdiction of original licensure stating:

A) A brief description of any licensure examination taken and the scores received; and

B) Whether the applicant's file contains any record of disciplinary action taken or pending;

2) Official transcripts from the school attended by the applicant showing the program completed and the hours received with the school seal affixed;

3) Certification of current licensure if other than original licensure;

4) One of the ~~Following~~following:

A) Two Verification of Employment forms submitted by the applicant who completed at least a 500 hour program of teacher training. A

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nail technology teacher applicant shall submit verification of 2 years of lawful practice as a nail technician or cosmetologist; or

- B) Two Verification of Employment forms shall be submitted by the applicant who completed at least a 250 hour program of clinic teacher training. A nail technology clinic teacher applicant shall submit verification of 2 years of lawful practice as a nail technician or cosmetologist; or
- C) Two Verification of Employment forms shall be submitted by the applicant for a nail technology teacher or nail technology clinic teacher license who is applying on the basis of 3 years of lawful practice as a nail technology teacher in another jurisdiction;

5) ~~A complete work history showing all employment since graduation from basic nail technology school to present;~~ 6) Proof of name change (i.e., marriage license, divorce decree, affidavit or court order) if name is other than that shown on any of the documents submitted;

~~6)7~~ The required fee set forth in Section 1175.100; and

~~7)8~~ Successful completion of the Illinois Nail Technician Teacher Licensure Examination.

- c) An applicant for licensure as a nail technician who is licensed in another jurisdiction shall be given 75 hours of educational credit for every 12 month period during which he/she was lawfully employed as a nail technician. To obtain credit for work experience, the applicant shall submit verification of employment in support of the work experience on forms provided by the Division. A certification of licensure from the jurisdiction in which the lawful practice is claimed must also be submitted.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1175.1030 Restoration – Nail Technician

- a) A person applying for restoration of a nail technician license that has been expired or placed on inactive status for less than 5 years shall submit an application on forms provided by the Division and:

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- 1) Pay the required fee as set forth in Section 1175.100; and
 - 2) Provide evidence of successful completion of 10 hours of continuing education in accordance with Section 1175.1200(c).
- b) A person applying for restoration of a nail technician license that has been expired or placed on inactive status for 5 years or more shall submit an application on forms provided by the Division along with:
- 1) Verification of employment, attesting to lawful practice in another jurisdiction within the 5 years preceding application for restoration;
 - 2) Certification from the appropriate licensing authority in the jurisdiction in which lawful practice is claimed. An applicant for restoration who has not maintained lawful practice (as determined by the laws of that jurisdiction) in another jurisdiction shall also submit official transcripts showing successful completion of a 60 hour nail technology refresher course from an approved cosmetology or nail technology school or pass the examination set forth in Section ~~1175.1010+175.1001~~ within 2 years prior to or within 2 years after the restoration application. An applicant who completes this refresher course or takes the examination shall not also be required to complete 10 hours of continuing education;
 - 3) ~~A complete work history showing all employment since the Illinois license lapsed;~~ 4) A completed Restoration Questionnaire;
 - 4) 5) Evidence of successful completion of 10 hours of continuing education earned within the 2 years immediately preceding restoration; and
 - 5) 6) The required fee as set forth in Section 1175.100.
- c) If restoring after active military service, the applicant shall submit a copy of his/her Honorable Discharge form (DD-214) and the current renewal fee.
- d) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the examination.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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Section 1175.1035 Restoration – Nail Technology Teacher or Nail Technology Clinic Teacher

- a) A person applying for restoration of a nail technology teacher or nail technology clinic teacher license that has been expired or been on inactive status for less than 5 years shall submit an application on forms provided by the Division. An applicant shall also submit evidence of successful completion of 20 hours of continuing education in accordance with Sections 1175.1200 and 1175.1210 earned within 2 years immediately preceding the restoration and the required fee set forth in Section 1175.100.
- b) A person applying for restoration of a nail technology teacher or nail technology clinic teacher license that has been expired for 5 years or more shall submit an application on forms provided by the Division along with:
- 1) Verification of employment as a nail technology teacher or nail technology clinic teacher in another jurisdiction within the 5 years preceding application for restoration;
 - 2) Certification from the appropriate licensing authority in the jurisdiction in which lawful practice is claimed;
 - 3) ~~A complete work history showing all employment since the Illinois license lapsed;~~ 4) A completed Restoration Questionnaire;
 - 4) 5) Evidence of successful completion of 20 hours of continuing education earned within the 2 years immediately preceding restoration; and
 - 5) 6) The required fee as set forth in Section 1175.100.
- c) An applicant for restoration of a nail technology teacher license who has not maintained lawful practice (as determined by the laws of that jurisdiction) in another jurisdiction shall also submit official transcripts showing successful completion of a 125 hour nail technology teacher refresher course from an approved cosmetology or nail technology school or pass the teacher examination set forth in Section 1175.1010 within 2 years prior to or within 2 years after the restoration application. An applicant who completes this refresher course or takes the examination shall not also be required to complete 20 hours of continuing

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education.

- d) An applicant for restoration of a nail technology clinic teacher license who has not maintained lawful practice (as determined by the laws of that jurisdiction) in another jurisdiction shall also submit official transcripts showing successful completion of a 60 hour nail technology clinic teacher refresher course from an approved cosmetology or nail technology school or pass the teacher examination set forth in Section 1175.1010 within 2 years prior to or within 2 years after the restoration application. An applicant who completes the refresher course or takes the examination shall not also be required to complete 20 hours of continuing education.
- e) If restoring after active military service, the applicant shall submit a copy of his/her Honorable Discharge form (DD-214) and the current renewal fee.
- f) If an applicant takes and fails the examination, the license will not be restored until such time as he/she has successfully completed the examination.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART K: NAIL TECHNOLOGY SCHOOLS

Section 1175.1115 Enrollment Agreements and Refund Policies

- a) All licensed nail technology schools shall have enrollment agreements that meet the requirements of Section 3B-12 of the Act.
- b) All licensed nail technology schools shall implement refund policies pursuant to Section 3B-13 of the Act and this Part.
 - 1) When notice of cancellation is given within 5 days after the date of enrollment, all application and registration fees, tuition, and any other charges shall be refunded to the student.
 - 2) *When notice of cancellation is given after the fifth day following enrollment but before the completion of the student's first day of class attendance, the school may retain ~~no more than~~ the application and registration fee, not to exceed \$100 and~~plus~~ the cost of any books or materials that have been provided by the school and retained by the*

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student (Section 3B-13(b)). ~~The cost of books for purposes of refunds is the cost of the books charged to the student, not the cost of the books to the school.~~

- 3) When notice of cancellation is given after the student's completion of the first day of class attendance but prior to the student's completion of 5% of the course of instruction, the school may retain the application and registration fee, not to exceed \$100, 10% of the tuition, other instructional charges or \$300, whichever is less, and the cost of any books or materials that have been provided by the school and retained by the student.
- 4) When a student has completed 5% or more of the course of instruction, the school may retain the application fee and registration fee, not to exceed \$100 and the cost of any books or materials provided by the school, but shall refund a part of the tuition and other instructional charges in accordance with the requirements of the school's regional or national accrediting agency, if any, or in accordance with subsection (c) of this Section.

c)2) For students who enroll in and begin classes, the following schedule of tuition adjustment will be considered to meet the Division standards for refunds shall be made in the following manner:

<u>PERCENTAGE OF TIME TO TOTAL TIME OF COURSE COMPLETED</u>	<u>AMOUNT OF TOTAL TUITION OWED TO THE SCHOOL</u>
0.01% to 4.9%	10%
5% to 9.9%	30%
10% to 14.9%	40%
15% to 24.9%	45%
25% to 49.9%	70%
50% and over	100%

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART L: CONTINUING EDUCATION

Section 1175.1200 Sponsor Approval

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- a) Sponsor, as used in this Section, shall mean *accredited universities and colleges, industry or trade associations, corporate salons, franchise salons, independent salons, vocational and technical schools, cosmetology schools, and other entities* (Section 4-1.5(a) [of the Act](#)) that have been approved and authorized by the Division to coordinate and present continuing education courses or programs for cosmetologists, cosmetology teachers, estheticians, esthetics teachers, nail technicians or nail technology teachers.
- b) A continuing education sponsor application shall be filed with the Division to be approved as a continuing education sponsor. The application shall include:
- 1) A copy of the Certificate of Attendance, which shall contain the following information:
 - A) The CE sponsor registration number, name and address;
 - B) Category of CE (cosmetology, nail technician, esthetics);
 - C) Name and license number of the participant;
 - D) Number of hours awarded; and
 - E) Course title and date of course.
 - 2) A 3 hour CE course outline, including evidence of appropriate facilities, instructor qualifications and content of the course.
 - 3) Name and address of the contact person responsible for all recordkeeping.
 - 4) Certification that the sponsor will comply with all sponsor CE requirements set forth in this Subpart.
 - 5) The required fee set forth in Section [1175.1004-1.5\(e\) of the Act](#).
- c) A CE sponsor shall provide CE courses and programs that are organized programs of formal learning that contribute directly to a licensee's knowledge and ability to perform duties as a licensee. *No product sales shall be permitted during a continuing education program.* (Product sales/selling is any activity that involves

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a deal sheet or invoice or mention of prices or special deals. ~~These~~~~Such~~ activities are prohibited during the presentation of continuing education programs.) *After the continuing education program is concluded and the certificates of attendance are distributed to the attendees, product sales shall be permitted.* (Section 4-1.5(e)(2) ~~of the Act~~) A continuing education program or course must meet the following minimum requirements:

- 1) Be developed and presented by persons with education, training and/or practical experience in the subject matter to be presented.
- 2) Include a student evaluation of both instructor and the course.
- 3) Specify the course objectives, content, prerequisites, requirements, the licensure category for which the CE applies and the number of CE hours to be earned. ~~This~~~~Such~~ information shall be specified in all promotional materials.
- 4) Be in the following subject areas for cosmetologists, estheticians and nail technicians:
 - A) Advanced product chemistry and chemical interaction;
 - B) The use of machines and implements;
 - C) Sanitary procedures;
 - D) Hazardous chemicals;
 - E) Exposure minimization;
 - F) Updated use of implements as they relate to applicable services under this Act;
 - G) Advanced knowledge of the anatomy of the skin, scalp, hair and/or nails;
 - H) Human relations/communication skills; and
 - I) Management and marketing.

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- 5) Be in the following subject areas for cosmetology, esthetics and nail technology teachers in addition to the areas set forth in subsection (c)(4) of this Section.
- A) Teaching methodology;
 - B) Educational psychology;
 - C) Classroom management; or
 - D) Other teaching related courses.
- 6) Individual study courses (correspondence, audio or video courses) sponsored by an approved sponsor shall include an examination and a means of verification that the licensee has successfully completed ~~the~~ such course. (See Section 1175.1210(e).)
- d) All sponsors shall verify attendance at each CE course or program. A record of attendance shall be kept for no less than 5 years. Sponsors shall give each successful participant a record of completion at the end of the course or program. All records shall include the following information: name, address and license number for each participant, category of CE (cosmetology, nail technician, esthetics, teacher education), number of hours awarded, course title and date of course. *Sponsors may delegate recordkeeping duties to one of their members or member groups.* (Section 4-1.5(a))
- e) CE sponsors shall be required to renew their approval every two years upon submittal of the renewal application and the required fee. The first renewal shall be December 31, 1997.
- f) All CE programs given on or after October 1, 1996, must be given by a sponsor who has been approved by the Division to provide continuing education.
- g) All sponsors approved by the Division as of December 31, 1995, will be required to submit an application, the required fee and meet the current requirements set forth in this Part and the Act to continue to provide continuing education programs on or after October 1, 1996. *An approved sponsor may subcontract with individuals and organizations to provide approved programs. These persons*

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must meet the criteria established in Section 4-1.5(e)(1) and (2). (Section 4-1.5(j)) Any time the sponsor subcontracts with a presenter, all advertisements, promotional materials and the Certificate of Attendance will bear the name, address and registration number of the sponsor. The name of the subcontractor may appear as the "Presenter" but no document shall imply that the subcontractor is registered as a CE sponsor.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART M: SALON OR SHOP REGISTRATION**Section 1175.1300 Application for a Barber Shop or Cosmetology, Nail Technology Technician or Esthetics Salon Certificate of Registration**

- a) Pursuant to Article IIID of the Act, all cosmetology, nail technology technician or esthetics salons and barber shops shall obtain a certificate of registration from the Division in order to operate in Illinois. The owner~~A shop~~ shall file an application with the Division, on forms supplied the Division. The application shall include the following:
- 1) If the application is for a change of ownership, the salon or shop registration number of previous owner, a signed, dated statement from previous owner, and original salon or shop certificate registration;
 - 2) Ownership structure: individual/sole proprietorship, corporation, limited liability company (LLC) or partnership;
 - 3) Name, Shop name, street and city address and telephone number of owner. If a corporation, LLC, or partnership, the name, address and telephone number of chief executive officer (CEO) or managing partner;
 - 4) Federal employer identification number (FEIN) of owner ;
 - 5)2) Name, Shop owner's name, home address and home-telephone number of salon or shop;
 - 6) Franchise disclosure;

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- 7) Name and license number of any owner, managing partner or CEO holding an Illinois license in any profession regulated under the Act, a list of names and license numbers;
- 3) ~~If a partnership, a copy of the partnership agreement and all partners' home addresses and phone numbers;~~
- 8)4) ~~If an Illinois corporation, a copy of the entire Articles of Incorporation as filed with the Illinois Secretary of State and a list of all corporate officers and managers;~~
- 9) If a foreign corporation, a copy of the entire Articles of Incorporation as filed with the jurisdiction where the corporation is registered and a copy of the certificate of authority to transact business in Illinois as filed with the Illinois Secretary of State;
- 10) If an LLC, a copy of the entire Articles of Organization as filed with the Illinois Secretary of State;
- 11) If a foreign LLC, a copy of the entire Articles of Organization as filed with the jurisdiction where the LLC is organized and a copy of the certificate of authority to transact business in Illinois as filed with the Illinois Secretary of State;
- 12) If a partnership, a copy of the signed and dated partnership agreement including the name of the partnership, business address and name of each partner;
- 13) If a franchise, a copy of the signed and dated franchise agreement showing that franchisee has been granted the right to use trade name, trademark, service name, service mark or any other right to the exclusive use of names or symbols;
- 14) If using an assumed name, a certificate from the county clerk's office where the assumed name is filed or a certificate from the Illinois Secretary of State showing authorization to transact business under the assumed name.
- 5) ~~If the applicant is licensed in another profession covered under the Act, a~~

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~~license number; and~~

- ~~6) If any owner, managing partner or CEO holds an Illinois license, a list of the names and license numbers.~~
- b) Registration Requirements. The requirement to obtain a certificate of registration from the Division is only applicable to salons or shops offering cosmetology, esthetics, nail technology or barbering services. A separate certificate of registration is required for each salon or shop location. ~~A and a~~ separate application, fee and supporting documents shall be submitted to the Division. The Division may reject any application including a business name that states or implies a service that cannot be legally offered by the business, which is misleading to consumers, or is otherwise inconsistent with the purposes of the Act.
- c) Change of Location. The owner shall file written notice with the Division at least 30 days in advance of the change of location of a salon or shop. The notice shall include the owner's name and signature, date, FEIN, name of salon or shop, previous address of salon or shop, new address of salon or shop and effective date of change. The notice shall be accompanied by the original certificate of registration and a \$20 reprint fee. The Division shall reprint the certificate of registration with the new salon or shop address.~~All registered shops/salons shall notify the Division of any change of address. The certificate of registration shall be returned to the Division and a new certificate of registration will be issued with the new address for a fee of \$20.~~
- d) Change of Ownership. When the ownership of a salon or the shop changes, the new owner shall within 5 working days after the date of sale, ~~be required to~~ file with the Division an affidavit stating that the sale is contingent on a new application for a certificate of registration being issued to the new owner. If this is not provided, the salon or shop must close and remain closed until a certificate of registration is issued to the new owner. The new owner shall obtain a certificate of registration from ~~with~~ the Division as set forth in subsection (a) of this Section~~pursuant to Section 3D-5(e) of the Act.~~
- e) Change of Name. The owner shall file written notice with the Division at least 30 days in advance of the change of name of a salon or shop. The notice shall include the owner's name and signature, date, FEIN, previous name of salon or shop, address of salon or shop, new name of salon or shop and effective date of

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change. The notice shall be accompanied by the original certificate of registration, a \$20 reprint fee, and if using an assumed name, a certificate from the county clerk's office where the assumed name is filed or a certificate from the Illinois Secretary of State showing authorization to transact business under the assumed name.~~All registered shops/salons shall notify the Division of any change of business name. The certificate of registration shall be returned to the Division and a new certificate of registration will be issued with the new name for a fee of \$20.~~

- f) Renewal. All certificates of registration shall expire on November 30 of even numbered years. A salon or shop may renew the certificate of registration during the 2 months preceding the expiration date by paying the required fee.
- g) Restoration. An owner seeking restoration of a certificate of registration that has expired or been placed on inactive status shall file written notice with the Division. The notice shall include the owner's name and signature, date, FEIN, name of salon or shop, previous address of salon or shop, current address of salon or shop, and \$40 fee. If using an assumed name, the notice shall also include a certificate from the county clerk's office where the assumed name is filed or a certificate from the Illinois Secretary of State showing authorization to transact business under the assumed name.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Fire Sprinkler Dormitory Revolving Loan Program
- 2) Code Citation: 41 Ill. Adm. Code 293
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
293.10	New Section
293.20	New Section
293.30	New Section
293.40	New Section
293.50	New Section
293.60	New Section
293.70	New Section
293.80	New Section
293.90	New Section
- 4) Statutory Authority: Authorized and implemented by Section 15 of the Fire Sprinkler Dormitory Act [110 ILCS 47/15]
- 5) A Complete Description of the Subjects and Issues Involved: The Part sets out rules to provide low-interest loans for the planning, purchasing, installing, upgrading, altering, modifying, fixing or repairing a fire sprinkler systems in a post-secondary educational institution.
- 6) Published Studies or Reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: To assist post-secondary educational institutions in providing a safe environment for our students by providing dormitories that are protected by a fire sprinkler system.

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

Alec Messina, Interim General Counsel
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

217/785-4212

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the need for the new rules was not known at the time that the agendas were published.

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

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TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHALPART 293
FIRE SPRINKLER DORMITORY REVOLVING LOAN PROGRAM

Section	
293.10	Definitions
293.20	Purpose and Qualifications
293.30	Eligible Expenditures
293.40	Loan Application Review Committee
293.50	Application Procedure and Content
293.60	Criteria for Review of Loan Applications
293.70	Appeal Process
293.80	Repayment Procedures
293.90	Terms and Conditions of Loan Agreement

AUTHORITY: Implementing and authorized by Section 15 of the Fire Sprinkler Dormitory Act [110 ILCS 47/15].

SOURCE: Adopted at 34 Ill. Reg. _____, effective _____.

Section 293.10 Definitions

The following definitions are used in this Part:

"Act" means the Fire Sprinkler Dormitory Act [110 ILCS 47].

"Applicant" means a post-secondary educational institution applying to OSFM and the Authority for a low-interest loan under the program.

"Authority" means the Illinois Finance Authority created by the Illinois Finance Authority Act [20 ILCS 3501] or its successor agency.

"Authority's Administrative Rules" means the Authority's administrative rules for the Fire Sprinkler Dormitory Revolving Loan Fund (74 Ill. Adm. Code 1100).

"Committee" means the Loan Application Review Committee established in Section 293.40 of this Part.

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"Fire Sprinkler System" means a fire sprinkler system located in an existing or newly constructed dormitory or residence hall of a post-secondary educational institution that has received the permits, certifications and inspections required by federal, State and local law, rule, guideline or ordinance.

"Fund" means the Fire Sprinkler Dormitory Revolving Loan Fund.

"Low-Interest Loan" means a loan with a rate of interest to be charged under the program as determined by the Board of the Authority at the time of the loan approval, at a rate lower than current market rates.

"OSFM" means the Office of the Illinois State Fire Marshal.

"Post-Secondary Educational Institution" or "Institution" means an Illinois public or private college or university offering degrees and instruction above the high school level. This term does not include:

any public or private college or university that does not provide on-campus housing for its students in dormitories or equivalent facilities that are owned, operated or maintained by the public or private college or university;

any public or private junior college or community college; or

any institution offering degrees and instruction that uses correspondence as its primary mode of student instruction.

"Program" means the Illinois Fire Sprinkler Dormitory Revolving Loan Program.

Section 293.20 Purpose and Qualifications

- a) OSFM and the Authority will jointly administer a program to provide low-interest loans for the planning, purchasing, installing, upgrading, altering, modifying, fixing or repairing of a fire sprinkler system in a post-secondary educational institution.
- b) OSFM will determine loan awards based on system needs, financial need and how recently the applicant has received a previous loan under this program,

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supplemented by recommendations from the Authority based on creditworthiness. A loan for the purchase of fire sprinkler systems shall not exceed \$1,000,000 in any single fiscal year to any post-secondary educational institution.

- c) Any public or private college or university that does not provide on-campus housing for its students in dormitories or equivalent facilities that are owned, operated or maintained by the public or private college or university, any public or private junior college or community college, or any institution offering degrees and instruction that uses correspondence as its primary mode of student instruction are not eligible to apply for a loan under this program.

Section 293.30 Eligible Expenditures

Subject to the availability of funds, low-interest loans to post-secondary educational institutions will be available for the purpose of paying all or a portion of the costs associated with planning, purchasing, installing, upgrading, altering, modifying, fixing or repairing a fire sprinkler system.

Section 293.40 Loan Application Review Committee

The State Fire Marshal shall appoint a Loan Application Review Committee to determine, based on system needs, financial need, and how recently the applicant has received a previous loan under this program, which eligible post-secondary educational institution will be recommended to the Authority to receive a low-interest loan under this program.

- a) The Committee shall consist of the following seven members:
- 1) The State Fire Marshal, as chair;
 - 2) One Fire Chief (from a community having a post-secondary educational institution within its protection area);
 - 3) One representative from the Associated Fire Fighters of Illinois;
 - 4) One representative from the Illinois Finance Authority, as vice chair;
 - 5) One member from the Illinois Fire Inspectors Association;
 - 6) One member from the Illinois Association of Fire Protection Districts; and

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- 7) One member representing the post-secondary educational institutions.
- b) No Committee member who has a pending application for a loan under this program shall participate in the review process in which that application is pending. Any Committee member who has such a conflict shall notify the Fire Marshal of the conflict, so that the Fire Marshal can replace that Committee member for the relevant program application cycle as soon as possible.
- c) Members shall serve without salary, but may receive reimbursement for reasonable expenses from OSFM from appropriations for those purposes.
- d) All members shall have one vote, except for the State Fire Marshal, who shall only vote to break a tie.
- e) Members shall serve a term of four years.
- f) Upon the expiration of a member's term of office, the State Fire Marshal shall reappoint that member, or appoint a successor who is a representative of the same interests with which his or her predecessor was identified.
- g) The State Fire Marshal may, at any time, remove any of the respective appointees for inefficiency or neglect of duty in office. In such instances, the State Fire Marshal shall fill the vacancy for the remainder of the unexpired term by appointing a member who is a representative of the same interests with which his or her predecessor was identified. Upon the death or incapacity of a member, the State Fire Marshal shall fill the vacancy for the remainder of the unexpired term by appointing a member who is a representative of the same interests with which his or her predecessor was identified.
- h) Appointments shall be made to geographically represent the State.
- i) As determined by the State Fire Marshal, the Committee shall meet and organize within ten days after the appointment of its members and, at that meeting, shall select a recording secretary.
- j) Meetings of the Committee shall occur as deemed necessary by the State Fire Marshal, at a date, time and place to be fixed by the Committee (or by the State Fire Marshal, should he or she call for the meeting) and at such additional times as the Committee deems necessary for the consideration of loan applications,

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reviews or appeals and the transaction of any other business as properly may come before it.

- k) A quorum shall be five members in attendance. Electronic attendance, as permitted by the Open Meetings Act [5 ILCS 120], may be permitted once a quorum is physically present either at the location set for the meeting or via video conference.

Section 293.50 Application Procedure and Content

- a) Subject to the availability of funds, OSFM will post application forms for low-interest loans under this program on the OSFM website. Each application form provided shall identify the information applicants must include in their loan requests and shall require that the loan application be returned to OSFM no later than the late date specified in the application form. Applications shall be returned to the Office of the Illinois State Fire Marshal, Attention: Fire Sprinkler Dormitory Revolving Loan Program, 1035 Stevenson Drive, Springfield, Illinois 62703-4259.
- b) Each loan application shall include the following components:
 - 1) A completed application form supplied by OSFM and signed by the duly authorized administrators of the post-secondary educational institution.
 - 2) Information on the dormitory or residence hall for which the loan is being sought and whether the funding is for a new fire sprinkler system or for repairs, alterations, modification or upgrades to an existing fire sprinkler system. The estimated costs associated with planning, purchasing, installing, upgrading, altering, modifying, fixing or repairing a fire sprinkler system must also be included.
 - 3) Contact information for personnel able to provide additional information if necessary.
 - 4) Budget information, including copies of the three most recent audits (and/or income and expense reports) for the institution, as well as information on the source of loan repayment funds. If repayment plans are based on charitable contributions (i.e., alumni fundraisers), the applicant must provide a history of amounts raised in prior years.

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- 5) Certifications and assurances OSFM and/or the Authority may require.
- 6) All other information as requested on the loan application form and in the program guidance section of the application.
- c) Applications received by OSFM shall be logged in as received and assigned an application number.
- d) Applications shall be assessed by blind review, meaning the Committee shall not see the name, address or any specific information that identifies the institution. The Committee shall review and rank the applications based on information provided in the loan application.
- e) After the Committee's review and ranking of applications, loan dollar amounts will be assigned to the loan applications up to the maximum amount of funding available for loans under this program. Approval of an application by the Committee shall not be construed as any form of commitment or guarantee on the part of the Authority to the applicant that the proposed loan will be made.
- f) Those loan applications recommended for approval shall be forwarded to the Authority for review under its guidelines of creditworthiness. The Authority, after completion of its review, will notify the Committee which loan applications it will approve, subject to the end of the appeals process outlined in Section 293.70.

Section 293.60 Criteria for Review of Loan Applications

- a) Institutions receiving a loan in previous loan application cycles will not be considered until all applicants who have never received a loan but are requesting a loan have been considered.
- b) The institutions will be order-ranked based on:
 - 1) system needs;
 - 2) financial need; and

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- 3) how recently the applicant has received a previous loan under this program.
- c) The Committee will review the ranked applications and assign a point value (0-5, with 5 being the greatest) based on need. Criteria for evaluating need include:
 - 1) Information on the dormitory or residence hall for which the loan is being sought.
 - 2) Whether the funding is for a new fire sprinkler system or for repairs, alterations, modification or upgrades to an existing fire sprinkler system.
- d) If the institution does not demonstrate that there is sufficient annual revenue to permit the applicant to repay the loan under the terms required, the Authority may deny the application for lack of ability to pay.

Section 293.70 Appeal Process

- a) Institutions whose loans were denied by the Committee or the Authority shall be notified by mail.
- b) Notice of denial shall be deemed received on the date of mailing. The institution has 30 calendar days from that date to forward to the Committee a Request for Reconsideration.
- c) The Request for Reconsideration shall be sent to the Office of the Illinois State Fire Marshal, Attention: Fire Sprinkler Dormitory Revolving Loan Program, 1035 Stevenson Drive, Springfield, Illinois 62703-4259.
- d) The Request for Reconsideration may be accompanied by supporting documents and information not previously considered by the Committee or Authority. The Committee or, if appropriate, the Authority shall review the Request for Reconsideration. A denial of the Request for Reconsideration shall be final. While a Request for Reconsideration is pending, the application that is the subject of the Request for Reconsideration shall be deemed complete for the purposes of this Part.

Section 293.80 Repayment Procedures

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- a) The maturity date of the loans shall be determined by OSFM and the Authority, but shall not exceed 20 years.
- b) The rate of interest to be charged under the program will be determined by the Board of the Authority at the time of the loan approval, at a rate lower than current market rates.
- c) Payments of principal and interest on the loan shall be made according to the schedule determined by OSFM and the Authority.
 - 1) The Authority will provide invoices to loan recipients for these payments. Checks shall be made payable to the "Illinois Finance Authority – Fire Sprinkler Dormitory Revolving Loan Fund" and mailed to the Illinois Finance Authority, Fire Sprinkler Dormitory Loan Program, Two Prudential Plaza, 180 North Stetson, Suite 2555, Chicago IL 60601.
 - 2) Payments not received within 15 calendar days after the due date shall be assessed a penalty of five percent of the payment due; however, the late payment penalty will be waived when the postmark date on the envelope used to submit the payment is five days or more before the end of the 15-day grace period.
- d) A post-secondary educational institution may prepay the balance due on the loan in its entirety, or a portion of the balance, on any scheduled payment date, provided that the post-secondary educational institution first contacts the Authority to determine the total amount of the principal and interest due at that time.

Section 293.90 Terms and Conditions of Loan Agreement

An approved loan application with OSFM and the Authority is subject to the following terms:

- a) Loan proceeds under this program shall be used exclusively for the purposes listed in Section 293.30 and shall be expended in accordance with the approved application and the applicant's policies and procedures related to the expenditures.
- b) Orders for payment will be submitted to the Office of the Comptroller by the Authority.

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- c) Loan proceeds shall be spent no later than one year following the receipt of the loan.
- d) In the event that the loan proceeds are not expended in the manner approved, the recipient, upon written notification from the Authority, shall be required to submit, by the next payment due date, payment of the outstanding principal and interest of the loan.
- e) Loan proceeds shall be included in the institution's budget.
- f) In the event of default that is not cured within 90 calendar days, the Authority shall notify the Office of the Comptroller to deduct the amount owed from any payments from other State agencies, and the institution shall be ineligible for additional loans until good standing has been restored. In addition, OSFM and/or the Authority may avail itself of all remedies, rights and provisions of law applicable in the circumstances, and the failure to exercise or exert any rights or remedies provided by law may not be raised as defense by the institution in default.
- g) The institution agrees to pay the Authority a processing fee of up to \$5,000, upon approval of the loan, separate from the loan proceeds, to defray the costs of the loan to the Authority.

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- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
100.9400	Amendment
100.9410	Amendment
- 4) Statutory Authority: 35 ILCS 5/911
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends the regulations governing refund claims to provide that taxpayers who report overpayments on their original returns (which are not refund claims) are not required to file refund claims in order to protect their rights to the refund pending Department review of their returns. Under the amended regulation, the Department exercises its statutory authority to extend the limitations period for refund claims to provide that the limitations period is extended until 6 months after the Department notifies the taxpayer that it will not issue a refund of the full overpayment shown on the return. Without this extension, taxpayers are forced to file refund claims and initiate the administrative hearings process in order to protect their rights to refunds, which is a wasteful procedure that imposes unnecessary costs on taxpayers and the Department in these instances.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to submit comments on this rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

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

/217/524-3951

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small businesses would be spared the costs of filing refund claims and initiating administrative hearings in order to protect their rights to refunds shown on original returns.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

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- 100.2000 Introduction
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100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
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100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

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- 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
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Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or

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After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

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- 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)
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- 100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
- 100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
- 100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
- 100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

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- 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
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- 100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
- 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for

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

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

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

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3300	Allocation and Apportionment of Base Income (IITA Section 304)
100.3310	Business Income of Persons Other Than Residents (IITA Section 304) – In General
100.3320	Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)
100.3330	Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
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SUBPART M: ACCOUNTING

Section

100.4500	Carryovers of Tax Attributes (IITA Section 405)
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SUBPART N: TIME AND PLACE FOR FILING RETURNS

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100.5000	Time for Filing Returns: Individuals (IITA Section 505)
100.5010	Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020	Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030	Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
100.5040	Innocent Spouses
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100.5100	Composite Returns: Eligibility
100.5110	Composite Returns: Responsibilities of Authorized Agent
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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

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100.5205	Election to File a Combined Return
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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

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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)
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- 100.7100 Withholding Exemption (IITA Section 702)
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- 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)

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- 100.8000 Payment of Estimated Tax (IITA Section 803)
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- 100.9000 General Income Tax Procedures (IITA Section 901)
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- 100.9400 Credits and Refunds (IITA Section 909)
- 100.9410 Limitations on Claims for Refund (IITA Section 911)
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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

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Section
100.9600 Administrative Review Law (IITA Section 1201)

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

SUBPART DD: LETTER RULING PROCEDURES

Section
100.9800 Letter Ruling Procedures

SUBPART EE: MISCELLANEOUS

Section
100.9900 Tax Shelter Voluntary Compliance Program

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

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,

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effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective

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June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 34 Ill. Reg. _____, effective _____.

SUBPART Z: CREDITS AND REFUNDS

Section 100.9400 Credits and Refunds (IITA Section 909)

- a) In general. The Department shall credit the amount of any overpayment, including interest allowed on the overpayment, thereon against any liability for tax imposed under the IITA or any other Act administered by the Department on the person who made the overpayment, and it shall refund the balance to thatsuch person. (See ~~Section 2505-275 of the Civil Administrative Code of Illinois~~ [20 ILCS 2505/2505-275].)
- b) Credit against estimated tax. A taxpayer may elect to have any portion of any overpayment shown on a timely original return applied against the taxpayer's

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estimated tax liability for the taxable year immediately following the taxable year for which the return is filed. (See IITA Section 909(b).) Such election shall be made on the form prescribed by the Department and, once made, shall be irrevocable. After an election is properly made and before the return for the immediately following taxable year is filed, the Department shall apply the amount of the overpayment against other liabilities of the taxpayer and apply only the balance (if any) of the overpayment against the taxpayer's estimated tax liability. (See IITA Section 909(a) and Section 2505-275 of the Department of Revenue Law [20 ILCS 2505/2505-275].) If the Department applies a portion of an overpayment against a liability other than the estimated tax liability for the immediately following taxable year, the Department shall issue a notice to the taxpayer stating the amount so applied and the liability against which the application was made, and no penalty for late payment of estimated taxes under IITA Section 804(a) or for underpayment of tax under IITA Section 1005(a) shall accrue with respect to the amount so applied, if the full amount of the liability that was due as of the date the notice was issued is paid prior to the later of:

- 1) 30 days after the date the notice is issued; or
 - 2) the unextended due date of the return for the year for which the estimated tax credit was requested or, in the case of the penalty for late payment of estimated taxes, the due date of the next estimated tax installment (if any) due after the date of the notice.
- c) Interest on overpayments.
- 1) General rule. Subject to the provisions of this [subsection \(c\)](#), ~~paragraph~~ interest shall be allowed and paid upon any overpayment in respect of the tax imposed by the Act at a rate determined by reference to IITA Section 909(c). ~~When~~[Where](#) there is a dispute between a taxpayer and the Department regarding the amount of interest that is due, see [subsection 86 Ill. Adm. Code 100.9400\(f\)\(6\)](#).
 - 2) Overpayments. The overpayment in respect of any tax imposed by the Act includes any penalties assessed under IITA Section 1002(e) ~~and~~, any interest assessed on [the](#) tax or on [a](#) penalty under IITA Section 1003. For this purpose, an overpayment is any creditable or refundable portion of taxes, penalty, or interest ~~that~~[which](#) was previously paid.

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3) Date of overpayment.

- A) The date of overpayment is the date of payment of any tax ~~that~~which thereafter becomes or is determined to be refundable or creditable for the taxable year, except as provided in subsection (c)(3)(B). There can be no overpayment of tax prior to the last day prescribed for filing the return, nor until the entire tax liability for the taxable year is satisfied, nor until the return is filed for the taxable year. Therefore, the date or dates of overpayment are the date of payment of the first amount ~~that~~which (when added to previous payments) exceeds the tax liability (including any interest or penalties) for the taxable year and the date or dates of any subsequent payments made with respect to ~~the~~such tax liability, which in any event cannot be earlier than the last day prescribed for filing the return for the year, nor earlier than the date the return is filed. The "last day prescribed for filing the return", for purposes of this subsection (c)(3)(A) and subsection (d) is the original due date, not the extended due date, if any.
- B) In the case of a federal change due to the final allowance of a carryback from a loss year ending prior to December 31, 1986, under the provisions of the federal Internal Revenue Code, the date of overpayment shall be as of the close of the taxable year in which the deduction, losses, or other item or event occurred ~~that~~which created the federal carryback, or the date when the return for the carryback year is filed, whichever is later.
- C) In the case of a federal change due to the final allowance of a carryback or carryforward from a loss year ending on or after December 31, 1986, and in the case of an Illinois change due to the carryforward or carryback of an Illinois net loss, Illinois investment credit, jobs credit, replacement tax credit, or other credit (other than estimated or tentative tax credit) from a loss or credit year ending on or after December 31, 1986, the date of overpayment shall be the date the claim for refund is filed, except that, if any overpayment is refunded within 3 months ~~after~~of the date the claim for refund is filed, determined without regard to processing by the Comptroller, no interest shall be allowed on ~~the~~such overpayment.

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- D) Beginning January 1, 1994, *if a claim for refund relates to an overpayment attributable to a net loss carryback as provided by Section 207 of the Illinois Income Tax Act, the date of overpayment shall be the last day of the taxable year in which the loss was incurred.* [\[35 ILCS 735/3-2\(d\)\]](#)(see [Section 3-2\(d\) of the Uniform Penalty and Interest Act](#))
- d) Period for which interest is allowable.
- 1) In general.
- A) Prior to January 1, 1994, interest shall be allowed and paid from the date of overpayment to a date determined by the Director or his or her designee, which shall be not more than 30 days prior to the date of any refund or credit. However, no interest shall be allowed on the amount of tax overpaid if ~~that such~~ amount is refunded or credited within the later of ~~3~~ [three](#) months after the last date prescribed for filing the return of ~~the such~~ tax or within ~~3~~ [three](#) months after the return was filed, determined without regard to processing by the Comptroller.
- B) On and after January 1, 1994, interest shall be allowed and paid in the manner prescribed under the [Uniform Penalty and Interest Act \[35 ILCS 735\]](#) (UPIA).
- 2) Estimated tax for succeeding year. Notwithstanding any other provision of this Section, if a taxpayer elects on the return for the taxable year to have all or part of an overpayment shown on the return applied as an estimated tax payment for the succeeding taxable year, no interest shall be allowed on that portion of the overpayment so credited and that amount shall be applied as a payment on account of the estimated tax for the succeeding year or the installments ~~of that tax~~ [thereof](#).
- e) Examples. This Section may be illustrated by the following examples:
- 1) ~~EXAMPLE~~[Example](#) 1: T, a calendar year taxpayer, receives an extension to June 30, 1972, to file a 1971 return. On April 15, 1972, T files a tentative return pursuant to IITA Section 602(a) showing an estimated

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liability of \$500 ~~that~~^{which} has been paid through withholding, estimated tax payments, or as a payment with the tentative return of the tax properly estimated to be due. On June 15, 1972, T files a 1971 return showing a tax liability of \$3,000 including interest for late payment and remits \$2,500 ~~that~~^{which} in addition to the \$500 paid as indicated, satisfies the liability shown on the return. On August 15, 1972, T files a claim for refund for \$1,500 as an overpayment of 1971 tax. The date of overpayment for the computation of any interest ~~thereon~~ would be June 15, which is the date when payments first exceeded liability, as now shown as a result of the claim for refund, and ~~that~~^{which} is the date when the return for the taxable year was first filed. See Example 2 for application ~~of~~^{for} the 3-month rule.

- 2) ~~EXAMPLE~~^{Example} 2: Assume the same facts as in Example 1 and that T's refund claim of \$1,500 was allowed and paid on September 1. No interest would be allowed because the refund was made within 3 months ~~after~~^{of} June 15, the date the return for the taxable year was filed. If the refund was made on October 1, interest would be allowed from June 15 to a date ~~that~~^{which} would be not more than 30 days prior to October 1.
- 3) ~~EXAMPLE~~^{Example} 3: W, a calendar year taxpayer, files a return on March 7 and claims a refund as a result of excess withholding. The refund is made July 1. No interest would be allowed ~~because~~^{for} the refund was made within 3 months after April 15, which is the later of the last day prescribed for filing the return or the date the return was filed. If, with the same facts, the refund is made July 28, interest would be allowed from April 15 (the date of overpayment).
- 4) ~~EXAMPLE~~^{Example} 4: X, a calendar year corporation, sustains a federal net operating loss in 1973. X files a federal claim for refund, carrying the loss back to 1970 and receives a refund of federal taxes for 1970 based on the net operating loss carryback. (Refer to subsection (f)(4) respecting a federal application for tentative carryback adjustment.) X then files Form IL-1120-X claiming an overpayment of 1970 Illinois tax as a result of a federal change in its reported taxable income for 1970. The date of overpayment would be December 31, 1973, the close of the taxable year in which the federal net operating loss occurred (provided an original 1970 IL-1120 had been filed by this date).

f) Refund claim.

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- 1) In general. A claim for refund of an overpayment of income tax may be filed with the Department only if a return for the taxable year for which the refund is claimed has been filed. ~~Although a timely return may have the effect of a claim for refund of tax over payment (due to excess withholding or payment under Articles 7 or 8 of the Act) it~~ An original return does not constitute a claim for refund under IITA Section 909(d) and (e) of the Act calling for consideration, but may qualify as an extension of the limitations period for filing a claim for refund under Section 100.9410(c)(2) of this Part. A separate claim shall be filed for each taxable year for which an income tax overpayment was made. Every claim for refund shall be in writing, shall be on the appropriate form prescribed by the Department, and (using attachments if necessary) shall state the specific grounds upon which it is founded.
- 2) Evidence of claim filing. In preparing and filing a claim on either an amended return before the return due date, or after ~~that such~~ date has passed on Form IL-843, Form IL-1040-X, or Form IL-1120-X, a taxpayer may attach two photocopies of page 1 of the original executed claim being filed as a pro forma claim receipt form identifying the claim with a written request that one photocopy be returned to the claimant as a receipt. Upon the Department's receiving the claim and the two photocopies of page 1 ~~of the claim~~ thereof if attached, the Director's designee shall place on the claim ~~there on~~ the Department's Date Received Stamp and initial the stamp in ink, after which one photocopy shall be removed and mailed to the claimant for use as a receipt. In absence of a photocopy of the claim form (so stamped and initialed) being attached to the original claim or being produced by the claimant, copies of the Department's records certified true by the Director or his or her designee shall be deemed prima facie correct to show whether or not a claim was filed and, if so, the date upon which it was received by the Department. Furthermore, the Department's records as to the date that the claim was ~~date~~ received in the Department's mail room shall be prima facie evidence that the postmark date on the claim was 10 ~~ten~~ days prior to that date.
- 3) Amended return as claim; limited use. In an instance in which ~~where~~ a return for the taxable year is filed early, the latest received by the Department of any further return or amended return filed by the taxpayer on or before the last day prescribed for timely filing shall constitute and be

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accepted as the return for the taxable year. Therefore, if a return showing a tax liability for the taxable year has been filed with the Department and the tax paid and the due date prescribed for filing that return has not passed, any claim for refund filed prior to that date shall be made by the filing of a further return marked "CORRECTED", showing the amount of the tax overpayment to be refundable. Form IL-1040-X and Form IL-1120-X shall be used for this purpose by individuals and corporations.

- 4) Claim form; federal change. If, on the other hand, the due date for filing a return has passed and under the Act an overpayment based on a federal change has arisen, in addition to meeting the requirements of IITA Section 506 a claim for refund based on ~~the federal~~ change should be made by the filing (following the instructions thereon) of a notice of ~~the~~ change on Illinois Form IL-843, Form IL-1040-X, or Form IL-1120-X, as appropriate. To meet the requirements of IITA Section 909(d) for stating specific grounds, there should be within the ~~form~~ or on an attachment an explanation in detail sufficient to show the nature of the items of change or alteration. If helpful or otherwise appropriate to show the grounds and to compute the amount claimed as refundable, another return marked "AMENDED" may be attached or filed in connection with the Form IL-843. Further, ~~when~~ a claim for refund is filed based on a federal change giving rise to an overpayment, documentation in form of the original federal documents or correspondence furnished the taxpayer or other satisfactory proof in connection with the change (or true and correct fully legible photocopies ~~thereof~~) shall be attached evidencing that ~~the~~ federal change, represents an agreed to or final federal Internal Revenue Service (or court imposed) acceptance, recomputation, redetermination, change, tentative carryback adjustment or settlement,; and it shall be stated or shown that no contest ~~thereof~~ is pending. In this connection, the payment received as the result of the filing of an application for a tentative carryback adjustment (on Form 1045 or Form 1139) pursuant to 26 USC 6411 is a change reportable under IITA Section 506. A claim for refund of an overpayment of Illinois income tax occasioned by the payment of a tentative carryback adjustment may be filed on Form IL-1040-X and Form IL-1120-X. A premature or incomplete claim on Form IL-843, Form IL-1040-X, or Form IL-1120-X shall not constitute a claim for refund within the meaning of IITA Section 909(d), nor for purposes of commencing the 6-month period in subsection (g). Upon any claim being received and identified as premature,

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incomplete, or otherwise defective under the Act, the Department, as soon as practicable, shall notify the taxpayer thereof in writing to enable, if possible, the timely submission of a mature and perfected claim.

- 5) Claim form; no federal change. If a return showing tax due for the taxable year has been filed and the tax paid and an overpayment based on a purely Illinois change has arisen and is not based to any extent on a change in federal income tax liability, any claim for refund should be made by the filing (following the instructions thereon) of Illinois Form IL-843, Form IL-1040-X (individuals), or Form IL-1120-X (corporations), as appropriate, using, if necessary, an attachment to set forth in detail each specific ground for refund. ~~If, and if~~ appropriate, another return marked "AMENDED" may be attached to or filed in connection with the Form IL-843. Pertaining to purely Illinois changes, Forms IL-843, IL-1040-X and IL-1120-X are designed for use not only to claim a refund of tax overpayment, but also to report an increase in the amount of previously reported or determined income tax liability for the taxable year.
- 6) Informal claim not permitted; disputes regarding the amount of interest due. In all cases ~~in which~~where the original return due date has passed, claims for refund shall be filed using the following forms, as appropriate: Form IL-843, Form IL-1040-X and Form IL-1120-X. These forms may also be used by taxpayers to claim additional interest ~~when~~where there is a dispute regarding the amount of interest that is due from the Department relative to a refund. ~~The~~Such claims for additional interest must be filed either within the 60-day protest period for claim denials (see IITA Section 910) or within the limitations period for filing claims for refund for the taxable year for which the interest is due (see IITA Section 911). See 86 Ill. Adm. Code 200.120 for procedure on protest. An "informal claim", such as a letter from the taxpayer, is insufficient for the purpose of establishing or extending any of the limitations in IITA Section 911 or in subsections (g) and (h) of this Section.
- g) Notices of refund or denial.
 - 1) In general. The Department shall examine a claim for refund, in connection, as appropriate, with the return for the taxable year to which it relates, as soon as practicable after it is filed to determine the correct amount of tax and the amount of any refundable overpayment to which the

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claimant-taxpayer may be entitled. If, for the taxable year involved, the Department finds the claimant entitled to a refund in any amount, it shall issue an appropriate notice of refund, abatement, or credit (see subsection (b)). If the Department has failed to approve or deny the claim before the expiration of 6 months after the date the claim was filed, the claimant may nevertheless thereafter file with the Department a written protest addressed in accordance with the instructions in the applicable claim form (IL-1040-X, IL-1120-X, or IL-843). If a protest is filed, the Department shall consider the claim and, if the taxpayer has so requested, shall grant the taxpayer or the taxpayer's authorized representative a hearing within 6 months after the date ~~the~~ request is filed.

- 2) Notice of denial; notice of deficiency as denial. However, if the Department finds that the claim for refund is not allowable and proposes to issue a notice of denial or, if taking into account the claim, nevertheless finds adjustments ~~that~~ which are a basis for proposing an increase in the amount of tax liability over that shown on the return, or decreasing it by an amount less than that claimed as refundable, the Department shall issue a notice of deficiency under IITA Section 904(c) (see ~~Section 86 Ill. Adm. Code~~ 100.9300(a)) or it shall issue a notice of denial or partial denial of the claim. In the event that a notice of deficiency is issued ~~that~~ which indicates that the claim for refund was considered, ~~the~~ notice (of deficiency) shall constitute (concurrently) a notice of denial of the claim. Note that, in the absence of a written protest of the notice (of deficiency or denial) ~~so issued~~ (see 86 Ill. Adm. Code 200.120(b)), the Department's final action ~~thereunder~~ is not an administrative decision subject to judicial review (except as to jurisdictional questions) under the provisions of the Administrative Review ~~Law [735 ILCS 5/Art. III] Act~~ (see ~~Section 86 Ill. Adm. Code~~ 100.9600).

- h) Effect of denial. Denial of a claim becomes final 60 days ~~after the denial is issued~~ thereafter (irrespective of whether the claimant is outside the United States), except to the extent (in whole or part) that the claimant in the meantime ~~shall have~~ filed a protest, as provided by IITA Section 910 (see 86 Ill. Adm. Code 200.120(b)), against the denial of amounts claimed as refundable. In the absence of a written protest of the denial of the claim for refund, the Department's final action ~~thereunder~~ is not an administrative decision subject to judicial review (except as to jurisdictional questions) under the provisions of the ~~Administrative Review Law~~ Code of Civil Procedure (see 86 Ill. Adm. Code 100.9600).

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- i) Time for protest. If, after a claim for refund is denied by issuance of a notice of denial (see ~~Section 86 Ill. Adm. Code~~ 100.9400(g)(2)), a written protest against ~~thesueh~~ denial is filed by the taxpayer within 60 days ~~after the denial is issued thereafter~~ (irrespective of whether the taxpayer is outside the United States), the Department shall reconsider the denial and, if requested, shall grant the taxpayer or the taxpayer's authorized representative a hearing, as provided for in IITA Section 914. See 86 Ill. Adm. Code 200 for protest and hearing procedures.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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

- a) In general
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 ~~thesueh~~ withholding was made effective for taxable years ending after December 30, 1973), or one year after the date the tax was paid.
- b) Federal changes
Irrespective of whether notification of an alteration required by IITA Section 506(b) is given by a claimant-taxpayer, a claim for refund may be filed not later than two years after the date ~~thesueh~~ notification was due. The recoverable amount of a claim filed ~~under this Section hereunder~~ is limited to any overpayment resulting from a change in the taxpayer's base income reflecting the items of adjustment in the alteration required to be reported. IITA Section 506(b) requires that a notification of the alteration, showing the taxpayer's address and signed by ~~the taxpayer him~~ 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 ~~thesueh~~ 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

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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

1) ~~When, Where~~ 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 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. Similarly, prior to its expiration, ~~the~~ extended period may be successively further extended for any or all such taxable years by the obtaining of a further written consent (see 86 Ill. Adm. Code 100.9320(f)).

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 of credit or refund

1) Limit ~~when~~ claim ~~is~~ filed within ~~a~~ 3-year period
With respect to a taxable year for which a claimant-taxpayer has filed a return and during the 3-year period in ~~paragraph~~ subsection (a) ~~above~~ 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. For the purposes of this ~~paragraph~~ subsection ~~(d)(1)~~ and IITA Section 911(d)(1), any amount paid on account of withheld tax or estimated tax (see Articles 7 and 8 of the Illinois Income

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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 ~~thesueh~~ payments are applicable. 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 ~~whenwhere~~ claim ~~is~~ not filed within ~~a~~ 3-year period
Irrespective of whether a return was filed, if the claim was not filed within the 3-year period in ~~paragraph~~ subsection (a) ~~hereof~~ or within an agreed-to extended period for 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.

- e) Time return deemed filed
For purposes of this ~~Sectionsection~~, a tax return filed before the last day prescribed by law for the filing of ~~thesueh~~ return (including any extensions ~~thereof~~) shall be deemed to have been filed on ~~thesueh~~ last day. The last day prescribed for filing returns shall include any automatic extensions of time for filing.
- f) Special ~~periodPeriod~~ of ~~limitationLimitation~~ with ~~respectRespect~~ to ~~net loss carrybacksNet Loss Carrybacks~~ from loss years ending on or after December 31, 1986:
The 3-year period of limitation prescribed in subsection (a) 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 ~~thereof~~) for the taxable year in which the net loss occurs, or the period prescribed in subsection (c) in respect of ~~thatsueh~~ 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.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Standard Procurement
- 2) Code Citation: 44 Ill. Adm. Code 2000
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2000.08	Amendment
2000.15	Amendment
2000.525	Amendment
2000.1005	Amendment
2000.2005	Amendment
2000.2010	Amendment
2000.2025	Amendment
2000.2030	Amendment
2000.2035	Amendment
2000.2040	Amendment
2000.2050	Amendment
2000.2060	Amendment
2000.2580	New Section
2000.4545	Amendment
2000.4570	Amendment
2000.5037	New Section
2000.5510	Amendment
2000.5520	Amendment
2000.5555	New Section
- 4) Statutory Authority: The Illinois Procurement Code [30 ILCS 500]
- 5) Complete Description of the Subjects and Issues Involved: The proposed amendments further define terms, provide the structure for the oversight of procurement, specify required documentation of procurement actions, specify publication in the Illinois Procurement Bulletin of explanation of awards to other than the low bidder and the content of the explanation, restrict amendments to sole economically feasible source procurements of professional and artistic services, limit scope of emergency conditions for emergency purchases, specify the requirements for an extension of an emergency purchase, provide requirements for publication of professional and artistic procurements, expand reasons for the cancellation of a solicitation, provide requirements for pre-solicitation assistance prepared by a person outside of State personnel, change permissible duration of contracts, provide the requirement for disclosure of subcontractors, change definition of small business, change goals for minority and female

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owned businesses, provide requirement for vendor registration with the State Board of Elections, provide contract file requirements for vendors required to register with State Board of Elections, add that subcontractors' performance may be reviewed and the procedures for review, provide for debarment or suspension of subcontractors, and provide procedures for hearings and decisions of hearings.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days to:

Nathan Maddox
Senior Legal Advisor
298 Howlett Building
Springfield, IL 62756

217/785-3094
nmaddox@ilsos.net

The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in

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accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

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

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

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TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XXV: SECRETARY OF STATE

PART 2000

SECRETARY OF STATE STANDARD PROCUREMENT

SUBPART A: GENERAL

Section	Title
2000.01	Title
2000.05	Policy
2000.08	Illinois Procurement Code
2000.10	Application
2000.15	Definition of Terms Used in This Part
2000.25	Property Rights

SUBPART B: PROCUREMENT RULES

Section	Rules
2000.525	Rules

SUBPART C: PROCUREMENT AUTHORITY

Section	Conduct <u>and Oversight</u> of Procurements
2000.1005	Conduct <u>and Oversight</u> of Procurements

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section	
2000.1510	Illinois Procurement Bulletin
2000.1560	Supplemental Notice
2000.1570	Error in Notice
2000.1580	Direct Solicitation

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section

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2000.2005	General Provisions
2000.2010	Competitive Sealed Bidding
2000.2012	Multi-Step Sealed Bidding
2000.2015	Competitive Sealed Proposals
2000.2020	Small Purchases
2000.2025	Sole Economically Feasible Source Procurement
2000.2030	Emergency Procurements
2000.2035	Competitive Selection Procedures for Professional and Artistic Services
2000.2036	Other Methods of Source Selection
2000.2037	Tie Bids and Proposals
2000.2038	Mistakes
2000.2040	Cancellation of Solicitations; Rejection of Bids or Proposals

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section	
2000.2043	Suppliers
2000.2044	Vendor List/Required Use
2000.2045	Prequalification
2000.2046	Responsibility

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section	
2000.2047	Security Requirements

SUBPART H: SPECIFICATIONS AND SAMPLES

Section	
2000.2050	Specifications and Samples

SUBPART I: CONTRACT TYPE

Section	
2000.2055	Types of Contracts

SUBPART J: DURATION OF CONTRACTS

Section

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2000.2060 Duration of Contracts – General

SUBPART K: CONTRACT MATTERS

Section

2000.2560 Prevailing Wage

2000.2570 Equal Employment Opportunity; Affirmative Action

[2000.2580 Subcontractors](#)

SUBPART L: CONTRACT PRICING

Section

2000.2800 All Costs Included

SUBPART M: CONSTRUCTION AND
CONSTRUCTION RELATED PROFESSIONAL SERVICES

Section

2000.3005 Construction and Construction Related Professional Services

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section

2000.4000 Applicability

2000.4005 Requests for Space/Department Responsibilities

2000.4010 General Acquisition Procedures

2000.4015 Acquisition of Leases by RFI

2000.4020 Leases Acquired by Other Methods

2000.4025 Renewal or Extension of Lease in Effect Prior to July 1, 1998

2000.4030 Renewal of Leases Entered into After July 1, 1998

2000.4035 Purchase Options

2000.4040 Lease Administration

2000.4045 Emergency Lease Procurement

SUBPART O: PREFERENCES

Section

2000.4505 Procurement Preferences

2000.4510 Resident Bidder Preference

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- 2000.4530 Correctional Industries
- 2000.4535 Sheltered Workshops for the Disabled
- 2000.4540 Gas Mileage
- 2000.4545 Small Business
- 2000.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

SUBPART P: ETHICS

- Section
- 2000.5013 Conflicts of Interest
- 2000.5015 Negotiations for Future Employment
- 2000.5020 Exemptions
- 2000.5030 Revolving Door
- 2000.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
- | [2000.5037 Vendor Registration, Certification and Prohibition on Political Contributions](#)

SUBPART Q: CONCESSIONS

- Section
- 2000.5310 Concessions

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

- Section
- | 2000.5510 Complaints Against Vendors [or Subcontractors](#)
- 2000.5520 Suspension
- 2000.5530 Resolution of Contract Controversies
- 2000.5540 Violation of Statute or Rule
- 2000.5550 Protests
- | [2000.5555 Hearings and Decisions](#)

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

- Section
- 2000.6010 Supply Management and Dispositions

SUBPART T: GOVERNMENTAL JOINT PURCHASING

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Section

2000.6500 General
2000.6510 No Agency Relationship

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section

2000.7000 Severability
2000.7010 Government Furnished Property
2000.7015 Inspections
2000.7020 Records and Audits
2000.7025 Written Determinations
2000.7030 No Waiver of Sovereign Immunity

AUTHORITY: The Illinois Procurement Code [30 ILCS 500].

SOURCE: Emergency rule adopted at 22 Ill. Reg. 12208, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 20306, effective November 9, 1998; emergency amendment at 23 Ill. Reg. 5911, effective April 30, 1999, for a maximum of 150 days; emergency expired September 26, 1999; amended at 23 Ill. Reg. 13953, effective November 8, 1999; amended at 34 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 2000.08 Illinois Procurement Code

Articles 1, 15, 20, 25, 30, 33, 35, 40, 43, 45, 50 and 53 of the Illinois Procurement Code [30 ILCS ~~500.525~~/Arts. 1, 15, 20, 25, 30, 33, 35, 40, 43, 45, 50 and 53] (the Code) will be referenced in this Part. The Secretary of State shall procure its needs in a manner substantially in accordance with the requirements of the Code and shall promulgate rules no less restrictive than the requirements of the Code. [30 ILCS 500/1-30(a)]-as though applicable to the SOS, and the needs shall be procured in a manner substantially in accordance with those provisions of the Code, except to the extent otherwise provided in this Part. For purposes of this Part, any reference in the Code or this Part to the Chief Procurement Officer (CPO) means the employee designated by the Secretary of State to serve in that capacity, Secretary of State or his/her designee. The Secretary of State may appoint one or more State Purchasing Officers (SPOs).

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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Section 2000.15 Definition of Terms Used in This Part

As used throughout this Part, terms defined in the Illinois Procurement Code shall have the same meaning as in the Code and as further defined [in this Section below](#), and each term listed in this Section shall have the meaning set forth [in this Section below](#) unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

["Amendment" – A written unilateral or bilateral modification to a contract term, as permitted by the original contract. These modifications shall alter the performance and completion of the contract, including but not limited to such matters as extra work and increases or decreases in quantities of goods not included within the scope of the original contract.](#)

["Award" – The selection of a vendor for a contract.](#)

"Bid" – The response to an Invitation for Bids.

"Bidder" – Any person [other than an individual acting as a sole proprietor](#) who submits a bid.

["Bidder or Offeror Authorized to do Business in Illinois" – A person \(other than an individual acting as a sole proprietor\) that is a legal entity authorized to do business in Illinois by the SOS Department of Business Services.](#)

"Brand Name or Equal Specification" – A specification that uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet State requirements, and that allows the submission of equivalent products.

"Brand Name Specification" – A specification limited to one or more items by manufacturers' names or catalogue numbers.

["Bulletin" – The Illinois Procurement Bulletin.](#)

["Change Order" – A change order shall have the same meaning as an "amendment".](#)

"Code" – The Illinois Procurement Code [30 ILCS 500].

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"Concession" – The right or a lease to engage in a certain activity for profit on the lessor's premises (e.g., a refreshment or parking concession).

"Consulting Services" – Services provided by a business or person as an independent contractor to advise and assist an agency in solving specific management or programmatic problems involving the organization, planning, direction, control or operations of a State agency. The services may or may not rise to the level of professional and artistic as defined in the Code and this Part.

"Contract" – A contract may be in written or oral form. The term contract as used in the Code and this Part does not include: supplies or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission, bonds issued by or on behalf of any State agency, or contracts, other than for "concessions", that the State agency signs, but has no financial obligation to the other parties.

"Contractor" or "Vendor" – The terms contractor and vendor are used interchangeably for purposes of the Code and this Part.

"Day" – Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State holiday, in which event the period shall run to the end of the next business day.

"DCMS" – The Department of Central Management Services.

"Items" – Anything that may be procured under this Code.

"Invitation for Bids" or "IFB" – *The process by which a purchasing agency requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids.* [30 ILCS 500/1-15.45]

["Multi-Year Contract" – A multi-year contract is a contract with a performance term of more than 12 months.](#)

["Offeror" – A person who responds to an Invitation for Bids, Request for Proposals or other form of solicitation.](#)

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"Procurement Officer" – The Chief Procurement Officer (CPO) or appropriate State Purchasing Officer (SPO) who conducts the particular procurement, or a designee of either.

"Proposal" – The response to a Request for Proposals.

"Protest Review Office" – The office address of the person designated in the solicitation documents to which protests must be directed. The person designated in the solicitation documents will respond to or coordinate the response to the protest.

"Qualified Products List" – An approved list of supplies described by model or catalogue numbers that, prior to competitive solicitation, the State has determined will meet the applicable specification requirements.

"Renewal" – An extension of an original contract with materially identical terms to the original contract.

"Request for Information" or "RFI" – The process by which a purchasing agency requests information from offerors for all State contracts for leases of real property or capital improvements.

"Request for Proposals" or "RFP" – *The process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals.* [30 ILCS 500/1-15.75]

"Responsible Bidder or Offeror" – A person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance. A responsible bidder or offeror shall not include a business or other entity that does not exist as a legal entity at the time the bid or proposal is submitted for State contract.

~~"Responsive Bidder or Offeror" – A person who has submitted a bid that conforms in all material respects to the Invitation for Bids.~~ [30 ILCS 500/1-85]

"Reverse Auction" – A source selection technique that allows for purchase of supplies or services through a competitive auction process. A reverse auction allows bidders to electronically submit prices for an Invitation for Bids during a

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predefined time period and is designed to obtain the lowest cost for supplies and services.

"Service" – *The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance [30 ILCS 500/1-15.90] and the financing thereof.*

"Solicitation" – An Invitation for Bids, a Request for Proposals or other request to one or more vendors to respond to a procurement need expressed by the State.

"SOS" – The Office of the Secretary of State.

"Specification" – Any description of the physical, functional, or performance characteristics, or of the nature, of a supply or service. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply or service item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this Part.

"Specification for a Common or General Use Item" – A specification that has been developed and approved for repeated use in procurements.

"State" – The Office of the Secretary of State.

"Subcontract" – A contract between one person and another person who has or is seeking a contract subject to this Code, pursuant to which the subcontractor provides to the contractor some or all of the goods, services, property, remuneration or other form of consideration that are the subject of the primary contract and includes, among other things, subleases from a lessee of a State agency.

"Subcontractor" – A person or entity that enters into a contractual agreement, for an amount greater than the small purchases limits set by Section 20-20 of the Code (or an amount set by rule pursuant to Section 20-20(c) of the Code) or Section 35-35 of the Code or Section 45 of the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535/45], with a contractor who has or is seeking a contract subject to the Code, to provide the

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[contractor some or all of the goods, services, property, remuneration or other form of consideration that are the contractor's contractual obligations.](#)

"Supplies" – *All personal property, including but not limited to equipment, materials, printing, and insurance, and the financing of those supplies.* [30 ILCS 500/1-15.110]

"Unsolicited Offer" – Any offer other than one submitted in response to a solicitation.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART B: PROCUREMENT RULES

Section 2000.525 Rules

- a) To the extent practicable, the SOS may avail itself of master, scheduled or open-ended contracts established by DCMS; items available from the Paper and Printing Warehouse; and DCMS contracts for telecommunications equipment, software and services, paper and envelopes, and vehicles and vehicle services. The CPO or SPO may submit purchase requests to DCMS in accordance with rules promulgated by DCMS.
- b) The Office of the Secretary of State shall procure its capital needs in a manner substantially in accordance with the requirements of this Part and will promulgate rules specifically for capital construction that are no less restrictive than the requirements of the Code. Until specific Secretary of State rules can be promulgated for this purpose, the Office will conform its capital procurement activities to the requirements of the Procurement Code by following the administrative rules of the Capital Development Board (44 Ill. Adm. Code 910, 950 and 980) and the Department of Central Management Services (44 Ill. Adm. Code 1).

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART C: PROCUREMENT AUTHORITY

Section 2000.1005 Conduct [and Oversight](#) of Procurements

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- a) Chief Procurement Officer. The Secretary of State ~~or his/her designee~~ shall designate a chief procurement officer~~serve as~~ (CPO) for purposes of the Code and this Part. ~~and~~ The CPO may conduct any or all procurements on behalf of the SOS. The CPO shall have at least 5 years of experience in State budgeting or procurement activities, or shall be a certified professional public buyer or certified public purchasing officer. The CPO shall be a resident of the State of Illinois and shall owe a fiduciary duty to the State. The CPO is responsible for signing all written award determination letters, stating the reasoning for any contract award decision. The CPO shall perform other duties as required by law.
- b) State Purchasing Officer. The ~~Secretary~~~~CPO~~ may appoint one or more SPOs to conduct procurement in accordance with the terms of the appointment and this Part. The employee performing the duties of the SPO shall be classified as a Merit Compensation employee and, upon attaining certified status, shall have the employment protections afforded that status. SPOs must be certified as a professional public buyer or a public purchasing officer by the Universal Public Purchasing Certification Council within 18 months after appointment. In the absence of an SPO, the CPO may designate a temporary acting SPO. The SPO shall exercise procurement authority at the direction of the CPO, and the decisions of an SPO are subject to review by the CPO. The SPO may enter into contracts for the Office of the Secretary of State. The SPO shall perform other duties as required by law.
- c) Procurement Compliance Monitor. The Secretary of State Inspector General, appointed pursuant to Section 14 of the Secretary of State Act [15 ILCS 305/14], or his or her designee, shall serve as the Procurement Compliance Monitor. If a designee is appointed to serve as the monitor, that designee shall be classified as a Merit Compensation employee and, upon attaining certified status, shall have the employment protections afforded that status. It shall be the duty of the monitor to oversee and review the procurement processes. The monitor shall have direct communication with the Secretary. The monitor shall:
- 1) have the right to review all contracts, attend any procurement meeting, and access reports and files;
 - 2) issue reports to the CPO regarding outstanding procurement problems;
 - 3) ensure transparency and compliance with procurement laws;

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- 4) report findings of waste to SOS departments. If the department does not correct circumstances causing the waste, the monitor shall report to the CPO and the Inspector General; and
 - 5) perform other duties as required by law.
- d) Procurement Policy Board. The Secretary shall appoint a Secretary of State Procurement Policy Board (SOS PPB). The SOS PPB shall consist of 5 members. In making appointments to the SOS PPB, the Secretary shall consider an individual's knowledge and experience in State government procurements and operations. The members shall receive no additional compensation for serving on the SOS PPB other than reimbursement for expenses. Except as provided in subsection (e), the SOS PPB shall:
- 1) be authorized to review, comment upon, and recommend rules and practices governing the procurement, management, control and disposal of supplies, services, professional or artistic services, construction, and capital improvements procured by the Office of the Secretary of State;
 - 2) be authorized to review any proposal, bid or contract, and may issue recommendations regarding procurement matters;
 - 3) be notified by the CPO if a conflict of interest is identified, discovered or reasonably suspected to exist. In the event of such notification, the SOS PPB is to recommend action and give its recommendation to the CPO and Secretary. The SOS PPB's recommendation shall be published in the Procurement Bulletin;
 - 4) report to the Inspector General whenever the PPB has cause to believe there has been a violation of the Procurement Code; and
 - 5) perform other duties as required by law.
- e) Real Estate Review Board. The Secretary shall appoint a Secretary of State Real Estate Review Board (RRB), consisting of 4 members plus the Property Management Administrator. The 4 appointed members shall include 2 real estate professionals, one attorney, and one accountant. The RRB shall be authorized to review, comment upon, and recommend rules and practices governing the procurement, leasing, management, control and disposal of real property by the

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Secretary of State. Reviews of real property transactions shall consider issues related to legality; fair market value; verifications of property information, including square footage, property taxes, etc.; accuracy of rent allocation schedules; accuracy of vendor disclosure documents; and possible conflicts of interest.

f) Chief Internal Auditor. The Secretary shall appoint a chief internal auditor. The auditor must have a Bachelor's degree, and must be either a certified internal auditor, or a certified public accountant with at least 4 years of auditing experience, or an auditor with 5 years of experience. Any chief internal auditor appointed on or after July 1, 2010, shall be appointed for a period of 5 years and may only be removed for cause. The chief internal auditor shall report directly to the Secretary. Subject to the approval of the Secretary, and consistent with the Fiscal Control and Internal Auditing Act [30 ILCS 10], the chief internal auditor shall:

- 1) direct the internal audit functions and activities;
- 2) prepare audit reports and assess program goals;
- 3) be responsible for the preparation of an annual audit plan for submission to and subject to the approval of the Secretary; and
- 4) perform other duties as required by law.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section 2000.2005 General Provisions

- a) Late Bids or Proposals, Late Withdrawals and Late Modifications
 - 1) Definition. Any bid or proposal received after the time and date for receipt, and at other than the specified location, is late. A bid that is delivered to the wrong location but that is subsequently delivered to the correct location by the date and time specified shall be considered, but the agency shall not be responsible for ensuring such subsequent delivery. Any withdrawal or modification of a bid or proposal received after the

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time and date set for opening of bids or proposals is late. If received at other than the specified location, the submission is late.

- 2) Treatment. No late bid or proposal, late modification, or late withdrawal will be considered unless the Procurement Officer, and not a designee, determines it would have been timely but for the action or inaction of State personnel directly serving the procurement activity (e.g., providing the wrong address).
 - 3) Records. Records shall be made and, in accordance with the State Records Act [5 ILCS 160], kept for each late bid or proposal, late modification, or late withdrawal.
 - 4) Other Submissions. Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.
- b) Extension of Time
- 1) The Procurement Officer may, prior to the date or time for submitting or modifying a bid or proposal, extend the date or time for the convenience of the State.
 - 2) After opening bids or proposals, the Procurement Officer may request bidders or offerors who submitted timely bids or proposals to extend the time during which the State may accept the bids or proposals, provided that, with regard to bids, no other change is permitted. This extension does not provide an opportunity for others to submit bids or proposals.
- c) Electronic and Facsimile Submissions
- 1) The Invitation for Bids (IFB) or Request for Proposals (RFP) may state that electronic and facsimile machine submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the IFB or RFP.
 - 2) Electronic submissions authorized by specific language in the IFB or RFP will be opened in accordance with electronic security measures in effect at the SOS at the time of opening. Unless the electronic submission

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procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.

- 3) Fax submissions authorized by specific language in the IFB or RFP will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.
- d) **Intent to Submit**
The Invitation for Bids or the Request for Proposals may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid or proposal in response to the IFB or RFP. Bids and proposals submitted without complying with the notice of intent requirement may be rejected.
- e) **Only One Bid or Proposal Received**
If only one bid or proposal is received, an award may be made to the single bidder or offeror if the Procurement Officer finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond or there is not adequate time for resolicitation. Otherwise:
 - 1) new bids or offers may be solicited, including under sole source (Section 2000.2025) or emergency (Section 2000.2030) procedures; or
 - 2) the procurement may be canceled.
- f) **Alternate or Multiple Bids or Proposals**
 - 1) Alternate bids or proposals may be accepted if:
 - A) permitted by the solicitation and in accordance with instructions in the solicitation; or
 - B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 2000.2025 (Sole Economically Feasible Source Procurement) of this Part; or
 - C) the low bidder, who has met all requirements of the solicitation, has provided a lower cost alternative that meets all of the material

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requirements of the specifications.

- 2) Multiple bids or proposals may be accepted if:
 - A) permitted by the solicitation and submitted in accordance with instructions in the solicitation; or
 - B) only one vendor responded, then, one or more of the submissions may be evaluated, provided that, in the case of bids, only the lowest cost bid meeting specifications may be considered.
 - 3) If a vendor clearly indicates a primary submission among alternate or multiple bids or proposals, then that primary submission shall be considered for award as though it were the only bid or proposal submitted by the vendor.
- g) **Multiple Items**
An Invitation for Bids or Request for Proposals may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, or grand total of all items.
- h) **"All or None" Bids or Proposals**
All or none bids or proposals may be accepted if the evaluation shows an all or none award to be the lowest cost or best value of those submitted.
- i) **Conditioning Bids or Proposals Upon Other Awards**
Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:
 - 1) be rejected unless the vendor removes the condition; or
 - 2) be evaluated and award made to that vendor if the vendor is also independently evaluated as the winner of the other IFBs or RFPs provided the agency need not delay procurement actions to accommodate the vendor's all or none condition.
- j) **Unsolicited Offers**
 - 1) **Processing of Unsolicited Offers.** The Procurement Officer may consider

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unsolicited offers and shall have final authority with respect to evaluation, acceptance and rejection of such unsolicited offer.

- 2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the State.
 - 3) Award. An award may not be made based on an unsolicited offer in place of the notice and competition requirements of the Code and this Part except if that unsolicited offer meets the requirements for a small (Section 2000.2020), sole source (Section 2000.2025), or emergency (Section 2000.2030) procurement.
- k) Clarification of Bids and Proposals
The Procurement Officer may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to materially change its bid or proposal in response to a request for clarification. A clarification is not an opportunity to make changes or for submission of best and finals as authorized elsewhere in this Part.
- l) Extension of Time on Indefinite Quantity Contracts
The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the Procurement Officer determines in writing that it is not practical to award another contract at the time of such extension.
- m) Increase in Quantity on Definite Quantity Contracts
- 1) The quantity that may be ordered from a definite quantity contract without additional notice and competition may be increased by up to 20% provided the Procurement Officer determines that separate bidding for the additional quantity is not likely to achieve lower pricing. A particular procurement may specify a different percentage.
 - 2) The quantity may be increased by any percentage provided the dollar value of the increase does not exceed the applicable small purchase (Section 2000.2020) threshold.
- n) Subsequent Purchase Request

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If, within 30 days after making an award to a particular vendor pursuant to a competitive sealed bid on behalf of the SOS, the SPO receives a purchase request for the same item and for the same or lesser quantity, the SPO may contract with that vendor on the same terms and conditions, including price, without additional notice and competition, if such contract is acceptable to the vendor.

- o) Assignment, Novation or Change of Name
- 1) Assignment. No State contract is transferable, or otherwise assignable, without the written consent of the Procurement Officer, provided, however, that a vendor may assign money receivable under a contract after due notice to the State. Assignment may require the execution of a contract with the assignee and in such cases the assignee must meet all requirements for contracting with the State.
 - 2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee agree that:
 - A) the transferee assumes all of the transferor's obligations;
 - B) the transferee meets all requirements for contracting with the State;
 - C) the transferor waives all rights under the contract as against the State; and
 - D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the State, furnish a satisfactory performance bond.
 - 3) Change of Name. A vendor may submit to the Procurement Officer a written request to change the name in which it holds a contract with the State. The name change shall not alter any of the terms and conditions of the contract or the obligations of the vendor.
 - 4) Reports. All change of name or novation agreements under this subsection (o) shall be reported to the CPO of DCMS within 30 days after the date the agreement becomes effective so that the bid list may be updated.

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- p) **Contracting for Installment Purchase Payments, Including Interest**
Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act [30 ILCS 305].
- q) **Use of Source Selection Method that is Not Required**
If SOS uses a method of source selection that it is not, by law, required to use (e.g., use of a competitive sealed bid for a small purchase), the SOS is not bound to strict compliance with the Code and rules governing the method of source selection used.
- r) **Vendor Signature**
A bid or proposal submitted unsigned will be evaluated if the vendor submits a written signature acceptable to the Procurement Officer within the time specified by that officer.
- s) **Stringing**
Dividing or planning procurements to avoid use of competitive procedures (stringing) is prohibited.
- t) **Confidential Data**
Vendors must clearly identify any information that is exempt from the disclosure requirement of the Illinois Freedom of Information Act [5 ILCS 140] and must request special handling of that material.
- u) **Documentation of Procurement Actions**
Each SPO shall maintain in the procurement or associated contract file all substantive documents and records of communications that pertain to the procurement and any resulting contract. This shall include, as applicable, but is not limited to:
- 1) Procurement Business Case, signed by the CPO or SPO, that establishes the reason for the contract decision or other form of decision memo showing CPO or SPO approvals to proceed with the contract award;
 - 2) Procurement Bulletin postings;
 - 3) Solicitation document (e.g., IFB) and all amendments, clarifications and Best & Final requests;

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- 4) Vendors' responses, including clarifications and responses to Best & Final requests;
- 5) Evaluation material (e.g., scoring guidelines and forms; completed score sheets for individual evaluators, including notes; evaluation committee's combined score sheets; evaluation committee's recommendation; and management's decision);
- 6) Protest and resolution;
- 7) Contract and any order, change, amendments, renewal or extension;
- 8) Contractor Performance Reviews;
- 9) All information from subsections (u)(1) through (8), less information exempt from disclosure under the Freedom of Information Act [5 ILAC 140], shall be prepared and available for inspection and copying, with information from subsections (u)(1) through (5) available on the date any award is posted to the Procurement Bulletin.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 2000.2010 Competitive Sealed Bidding

- a) Application
Competitive sealed bidding is the required method of source selection except as allowed by the Code and this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.
- b) The Invitation for Bids
 - 1) Use. The Invitation for Bids is used to initiate a competitive sealed bid procurement.
 - 2) Content. The Invitation for Bids shall include, at a minimum, the following:
 - A) instructions and information to bidders concerning the bid

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submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, and the maximum time for bid acceptance by the State;

- B) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and
- C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

- 3) Incorporation by Reference. The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where such documents can be obtained.

- c) Bidding Time

Bidding time is the period of time between the date of notice or distribution of the Invitation for Bids and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is authorized by the Code or this Part.

- d) Bidder Submissions

- 1) Bid Form. The Invitation for Bids may include a form or format for submitting bids. If a form or format is specified, vendor shall submit bids as instructed.
- 2) Bid Samples and Descriptive Literature
 - A) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.
 - B) Unsolicited bid samples or descriptive literature is submitted at the bidder's risk, may not be examined or tested, will not be deemed to vary any of the provisions of the Invitation for Bids, and may not be utilized by the vendor to contest a decision or understanding with the State.

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- e) Public Notice
- 1) Publication. Every procurement for supplies and services in excess of the small purchase amount that must be procured using an Invitation for Bids shall be publicized in the Illinois Procurement Bulletin (see Section 2000.1510).
 - 2) Public Availability. A copy of the Invitation for Bids shall be made available for public inspection.
 - 3) Distribution. Invitations for Bids or Notices of the Availability of Invitations for Bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall, at a minimum, indicate where Invitations for Bids may be obtained; generally describe what is needed; and indicate the due date for bids. Where appropriate, the Procurement Officer may require payment of a fee or a deposit for supplying the Invitation for Bids.
- f) Pre-Bid Conference
- A pre-bid conference may be conducted to enhance understanding of the procurement requirements. The pre-bid conference shall be announced as a part of the Invitation for Bids notice. The conference may be designated as "attendance mandatory" or "attendance optional". The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the Invitation for Bids unless a change is made by written modification to the Invitation for Bids. Amendments shall be supplied to all those prospective bidders known to have received an Invitation for Bids. If the conference is mandatory, the amendment shall be supplied to attendees only.
- g) Amendments to Invitations for Bids
- 1) Form. Amendments to Invitations for Bids shall be clearly identified and shall reference the portion of the IFB it amends.
 - 2) Distribution. Amendments shall be made available to all prospective bidders known to have received an Invitation for Bids.

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- 3) Timeliness. Amendments shall be made available within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such preparation, the amendment shall extend the response time. If necessary, the response time may be extended by fax or telephone and confirmed in the amendment.
- h) Pre-Opening Modification or Withdrawal of Bids
- 1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the Invitation for Bids prior to the time and date set for bid opening.
 - 2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.
 - 3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.
- i) Receipt, Opening and Recording of Bids
- 1) Receipt. Upon its receipt, each bid and modification shall be time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file shall so state.
 - 2) Opening and Recording
 - A) Bids and modifications shall be opened publicly at the time, date, and place designated in the Invitation for Bids. Opening shall be witnessed by a State employee or any other person present, but the person opening bids shall not serve as witness. The name of each bidder, the bid price, and such other information as is deemed appropriate by the Procurement Officer, shall be recorded and the name of each bidder read aloud or otherwise made available. The name of the witness shall also be recorded at the opening.
 - B) The winning bid shall be available for public inspection after award, along with the record of each unsuccessful bid.

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- 3) Confidential Data. The SPO shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data or other information, the bid shall be rejected as nonresponsive.
- j) Bid Evaluation and Award
- 1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids, except as permitted in the Code and this Part. The Invitation for Bids shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the Invitation for Bids.
 - 2) Responsibility. Responsibility of prospective vendors is covered by Section 2000.2046 (Responsibility) of this Part.
 - 3) Responsiveness. A bid must conform in all material respects to the Invitation for Bids.
 - A) Product or Service Acceptability. The Invitation for Bids shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:
 - i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;
 - ii) examination of such elements as appearance, finish, taste, or feel;
 - iii) other examinations to determine whether it conforms with any other purchase description requirements.
 - B) The acceptability evaluation is not conducted for the purpose of

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determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering that does not meet the acceptability requirements shall be rejected.

- 4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (j), bids will be evaluated to determine which bidder offers the lowest cost to the State in accordance with the evaluation criteria set forth in the Invitation for Bids. Only objectively measurable criteria that are set forth in the Invitation for Bids shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible such evaluation factors shall be reasonable estimates based upon information the State has available concerning future use and shall provide for the equitable treatment of all bids. Pricing for optional supplies or services, or for renewal terms, may be considered, particularly when the pricing for such items or terms is unbalanced when compared to other pricing in the bid.
- 5) Price Negotiation. Negotiations are permitted with the low bidder to obtain a lower price for the item bid.
- k) Documentation of Award
Following award, a record showing the successful bidder shall be made a part of the procurement file.
- l) Award to Other Than Low Bidder
 - 1) The Procurement Officer, but not a designee, may award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. The written explanation must be published in the appropriate volume of the Procurement Bulletin. The name of the bidder selected, pricing, and the reasons for selecting this bidder instead of the low bidder must be published in the Bulletin.
 - 2) This action may be appropriate when the difference in quality or speed of

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delivery is so great as compared to the difference in price, and considering the needs of the agency, that a best value award is justified. However, if the difference in price is significant, the Procurement Officer may not utilize this provision.

- 3) The explanation must include:
 - A) a description of the SOS's needs;
 - B) a determination that the anticipated cost will be fair and reasonable;
 - C) a listing of all reasonable and responsive bidders; and
 - D) the name of the bidder selected, pricing, and the reasons for selecting that bidder.
- 4) The explanation shall be filed with the Legislative Audit Commission and the SOS PPB.

- m) Publicizing Award
The successful bidder shall be notified of award and ~~thesueh~~ notification may be in the form of a letter, purchase order or other clear communication. In procurements over the small purchase limit set in Section 2000.2020 (Small Purchases) of this Part, notice of award shall be published in the Bulletin.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 2000.2025 Sole Economically Feasible Source Procurement

- a) Application
The provisions of this Part apply to procurement from a sole economically feasible source (referred to as sole source) unless the estimated amount of the procurement is within the limit set in Section 2000.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 2000.2030 (Emergency Procurements) of this Part.
- b) Conditions for Use of Sole Source Procurement
Sole source procurement is permissible when a requirement is available from only

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a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. The following are examples of circumstances that could necessitate sole source procurement:

- 1) the compatibility of equipment, accessories, replacement parts, or service is a paramount consideration;
 - 2) a sole supplier's items are needed for trial use or testing;
 - 3) a sole supplier's item is to be procured for commercial resale;
 - 4) public utility regulated services are to be procured;
 - 5) the item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent;
 - 6) the procurement of the media for advertising;
 - 7) the procurement of art or entertainment services; and
 - 8) changes to existing contracts (see subsection (c)).
- c) Changes
- 1) Changes to an existing contract that are germane and reasonable in scope and cost in relation to the original contract or program, that are necessary or desirable to complete the contract or program, and that can be best accomplished by the contract holder may be procured under this Section when the Procurement Officer determines that the cost of delay or disruption to the contract or program, and the cost of a new solicitation, clearly indicate that the existing vendor is the sole economically feasible source.
 - 2) A change (whether in cost or rate) that does not exceed the applicable small purchase limit as defined in Section 2000.2020 of this Part, or that is an emergency as defined in Section 2000.2030 of this Part, may be made in accordance with procedures governing those Sections and need not

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comply with these sole source procedures. A change in the length of the contract that does not exceed 30 days and other minor, immaterial changes to the scope or administrative provisions of a contract shall not be considered changes subject to these sole source procedures.

- d) Procurement Officer to Determine
 - 1) The determination as to whether a procurement shall be made as a sole source shall be made by the Procurement Officer. Such determination and the basis therefore shall be in writing. Such officer may specify the application of such determination and the duration of its effectiveness.
 - 2) Any purchase request submitted to the CPO suggesting that a procurement be restricted to one potential vendor shall be accompanied by an explanation as to why no other vendor will be suitable or acceptable to meet the need.
- e) Publication of Sole Source Notice

The Procurement Officer shall publish in the Bulletin notice of intent to contract with that vendor at least 14 days prior to execution of the contract.

 - 1) If no challenge to this determination is made by a vendor within the 14 day period, the Procurement Officer may execute a contract with that vendor.
 - 2) If a challenge is received, the Procurement Officer shall consider the information and shall commence a competitive procurement if the Procurement Officer determines that more than one economically feasible source may be available and the sole source designation is, therefore, not appropriate, unless an emergency situation exists.
- f) Negotiation in Sole Source Procurement

The Procurement Officer shall conduct negotiations, as appropriate, to reach contract terms, including price, and shall maintain a record of each sole source procurement showing:

 - 1) the vendor's name;
 - 2) the amount and type of the contract;

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- 3) what was procured; and
- 4) the identification number of the contract file.

g) Prohibition Against Amending a Contract for Professional or Artistic Services
The provisions of this Part shall not apply to an amendment to a contract for professional or artistic services if:

- 1) there is an increase in the amount paid under the contract of more than 5% of the initial award; or
- 2) the term of the contract would extend by a period not to exceed the time reasonably needed for a competitive procurement or 2 months, whichever is less.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 2000.2030 Emergency Procurements

- a) Applications
The provisions of this Part apply to every procurement over the small purchase limit set in Section 2000.2020 (Small Purchases) of this Part and ~~that~~which is not a sole source procurement under Section 2000.2025 of this Part made under emergency, including quick purchase, conditions.
- b) Definition of Emergency Conditions
Procurements may be made under this Section 2000.2030 in the following circumstances:
 - 1) Traditional circumstances include but are not limited to:
 - A) public health or safety, including the health or safety of any particular person, is threatened;
 - B) immediate repairs are needed to State property to protect against further loss or damage to State property, or to prevent loss or damage to State property;

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- C) immediate action is needed to prevent or minimize serious disruption in State services;
 - D) action is needed to ensure the integrity of State records;
 - E) equipment or services are necessary in the furtherance of covert activities lawfully conducted by a State agency. Any required disclosures shall be made so as not to jeopardize those covert activities;
 - F) immediate action is necessary to avoid lapsing or loss of federal or donated funds; ~~or~~
 - G) the need for items to protect or further State interests is immediate and use of other competitive source selection procedures under the Code and this Part cannot be accomplished without significant risk of causing serious disadvantage to the State; ~~or-~~
 - H) immediate action is necessary to protect the collection of substantial State revenue.
- 2) After Unsuccessful Competitive Sealed Bidding or Proposals or Request for Proposals. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or noncompetitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.
- 3) Extension to Allow Competition. Extending an existing contract for such period of time as is needed to conduct a competitive method of source selection where terminating or allowing the contract to terminate would not be advantageous to the State.
- 4) Quick Purchase-
- A) A supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason so that making a purchase

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immediately is more advantageous to the State than instituting a competitive procurement under the provisions of the Code for the supplies or services;

- B) Items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a purchase immediately to take advantage of the availability and price;
- C) Availability of rare items, such as books of historical value;
- D) The procurement is for entertainment.

c) Scope of Emergency Conditions

- 1) Emergency procurements shall be limited to the items, quantity and term necessary to meet the emergency need.
- 2) Emergency procurements shall be limited to the time reasonably needed for a competitive procurement, but in no event shall it exceed 90 days unless the CPO determines additional time is needed.
- 3) In the event an emergency procurement exceeds 90 days, the contract scope and duration may be extended. The extension shall be limited in items, quantity and days.

d) Authority to Make Emergency Procurements
Authority to make emergency procurements is established in Subpart C. Whenever practical, existing State contracts shall be utilized and, whenever practical, approval by the SPO shall be obtained prior to the procurement. The CPO or SPO shall be responsible for making the filings required in Section 20-30 of the Code.

e) Source Selection Methods
Any method of source selection, whether or not identified in this Part, may be used to conduct the procurement in emergency situations. The procedure used shall be selected to assure that the required items are procured in time to meet the emergency. Such competition as is practicable shall be obtained.

f) Determination and Record of Emergency Procurement

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- 1) Determination. The Procurement Officer shall make a written determination stating the basis for an emergency procurement and for the selection of the particular vendor. ~~The Such~~ determinations shall be kept in the contract file of the Procurement Officer.
- 2) Record. An affidavit of each emergency procurement shall be filed ~~by with~~ the CPO with the SOS PPB and the Auditor General within 10 days after the procurement and shall include the following information:
 - A) the vendor's name;
 - B) the amount and type of the contract, provided that, if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known;
 - C) a description of what the vendor will do or provide;
 - D) the reasons for using the emergency method of source selection.
- 3) Notice of the emergency procurement shall be published in the Bulletin in accordance with Subpart D of this Part.

g) Extensions of Emergency

In the event an emergency procurement exceeds 90 days, the emergency procurement may be extended. Prior to the execution of the extension:

- 1) the CPO must determine additional time is necessary;
- 2) the contract scope and duration must be limited to the emergency;
- 3) a public hearing must be held;
- 4) the CPO must provide written justification for the emergency contract;
- 5) notice of the intent to extend shall be provided to the SOS PPB and published in the Bulletin in accordance with Subpart D of this Part.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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Section 2000.2035 Competitive Selection Procedures for Professional and Artistic Services

- a) Application
 - 1) The provisions of this Section apply to every procurement of professional and artistic services except those subject to the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535] and except as provided in Section 2000.2035(e).
 - 2) *"Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability [30 ILCS 500/1-15.60].*
- b) Professional and artistic services are further defined as follows:
 - 1) "Qualified by education" means the individual who would perform the services must have obtained the level of education specified in the Request for Proposals.
 - 2) "Qualified by experience" means the individual who would perform the services must have the level of general experience specified in the Request for Proposals.
 - 3) "Qualified by technical ability" means the individual who would perform the services must demonstrate a high degree of skill or ability in performing services that are the same, similar or closely related in nature to those specified in the Request for Proposals.
 - 4) An essential element distinguishing professional and artistic services from other services is confidence, trust, and belief in not only the ability, but the talent, of the individual performing the service. These services are primarily for intellectual or creative skills. Contracts for services primarily involving manual skills or labor are not professional and artistic services contracts. (See Illinois Attorney General Opinion S-256, January 20, 1971.)
 - 5) If the professional or artistic contract is with a firm or other business

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entity, the individuals whose education, experience and technical ability provided the basis on which the firm or other business entity was selected must meet the qualifications.

- 6) When SOS requires services that meet the requirements of this subsection (b), the competitive selection procedures described in this Section must be followed. Services that do not meet the requirements of this Section must be procured in accordance with other methods of source selection authorized by the Code and this Part.
- c) The categories of services enumerated below shall be considered and procured as professional and artistic services. With regard to other services, the SPO may determine whether the factors identified in subsection (b), when applied to particular services to be procured, require such services to be procured as professional and artistic under these competitive selection procedures, or as services that are subject to one of the other methods of source selection authorized by the Code and this Part. The following categories are examples of disciplines that would always be professional and artistic services:
 - 1) law;
 - 2) accounting;
 - 3) medicine;
 - 4) dentistry; and
 - 5) clinical psychology.
 - d) Architect, engineering and land surveying services shall be procured pursuant to the procedures of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535]. Such procurements are not subject to the procedures for other professional services established in the Code or this Part.
 - e) **Conditions for Use of Competitive Selection Procedures**
Except as authorized under Section 20-25 (Sole Source Procurement) or Section 20-30 (Emergency Procurements) of the Code, these competitive selection procedures shall be used for all procurements of professional and artistic services

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of \$20,000 or more. Services of less than \$20,000 and for a nonrenewable term of one year or less may be procured in accordance with Section 2000.2020 (Small Purchases) of this Part.

- f) Prequalification. The CPO shall maintain a list of prequalified professional and artistic vendors in accordance with Section 2000.2045 of this Part. Persons may amend statements of qualifications at any time by filing a new statement. Failure of a professional and artistic vendor to prequalify shall not be cause for rejection of a proposal provided that the responsive offeror supplies with its proposal all information defined by the prequalification process.
- g) Public Notice of Competitive Selection Procedures
 - 1) Notice of the need for professional and artistic services shall be made by the Procurement Officer in the form of a Request for Proposals.
 - 2) Notice shall be given as provided in Section 2000.2010 (Competitive Sealed Bidding) of this Part.
 - 3) Notice shall also be distributed to prequalified persons interested in performing the services required by the proposed contract.
- h) Request for Proposals
 - 1) Contents. The Request for Proposals shall be in the form specified by the CPO and shall contain at least the following information:
 - A) the type of services required;
 - B) a description of the work involved;
 - C) an estimate of when and for how long the services will be required;
 - D) the type of contract to be used;
 - E) a date by which proposals for the performance of the services shall be submitted;
 - F) a statement of the minimum information that the proposal shall

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contain, which may, by way of example, include:

- i) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
 - ii) if deemed relevant by the Procurement Officer, the age of the offeror's business and average number of employees over a previous period of time, as specified in the Request for Proposals;
 - iii) the abilities, qualifications, and experience of all persons who would be assigned to provide the required services;
 - iv) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the Request for Proposals;
 - v) a plan, giving as much detail as is practical, explaining how the services will be performed;
- G) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package); and
- H) the factors to be used in the evaluation and selection process and their relative importance.
- 2) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the Request for Proposals. Price will not be evaluated until ranking of all proposals and identification of the most qualified vendor. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors are:
- A) the plan for performing the required services;
 - B) ability to perform the services as reflected by technical training and

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education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;

- C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
 - D) a record of past performance of similar work.
- i) **Pre-Proposal Conference**
A pre-proposal conference, if appropriate, shall be conducted in accordance with Section 2000.2010(f) (Pre-Bid Conference). Such a conference may be held anytime prior to the date established for submission of proposals.
- j) **Delivery, Receipt and Handling of Proposals**
- 1) Proposals shall be submitted to and opened by the SPO in accordance with instructions given by the SPO.
 - 2) **Public Opening**
 - A) Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals.
 - B) Opening shall be witnessed by a State employee or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.
 - C) Proposals and modifications shall be opened in a manner designed to avoid disclosing contents to competitors. Only State personnel and contractual agents may review the proposals prior to award.
 - D) Proposals of offerors who are not awarded the contract shall not be open to public inspection.

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- k) Discussions
 - 1) Discussions Permissible. The Procurement Officer may conduct discussions with any offeror to:
 - A) determine in greater detail such offeror's qualifications; and
 - B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach. The Procurement Officer may allow changes to the proposal based on those discussions.
 - 2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract has been made. The proposal of the offeror awarded the contract shall be open to public inspection except as otherwise provided in the contract.
- l) Selection of the Best Qualified Offerors
After conclusion of validation of qualifications, evaluation, and discussion, the Procurement Officer shall rank the acceptable offerors in the order of their respective qualifications.
- m) Evaluation of Pricing Data
Pricing submitted for all proposals timely submitted shall be opened and ranked.
 - 1) If the low price is submitted by the most qualified vendor, the Procurement Officer may award to that vendor.
 - 2) If the price of the most qualified vendor is not low and if it does not exceed \$25,000, the Procurement Officer, but not a designee, may award to that vendor.
 - 3) If the price of the best qualified vendor exceeds \$25,000, the Procurement Officer, but not a designee, must state why a vendor other than the low priced vendor was selected and that determination shall be published in

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the Bulletin.

- n) Negotiation and Award of Contract
 - 1) General. The Procurement Officer shall attempt to negotiate a contract with the best qualified offeror for the required services at fair and reasonable compensation. The Procurement Officer may, in the interest of efficiency, negotiate with other vendors, while negotiating with the best qualified vendor.
 - 2) Elements of Negotiation. At a minimum, contract negotiations shall be directed toward:
 - A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;
 - B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and
 - C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services and the scope, complexity, and nature of such services.
 - 3) Successful Negotiation of Contract with Best Qualified Offeror
 - A) If compensation, contract requirements, and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is canceled.
 - B) Compensation must be determined in writing to be fair and reasonable. Fair and reasonable compensation shall be determined by the Procurement Officer based on the circumstances of the particular procurement, including but not limited to the nature of the services needed, qualifications of the offerors, consideration of range of prices received in the course of the procurement, and the agency's identified budget.

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- 4) Failure to Negotiate Contract with Best Qualified Offeror
- A) If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons therefore shall be placed in the file. The Procurement Officer shall advise such offeror of the termination of negotiations.
 - B) Upon failure to negotiate a contract with the best qualified offeror, the Procurement Officer may enter into negotiations with the next most qualified offeror.
 - C) Nothing in this Section shall prohibit the Procurement Officer from making a selection that represents the best value, qualifications, price and other relevant factors established in the request for proposals being considered. The Procurement Officer may, in considering best value, determine the proposal from a fully qualified vendor that submitted the lowest price to be the best value without further evaluation.
- o) Notice of Award
Written notice of award shall be public information and made a part of the contract file. The SPO shall publish the names of the responsible decision makers of the purchasing agency, the name of the agency, the successful vendor, a contract reference number or other identifier, and the value of the contract. Publication shall be in the next available issue of the Bulletin.
- p) A CPO may allow an SPO to publish notices of small, ~~Small,~~ sole source and emergency procurements of professional and artistic services under the jurisdiction of an SPO. ~~do not require approval of the CPO to proceed. Any notices shall be published by the SPO.~~
- q) Post Performance Review
The SPO shall require the using department to provide a synopsis of the contract and shall rate the vendor's performance using the form developed by the SPO. A copy of the completed form shall be provided to the SPO.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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Section 2000.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

- a) **Scope of this Section**
The provisions of this Section shall govern the cancellation of any solicitations whether issued by the State under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part.
- b) **Policy**
Any solicitation may be canceled when the Procurement Officer believes cancellation to be in the State's best interest. Nothing shall compel the award of a contract.
- c) **Cancellation of Solicitation; Rejection of All Bids or Proposals Prior to Opening**
 - 1) As used in this Section, "opening" means the date set for opening of bids, receipt of unpriced technical offers in multi-step sealed bidding, or receipt of proposals in competitive sealed proposals.
 - 2) Prior to opening, a solicitation may be canceled in whole or in part when the Procurement Officer determines in writing that such action is in the State's best interest for reasons including, but not limited to:
 - A) the State no longer requires the supplies or services;
 - B) the State no longer can reasonably expect to fund the procurement;
~~or~~
 - C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable;-
 - D) ambiguous or otherwise inadequate specifications;
 - E) the solicitation did not provide for consideration of all factors of significance to the State;
 - F) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;

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- E) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or
 - F) there is reason to question whether the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.
- 2) When the solicitation is canceled or when all bids or proposals are rejected, all vendors who submitted bids or proposals shall be sent a notice upon request informing them of the reasons for the cancellation or rejection.
- e) Documentation
The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.
 - f) Rejection of Individual Bids or Proposals
 - 1) General. This subsection (f) applies to rejections of individual bids or proposals in whole or in part.
 - 2) Notice in Solicitation. Each solicitation shall provide that any bid or proposal may be rejected in whole or in part when in the best interest of the State as provided in this Section.
 - 3) Reasons for Rejection
Reasons for rejecting a bid or proposal may include, but are not limited to:
 - A) the business that submitted the bid or proposal is nonresponsible as determined under Section 2000.2046 (Responsibility) of this Part;
 - B) the bid or proposal is not responsive, that is, it does not conform in all material respects to the solicitation;
 - C) the proposal ultimately (that is, after any opportunity has passed for altering or clarifying the proposal) fails to meet the announced requirements of the State in some material respect;

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- D) the supply or service item offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the Invitation for Bids; or
 - E) the proposed price is clearly unreasonable.
- 4) Notice of Rejection. Upon request, unsuccessful bidders or offerors shall be advised of the reasons for rejection.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART H: SPECIFICATIONS AND SAMPLES

Section 2000.2050 Specifications and Samples

- a) Responsibilities Regarding Specifications
 - 1) The Procurement Officer shall write the necessary specifications except as noted in this subsection (a).
 - 2) If a specification for general or common use or a qualified products list exists for an item to be procured under Section 20-20 of the Code (Small Purchases), it shall be used except as otherwise authorized by the SPO. If no such specification exists, the Procurement Officer shall have the authority to prepare specifications for use in such purchases. In an emergency under Section 20-30 of the Code, any necessary specification may be utilized without regard to the provisions of this Subpart.
- b) Procedures for the Development of Specifications
 - 1) If the SPO develops a specification for a common or general use item or has developed a qualified products list in accordance with this Section for a particular supply or service, it shall be used unless the SPO authorizes use of another specification.
 - 2) All procurements shall be based on specifications that accurately reflect the State's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements.

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- 3) Specifications shall not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate State needs. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.
 - 4) Any specifications or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference.
 - 5) A specification may provide alternate descriptions where two or more design, functional, or performance criteria will satisfactorily meet the State's requirements.
- c) Brand Name or Equal Specification
- 1) Brand name or equal specifications may be used when the Procurement Officer determines in writing that:
 - A) no specification for a common or general use specification or qualified products list is available;
 - B) time does not permit the preparation of another form of specification, not including a brand name specification;
 - C) the nature of the product or the nature of the State's requirement makes use of a brand name or equal specification suitable for the procurement; or
 - D) use of a brand name or equal specification is in the State's best interest.
 - 2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.
 - 3) Unless the Procurement Officer determines that the essential characteristics of the brand names included in the specifications are

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commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.

- 4) Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that the product is equal is on the bidder.
- d) Brand Name Only Specification
- 1) Determination. A brand name only specification may be used only when the Procurement Officer makes a written determination that only the identified brand name item or items will satisfy the State's needs.
 - 2) Use. Brand name alone may be specified in order to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the SPO. The Procurement Officer may, pursuant to an authorized competitive procedure, select a particular vendor to provide supplies or services for a specified period of time, and for that period the supplier of additional, related and updated supplies and services may be limited to the selected vendor or the brand initially selected.
 - 3) Competition. The Procurement Officer shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 2000.2025 (Sole Economically Feasible Source Procurement) of this Part.
 - 4) Small and Emergency Procurements. Brand name only specifications may be used when procuring items under the small (Section 2000.2020) and emergency (Section 2000.2025) provisions of this Part.
- e) Qualified Products List

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- 1) Use. A qualified products list may be developed by the Procurement Officer when testing or examination of the supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy State requirements.
 - 2) Solicitation. When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion in a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration during the time allowed for testing and examination.
 - 3) Testing and Confidential Data. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential when requested in writing by the supplier.
- f) Proven Products
The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year. Specifications may require that the supply or services must have been used in business or industry for a specified period of time to be considered.
- g) State Required Samples
- 1) Any required samples must be submitted as instructed in the solicitation with transportation prepaid by the vendor. Each sample must be labeled with the vendor's name, address and a means of matching the sample with the applicable bid or proposal.
 - 2) Any sample submitted must be representative of the item that would be delivered if a contract were awarded for that item. Samples submitted by a successful vendor will be retained to check continuing quality. Submission of samples will not limit the State's right to require adherence to specifications.
 - 3) No payment will be made for State Required Samples. Samples not

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destroyed or consumed by examination or testing will be returned upon request and at vendor's expense. Such request must be made at time of submission with return collect or prepayment provisions and instructions for return accompanying the samples.

- h) **Product Demonstration**

Any vendor may request time and space to demonstrate a product or service. Agreement to allow such demonstration will be solely at the State's discretion and will not entitle the bidder to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.
- i) **Specifications Prepared by Other Than State Personnel**
 - 1) Specifications may be prepared by other than State personnel, including, but not limited to, consultants, architects, engineers, designers, and other drafters of specifications for public contracts when the Procurement Officer determines that there will be no substantial conflict of interest involved and it is otherwise in the best interest of the State, and provided the Procurement Officer retains the authority to finally approve the specifications. Contracts for the preparation of specifications by other than State personnel shall require the specification writer to adhere to State requirements.
 - 2) The person who prepared the specifications shall not submit a bid or proposal to meet the procurement need unless the Secretary of State, and not a designee, determines in writing that it would be in the best interest to accept such a bid or proposal from that person. A notice to that effect shall be published in the Bulletin.
- j) **Pre-solicitation Assistance/Specifications Prepared by Other Than State Personnel**
 - 1) Prior to issuing a solicitation, an SPO may issue an RFI to obtain services of any person or business to conduct research, analyze requirements or provide general design or other assistance to help the SOS develop its procurement strategy, specifications and documents and to identify and address other related needs. No services can be obtained to assist the SOS in reviewing, drafting or preparing an RFP or RFI or to provide similar assistance.

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- 2) [Notice. A Request for Information shall be published in the Illinois Procurement Bulletin for at least 7 calendar days. All information received in response to an RFI shall be published in the Bulletin for at least 7 calendar days.](#)
- 3) [The RFI shall contain at least the following:](#)
 - A) [the name of the requesting agency;](#)
 - B) [a brief description of the agency's need; and](#)
 - C) [a statement that the RFI is not a solicitation.](#)

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART J: DURATION OF CONTRACTS

Section 2000.2060 Duration of Contracts – General

- a) General
 - 1) A multi-term contract for a term of up to 10 years is authorized when determined by the ~~CPO~~[Procurement Officer](#) to be in the best interest of the State, [inclusive of proposed contract renewals](#).
 - 2) A software license may have a term longer than 10 years, including for a perpetual term, provided the payment term is limited to no more than 10 years.
 - 3) [The length of the payment terms of the bonds issued by or on behalf of the SOS shall be limited as provided in the statute authorizing the issuance of bonds.](#)
- b) The contractual obligation of both parties in each fiscal period succeeding the first is subject to appropriation and availability of funds. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of such contract shall be canceled without penalty to, or further payment being required by, the State. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois

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General Assembly or other governmental entity.

c) Conditions for Use of Multi-~~YearTerm~~ Contracts

A multi-~~yearterm~~ contract may be used when:

- 1) special production of definite quantities or the furnishing of long-term services is required to meet State needs; or
- 2) a multi-~~yearterm~~ contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in State procurement. The following factors are among those relevant to such a determination:
 - A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping ~~thosesuch~~ costs during the period of contract performance;
 - B) lower production costs because of larger quantity of service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;
 - C) stabilization of the vendor's work force over a longer period of time may promote economy and consistent quality; or
 - D) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.

d) Multi-~~YearTerm~~ Contract Procedure

The solicitation shall state:

- 1) the proposed term;
- 2) the amount of supplies or services required for the proposed contract period;
- 3) the type of pricing requested (e.g., firm for term);

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- 4) how award will be determined.
- e) Renewals
- 1) When the original procurement specifically called for an initial term plus renewals, the renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years, the terms and conditions do not change except as provided in the contract (such as price escalations tied to an index) and the option is reserved solely to the State or is by mutual agreement. A renewal option that requires modification to a material term or condition of the contract shall be treated as a new contract and shall be subject to competitive procurement procedures established by the Code and this Part.
 - 2) When the original procurement was silent as to renewals, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. This renewal shall start a new term not to exceed 10 years.
 - 3) When a renewal will result in the total term, counting the initial term and any previous renewals, to exceed 10 years, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. This renewal will start a new term that shall not exceed 10 years.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART K: CONTRACT MATTERS

Section 2000.2580 Subcontractors

All competitive sealed proposals, including proposals for professional and artistic services, shall include a provision to require each offeror to identify, either in its proposal or prior to award, the identity of the subcontractors that will be used in the performance of the contract, as well as the amounts expected to be paid to each subcontractor.

(Source: Added at 34 Ill. Reg. _____, effective _____)

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SUBPART O: PREFERENCES

Section 2000.4545 Small Business

- a) **Set-Aside**
The CPO for DCMS may determine categories of supplies or service procurements that will be set aside for small business located in Illinois. The SPO may contact DCMS to determine whether a particular procurement has been set aside for small business, and, if so, the SOS may honor the set aside to the extent practicable.
- b) **Small Business List**
The SOS may refer to the list of responsible vendors that meet the criteria of small business. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.
- c) **Required Use**
If a Procurement Officer wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.
- d) **Withdrawal of Set-Aside**
If the Procurement Officer determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the Procurement Officer shall reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Illinois Procurement Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of the Code and this Part.
- e) **Criteria for Small Business**
Unless the CPO provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:
 - 1) Independently owned and operated.
 - 2) Not dominant in its field of operations. This means the business does not

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exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

- 3) With annual sales for most recently ended fiscal year no greater than:
 - A) ~~\$10,000,000~~\$7,500,000 for wholesale business;
 - B) ~~\$10,000,000~~\$3,000,000 for construction business; or
 - C) ~~\$6,000,000~~\$1,500,000 for retail business.
- 4) With no more than 250 employees if a manufacturing business.
 - A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year.
 - B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.
- 5) If the business is any combination of retailer, wholesaler, or construction business, then the annual sales for each component may not exceed the amounts shown in subsection (e)(3). For example, a business that is both a retailer and a wholesaler may not have total sales exceeding ~~\$16,000,000~~9,000,000, and the retail component may not exceed ~~\$6,000,000~~1,500,000 and the wholesale component may not exceed ~~\$10,000,000~~7,500,000. If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed the number shown in subsection (e)(4).
- 6) When computing the size status of a vendor, the number of employees and

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annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 2000.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

- a) Introduction
The Business Enterprise Act for Minorities, Females, and Persons with Disabilities [30 ILCS 575] (Act) sets a goal (minimum ~~20%+12%~~) for contracting with businesses owned or controlled by minorities, females, or persons with disabilities.
- b) Goal
The CPO shall establish a goal that at least ~~20%+12%~~ of the dollar value of State contracts be awarded to minority and female-owned businesses. Of that ~~20%+12%~~, ~~7%+five~~ shall be for female-owned businesses, ~~2%+two~~ for businesses owned by persons with disabilities and not-for-profit agencies for the disabled, and the remaining ~~5%+five~~ for other minority-owned businesses, unless these percentages are modified by the Council created under the Act.
- c) Upon direction of the CPO, and pursuant to direction from the Council, the SOS may establish set-asides and other ~~such~~ preferences for vendors certified under that Act.
- d) Certification
Certification procedures are set forth in rules governing the Business Enterprise Act (44 Ill. Adm. Code 10).
- e) List of Certified Businesses

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- 1) The CPO for DCMS shall maintain a list of businesses that have been certified.
 - 2) The names and addresses of certified vendors shall be made available to the public.
- f) Professional and Artistic Contract Reporting
Professional and artistic contracts, which must be reported to the Business Enterprise Council pursuant to Section 6a of the Business Enterprise Act, shall be reported as follows:
- 1) Notice that an agency intends to enter into a professional and artistic contract shall be given to the Council. Notice may be mailed, hand delivered or given by fax, and must be submitted on the same date that the potential vendor is contacted. If the contract is advertised in the Bulletin, reporting to the Council is not required.
 - 2) The notice shall include the agency name and address; contact person; contract reference number; date bid or proposal was first available; return dates and opening dates; term of the contract; services to be provided; special requirements; and dollar value. Notice should be given on the form available from the CPO for DCMS.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART P: ETHICS

Section 2000.5037 Vendor Registration, Certification and Prohibition on Political Contributions

- a) Introduction
Illinois law (10 ILCS 5/9-35 and 30 ILCS 500/20-160 and 50-37 (the statutes)) restricts political contributions by vendors and affiliated entities; requires registration with the State Board of Elections (SBEL); requires a copy of the registration certificate stamped by SBEL (Registration Certificate) to be submitted with bids/proposals and contracts; and requires solicitation and contract certifications relative to the requirements of the law. This Section supplements

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requirements found in the statutes and does not excuse compliance with any of those requirements.

b) General Registration Requirements

- 1) These requirements apply to contracts, bids and proposals that are subject to the Illinois Procurement Code:
 - A) Bids/proposals referenced in this Section are those submitted in response to a competitive solicitation that is posted to the Illinois Procurement Bulletin on or after January 1, 2009, regardless of the value assigned to the procurement.
 - B) Bids and proposals include pending bids and proposals.
 - C) These requirements generally apply to a vendor whose existing State contracts have an aggregate value in excess of \$50,000, whose aggregate value of bids/proposals for State contracts exceeds \$50,000, or whose aggregate value of State contracts and bids/proposals exceeds \$50,000.
 - D) This value is calculated on a calendar-year basis.
- 2) On a calendar-year basis, each vendor or potential vendor must keep track of the value of contracts and bids/proposals. Vendors must register with SBEL when the vendor determines that the value of the contracts and bids/proposals meets the threshold for registration.
- 3) An "executive employee" means:
 - A) the President, Chairman of the Board, or Chief Executive Officer of a business entity and any other individual that fulfills equivalent duties as the President, Chairman of the Board, or Chief Executive Officer of a business entity.
 - B) any employee of a business entity whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee, irrespective of the employee's title or status in the

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business entity. For the purposes of this subsection (b)(3)(B), compensation determined directly by award or payment of contracts means a payment over and above regular salary that would not be made if it were not for the award of the contract.

c) Bids and Proposals

- 1) A copy of the Registration Certificate must be submitted with bids/proposals.
- 2) If the Registration Certificate is not timely submitted, the SOS will reject the bid/proposal.
- 3) The SOS will not reject a bid/proposal if absence of the Registration Certificate is the result of delay or error by the State, but will require the Registration Certificate before making an award.

d) Contracts

A copy of the Registration Certificate must be in the procurement file as set forth in this subsection (d), unless the Vendor certifies it is not required to register.

- 1) For contract renewals and extensions, if the value of the renewal or extension by itself, or in combination with the contract being renewed/extended and other contracts and bids/proposals exceeds \$50,000, the vendor must provide the Registration Certificate and make the appropriate contract certification, if it has not already done so.
- 2) For indefinite quantity/estimated value contracts, a vendor who is otherwise not required to register shall register with SBEL when the value of orders placed pursuant to an indefinite/estimated value contract plus all other contracts and bids/proposals exceeds \$50,000.
- 3) For contract amendments, if the value of the amendment, by itself or in combination with the contract being renewed plus other contracts and bids/proposals, exceeds \$50,000, the vendor must provide the Registration Certificate and make the appropriate contract certification, if it has not already done so.

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- 4) Any contracts mistakenly executed in violation of this Section must be amended to include the contract certifications, and the vendor must supply the Registration Certificate. If any violation by the vendor is not cured within 5 business days after receipt of notification of the violation, the contract is voidable by the State without penalty.
- 5) Contract certification required by the statutes shall be included in or added to each contract that must be filed with the State Comptroller pursuant to Section 20-80 of the Illinois Procurement Code and those written, two-party contracts that need not be filed with the Comptroller. The SOS may require written confirmation of the rule-imposed certification at any time.

(Source: Added at 34 Ill. Reg. _____, effective _____)

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

Section 2000.5510 Complaints Against Vendors or Subcontractors

- a) The purpose of this Section is to document performance of vendors or subcontractors.
- b) Whenever a vendor or subcontractor fails to meet contract requirements, including but not limited to failure to deliver on time or meet specifications, the SOS shall take appropriate action to initiate a complaint to the vendor or subcontractor.
- c) For relatively minor infractions, the SOS may initiate contact by telephone or in person. If not resolved by this action, a written complaint shall be made.
- d) For other infractions, the SOS shall send a written complaint to the vendor or subcontractor detailing the problem. For complaints regarding contracts established by the CPO for DCMS, a form available from the CPO for DCMS shall be used for processing complaints.
- e) A copy of all written complaints and the resolution or status shall be filed with the SPO.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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Section 2000.5520 Suspension

- a) Application
This Section applies to all debarments or suspensions of vendors [or subcontractors](#) from consideration for award of contracts under the Code.
- b) The CPO may suspend a vendor [or subcontractor](#) from doing business with the SOS, with one or more agencies, or with respect to specific types of supplies or services. A suspension may be issued upon a showing the vendor [or subcontractor](#) violated the Code or this Part, or failed to conform to specifications or terms of delivery.
- c) When the CPO finds cause exists for suspension, a notice of suspension, including a copy of such determination, shall be sent to the suspended vendor [or subcontractor](#). Bids or proposals will not be solicited from the suspended vendor [or subcontractor](#), and, if received, will not be considered during the period of suspension.
- d) A vendor [or subcontractor](#) may be suspended for a period of time commensurate with the seriousness of the offense, but for no more than five years. The suspension will be effective seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.
- e) The CPO may debar a vendor [or subcontractor](#). Debarment is the permanent suspension of a vendor [or subcontractor](#) from doing business with the SOS. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals received from the debarred vendor will not be considered.
- f) The CPO shall maintain a master list of all suspensions and debarments. The master list will retain information concerning suspensions and debarments as public records. Such records will be maintained for a period of at least three years following the end of the suspension or debarment. Such public information may be considered in determining responsibility.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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Section 2000.5555 Hearings and Decisions

- a) The Chief Procurement Officer shall conduct public hearings prior to awarding contracts for sole source procurements pursuant to Section 20-25 and before extending emergency procurements pursuant to Section 20-30.
- b) Notices of hearings shall be published in the Bulletin at least 14 days prior to the date of the public hearing.
 - 1) All notices shall include the date, time, and location of the public hearing.
 - 2) Notices for sole source procurements shall include the sole source procurement justification form, a description of the item to be procured, and the intended sole source contractor.
 - 3) Notices for extending emergency procurements shall include the CPO's written justification for the emergency contract and the name of the contractor.
- c) A copy of the notice and all documents provided at the hearing shall be included in the subsequent Procurement Bulletin.
- d) The SOS PPB and members of the public may present testimony at the hearings.
- e) The hearings shall be held in the offices of the Secretary of State or at some other convenient location readily accessible to members of the public.
- f) The CPO or his or her designee shall preside over the hearings and shall issue a written determination within 14 calendar days after the conclusion of the hearing.
- g) Copies of all statements and exhibits introduced at the hearings, the written determination of the CPO or designee, and a summary of the proceedings at the hearings shall be included in the appropriate procurement files.

(Source: Added at 34 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Certificates of Title, Registration of Vehicles
- 2) Code Citation: 92 Ill. Adm. Code 1010
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1010.245	Amendment
1010.540	Amendment
- 4) Statutory Authority: Chapter 3 of the Illinois Vehicle Code (625 ILCS 5/3) and authorized by Section 2-104(b) of the Illinois Vehicle Code
- 5) Complete Description of the Subjects and Issues Involved: The proposed amendments updates the rules for the Electronic Registration and Titling (ERT) Program to provide for added security requirements and sets the maximum fee that can be charged to a consumer for the ERT program.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency amendments currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The proposed amendments do not require expenditures by units of local government.
- 12) Time, Place and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Texts of the proposed amendments are posted on Secretary of State's web site, www.sos.state.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:

Cynthia Grant, Assistant General Counsel
298 Howlett Building
Springfield, Illinois 62756

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or cgrant@ilsos.net

The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the most recent regulatory agendas because: the Department did not anticipate this rulemaking at the time the agendas were filed.

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1010
CERTIFICATES OF TITLE, REGISTRATION OF VEHICLES

SUBPART A: DEFINITIONS

Section	
1010.10	Owner – Application of Term
1010.20	Secretary and Department

SUBPART B: TITLES

Section	
1010.110	Salvage Certificate – Additional Information Required to Accompany Application for a Certificate of Title for a Rebuilt or a Restored Vehicle Upon Surrendering Salvage Certificate
1010.120	Salvage Certificate – Assignments and Reassignments
1010.130	Exclusiveness of Lien on Certificate of Title
1010.140	Documents Required to Title and Register Imported Vehicles Not Manufactured in Conformity with Federal Emission or Safety Standards
1010.150	Transferring Certificates of Title Upon the Owner's Death
1010.160	Repossession of Vehicles by Lienholders and Creditors
1010.170	Junking Notification
1010.180	Specially Constructed Vehicles – Defined
1010.185	Specially Constructed Vehicles – Required Documentation for Title and Registration
1010.190	Issuance of Title and Registration Without Standard Ownership Documents – Bond

SUBPART C: REGISTRATION

Section	
1010.200	Homemade Trailers – Title and Registration
1010.210	Application for Registration
1010.220	Vehicles Subject to Registration – Exceptions
1010.230	Refusing Registration or Certificate of Title
1010.240	Registration Plates To Be Furnished by the Secretary of State

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- 1010.245 Electronic Registration and Titling (ERT) Program Provisions
1010.250 Applications For Reassignment

SUBPART D: REVOCATION, SUSPENSION AND
CANCELLATION OF REGISTRATION

Section

- 1010.300 Operation of Vehicle after Cancellation, Suspension, or Revocation of any
Registration
1010.310 Improper Use of Evidences of Registration
1010.320 Suspension, Cancellation or Revocation of Illinois Registration Plates and Cards
and Titles
1010.330 Operation of Vehicle Without Proper Illinois Registration
1010.350 Suspension or Revocation
1010.360 Surrender of Plates, Decals or Cards

SUBPART E: SPECIAL PERMITS AND PLATES

Section

- 1010.410 Temporary Registration – Individual Transactions
1010.420 Temporary Permit Pending Registration In Illinois
1010.421 Issuance of Temporary Registration Permits by Persons or Entities Other Than the
Secretary of State
1010.425 Non-Resident Drive-Away Permits
1010.426 Five Day Permits
1010.430 Registration Plates for Motor Vehicles Used for Transportation of Persons for
Compensation and Tow Trucks
1010.440 Title and Registration of Vehicles with Permanently Mounted Equipment
1010.450 Special Plates
1010.451 Purple Heart License Plates
1010.452 Special Event License Plates
1010.453 Retired Armed Forces License Plates
1010.454 Gold Star License Plates
1010.455 Collectible License Plates
1010.456 Sample License Plates For Motion Picture and Television Studios
1010.457 Korean War Veteran License Plates
1010.458 Collegiate License Plates
1010.460 Special Plates for Members of the United States Armed Forces Reserves
| 1010.465 Requests for General Issuance Specialty [License](#) Plates

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- 1010.470 Dealer Plate Records
- 1010.480 State of Illinois In-Transit Plates

SUBPART F: FEES

- Section
- 1010.510 Determination of Registration Fees
- 1010.520 When Fees Returnable
- 1010.530 Circuit Breaker Registration Discount
- 1010.540 Fees

SUBPART G: MISCELLANEOUS

- Section
- 1010.610 Unlawful Acts, Fines and Penalties
- 1010.620 Change of Engine

SUBPART H: SECOND DIVISION VEHICLES

- Section
- 1010.705 Reciprocity
- 1010.710 Vehicle Proration
- 1010.715 Proration Fees
- 1010.720 Vehicle Apportionment
- 1010.725 Trip Leasing
- 1010.730 Intrastate Movements, Foreign Vehicles
- 1010.735 Interline Movements
- 1010.740 Trip and Short-term Permits
- 1010.745 Signal 30 Permit for Foreign Registration Vehicles (Repealed)
- 1010.750 Signal 30-Year-round for Prorated Fleets of Leased Vehicles (Repealed)
- 1010.755 Mileage Tax Plates
- 1010.756 Suspension or Revocation of Illinois Mileage Weight Tax Plates
- 1010.760 Transfer for "For-Hire" Loads
- 1010.765 Suspension or Revocation of Exemptions as to Foreign Registered Vehicles
- 1010.770 Required Documents for Trucks and Buses to detect "intrastate" movements
- 1010.775 Certificate of Safety

- 1010.APPENDIX A Uniform Vehicle Registration Proration and Reciprocity Agreement
- 1010.APPENDIX B International Registration Plan

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1010.APPENDIX C Affirmation Supporting Salvage Certificate
1010.APPENDIX D Specialty License Plates Request Form

AUTHORITY: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-104(b)].

SOURCE: Filed and effective December 15, 1970; emergency amendment at 2 Ill. Reg. 25, p. 119, effective June 14, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 12, p. 76, effective March 23, 1979; amended at 3 Ill. Reg. 29, p. 123, effective July 20, 1979; amended at 4 Ill. Reg. 17, p. 247, effective April 11, 1980; emergency amendment at 4 Ill. Reg. 21, p. 99, effective May 14, 1980, for a maximum of 150 days; amended at 6 Ill. Reg. 2241, effective February 1, 1982; amended at 6 Ill. Reg. 11076, effective August 26, 1982; codified at 6 Ill. Reg. 12674; amended at 7 Ill. Reg. 1432, effective January 21, 1983; amended at 7 Ill. Reg. 1436, effective January 21, 1983; amended at 8 Ill. Reg. 5329, effective April 6, 1984; amended at 9 Ill. Reg. 3358, effective March 1, 1985; amended at 9 Ill. Reg. 9176, effective May 30, 1985; amended at 9 Ill. Reg. 12863, effective August 2, 1985; amended at 9 Ill. Reg. 14711, effective September 13, 1985; amended at 10 Ill. Reg. 1243, effective January 6, 1986; amended at 10 Ill. Reg. 4245, effective February 26, 1986; amended at 10 Ill. Reg. 14308, effective August 19, 1986; recodified at 11 Ill. Reg. 15920; amended at 12 Ill. Reg. 14711, effective September 15, 1988; amended at 12 Ill. Reg. 15193, effective September 15, 1988; amended at 13 Ill. Reg. 1598, effective February 1, 1989; amended at 13 Ill. Reg. 5173, effective April 1, 1989; amended at 13 Ill. Reg. 7965, effective May 15, 1989; amended at 13 Ill. Reg. 15102, effective September 15, 1989; amended at 14 Ill. Reg. 4560, effective March 1, 1990; amended at 14 Ill. Reg. 6848, effective April 18, 1990; amended at 14 Ill. Reg. 9492, effective June 1, 1990; amended at 14 Ill. Reg. 19066, effective November 15, 1990; amended at 15 Ill. Reg. 12782, effective August 15, 1991; amended at 16 Ill. Reg. 12587, effective August 1, 1992; amended at 19 Ill. Reg. 11947, effective August 1, 1995; amended at 19 Ill. Reg. 16289, effective November 27, 1995; amended at 20 Ill. Reg. 11349, effective August 1, 1996; amended at 21 Ill. Reg. 8408, effective June 23, 1997; amended at 21 Ill. Reg. 13372, effective September 17, 1997; amended at 22 Ill. Reg. 8521, effective April 28, 1998; amended at 22 Ill. Reg. 22059, effective January 1, 1999; amended at 25 Ill. Reg. 7731, effective June 6, 2001; emergency amendment at 25 Ill. Reg. 14201, effective October 22, 2001, for a maximum of 150 days; emergency expired March 20, 2002; amended at 26 Ill. Reg. 14282, effective September 16, 2002; amended at 27 Ill. Reg. 4790, effective February 27, 2003; amended at 29 Ill. Reg. 8915, effective June 10, 2005; amended at 31 Ill. Reg. 2668, effective January 29, 2007; amended at 32 Ill. Reg. 17253, effective October 15, 2008; amended at 32 Ill. Reg. 17590, effective October 16, 2008; amended at 34 Ill. Reg. 3673, effective March 5, 2010; amended at 34 Ill. Reg. 10202, effective June 29, 2010; amended at 34 Ill. Reg. _____, effective _____.

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SUBPART C: REGISTRATION

Section 1010.245 Electronic Registration and Titling (ERT) Program Provisions

- a) The Secretary may, in his or her discretion, establish a program for the electronic registration and titling (ERT) of motor vehicles. Transactions that may be conducted pursuant to an ERT program may include transmitting applications for titles and registration of motor vehicles, renewal of motor vehicle registrations, creating and removing liens from motor vehicle records, applying for salvage or junking certificates, and issuing registration plates and stickers by motor vehicle dealers, financial institutions and retail merchants, except that licensees under the Sales Finance Agency Act [205 ILCS 660] and the Consumer Installment Loan Act [205 ILCS 670] shall only be authorized to apply for titles and create and remove liens from motor vehicle records. Insurance companies shall only be permitted to apply for salvage or junking certificates and retail merchants shall only be authorized to issue registration renewal stickers.
- b) Upon the establishment of an ERT program, the Secretary may enter into agreements with ERT service providers to serve as intermediaries between the Secretary of State's office and motor vehicle dealers, financial institutions and retail merchants (collectively referred to in this Section as "vendors"). For the purposes of this Section, the term "financial institution" shall mean any federal or state chartered bank, savings and loan, credit union, and armored carrier, and any currency exchange, either directly or indirectly through an armored carrier. The term shall also include insurance companies and licensees under the Sales Finance Agency Act and the Consumer Installment Loan Act. The term "retail merchant" shall mean a business that is engaged in the sale of goods or services to the general public and that has one or more permanently established places of business in Illinois.
- c) The ERT service provider shall be responsible for the following:
 - 1) establishing a computerized communication link between the vendors and the Secretary of State for the transmission of titling, registration, registration renewal and lien information, in compliance with all specifications of the Secretary of State's office. The communication link must provide for the secure transmission of information as required under this Section without permitting access to the vendor's confidential

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information by any entity that is not authorized by the vendor and the Secretary of State. Any entity that is authorized to access a vendor's information system, software, data or network must preserve its confidentiality and integrity. This provision does not limit or prohibit the Secretary of State from accessing confidential information;

- 2) transmitting all fees associated with the title and registration transactions to the Secretary of State and transmitting all sales taxes due and owing for the sales of motor vehicles to the Illinois Department of Revenue;
- 3) maintaining an inventory of registration plates and stickers at a secure location that is subject to inspection by the Secretary of State, distributing those plates and stickers to vendors as necessary, receiving unused, expired, damaged and voided plates and stickers and reports of lost or stolen plates and stickers from vendors, and forwarding those reports and returning those unused, expired, damaged and voided plates and stickers to the Secretary of State warehouse monthly. For purposes of this Section, the term "plates" shall mean vehicle registration license plates, and the term "sticker" shall mean the adhesive sticker affixed to license plates and the form, with a pre-printed control number and barcode, to which the sticker is attached when shipped and printed. When this Section provides for shipping, inventory, accounting or reconciliation of, or credit for returned, stickers, the sticker must be attached to the original form or affixed to a plate and recorded as issued with that plate.
 - A) The inventory control system shall accurately track all registration plates and stickers shipped to the service provider by the Secretary, those distributed by the provider to vendors (including tracking which specific plates and stickers were shipped to individual vendors), those returned by vendors to the provider, and those returned by the provider to the Secretary. The inventory yet to be shipped and the returned inventory shall be stored separately. In addition, the inventory system shall comply with one of the following:
 - i) All inventory shall be maintained in sequential order, according to document number, including inventory being held for shipping to vendors and inventory returned by vendors.

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- ii) The computerized inventory control system must utilize barcode readers that enable the service provider or Secretary of State employees to scan and accurately record inventory items yet to be shipped and returned inventory. Secretary of State employees must have access to a computer terminal at the service provider's site during inventory and reconciliation procedures, and the system must allow the printing of necessary inventory reports during these procedures.
- B) Real-time access to the inventory control system shall be provided to Secretary of State staff, auditors and Secretary of State Police for review, reconciliation, auditing and inventory verification to ensure compliance with rules, policies and regulations, and for locating individual registration plates and stickers and determining to which vendor the individual registration plates and stickers were issued. All electronic information shall be maintained for not less than five years after receipt of the inventory by the service provider.
- C) Bulk inventories of registration plates and stickers will be delivered by the Secretary to the service provider as needed. The service provider shall acknowledge receipt of the inventory in a manner approved by the Secretary and is responsible for the inventory upon receipt. The service provider shall store the inventory within the State of Illinois. The service provider shall distribute registration plates and stickers to vendors, as necessary, and shall accept returns from the vendors of unused, expired, damaged and voided plates and stickers.
- D) Vendors shall not return unused, expired, damaged or voided plates and stickers directly to the Secretary. The Secretary shall not be responsible for inventory incorrectly returned.
- E) Vendors who have inventory that is damaged, voided, missing, lost or stolen during a given month shall report those occurrences to the service provider not later than the final day of the following month. (Example: Inventory items damaged during August must be

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reported and returned to the service provider not later than the following September 30.) Credit for returned plates will only be granted when both plates in the set have been returned or accounted for, if the plates were of the type issued as a pair. All or as much as possible of the damaged or voided stickers must be returned to receive credit for returned inventory. When it is not possible to return any portion of a damaged or voided plate or sticker, an explanation as to the circumstances causing the plate or sticker to be voided or damaged, and the reasons no portion can be returned, must be provided. The Secretary shall have the right to determine whether the explanation will be accepted and whether inventory credit will be given for the plates or stickers not returned in whole or in part. In making this determination, the Secretary shall consider whether the vendor is able to retain and return the form on which the sticker is issued; whether matters beyond the control of the vendor may have contributed to the complete loss of the stickers (e.g., fires or industrial accidents that are accompanied by police reports, fire reports or insurance claims); and the history of the individual vendor with regard to the loss of stickers.

- F) Service providers may be relieved of responsibility for payment for plates and stickers reported as stolen only if a copy of a police report concerning the theft is provided to the Secretary.
- G) Not later than March 31 of each calendar year, vendors shall return to service providers all remaining stickers in their possession of the type and color that expire during that calendar year. (Example: During 2007, vendors sell stickers that expire during 2008, such that a sticker sold in March 2007 expires in March 2008. As of January 2008, vendors will be selling stickers of the type and color that expire in 2009. Therefore, not later than March 31, 2008, vendors shall return to the service provider all remaining stickers in their possession of the type and color that expire during 2008).
- H) On a periodic basis, but not less than monthly, the Secretary and the service provider shall reconcile their records of plates and stickers shipped by the Secretary to the service provider, plates and stickers issued by vendors to vehicle owners and for which the appropriate documentation and fees were received by the

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Secretary, plates and stickers returned by vendors to the service provider as unused, expired, damaged or voided, explanations provided by vendors for damaged or voided stickers and plates that have not been returned in whole or in part, and plates and stickers still in the actual possession of the service providers and vendors. The review and accounting of inventory and returned items shall be conducted in the manner prescribed by the Secretary. After these periodic reconciliations, the unused, expired, damaged or voided plates and stickers shall be returned to the Secretary and the Secretary shall issue the service provider a receipt for the returned inventory. A preliminary report of missing billable inventory for the preceding month shall be provided after these periodic reconciliations.

- I) Following the reconciliation after March 31, June 30, September 30 and December 31, the Secretary shall invoice the service provider for all plates or stickers unaccounted for during the preceding quarter. These reconciliations will be based on the reported inventory still in the possession of vendors. Service providers shall not receive credit for unaccounted for inventory items that are located after this quarterly reconciliation and billing.
- J) The unaccounted for inventory shall be invoiced at the following rates. For unaccounted for stickers, the rate shall be \$100 per sticker. For unaccounted for plates that are intended to be sold as a set (e.g., passenger vehicle or truck plates) the rate shall be \$100 per set of plates. For unaccounted for plates that are intended to be sold individually (e.g., motorcycle or trailer plates) the rate shall be \$100 per plate. Payment in full must be made to the Secretary within 45 days after receipt of the notice from the Secretary of the amount due. Service providers may recover such payments from vendors pursuant to the contracts between the service providers and the vendors.
- K) Certain types of registration stickers are sold outside of the one-year process noted in subsection (c)(3)(G) (e.g., registrations of fleet vehicles). To accommodate these sales, after the return and reconciliation of all inventory as provided in subsections (c)(3)(H) and (I), the Secretary may re-issue preceding year stickers to

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service providers for the use of vendors engaging in sales of vehicles requiring these registrations. These re-issued stickers shall be tracked separately in the service provider's inventory control system. Not less than three months after these re-issued stickers may no longer be legally sold, all remaining inventory of these stickers shall be returned to the service provider by the vendor, and the stickers shall be subject to the final reconciliation and billing process set forth in subsection (c)(3)(I).

- L) The Secretary shall have the right to conduct physical inspections of the inventory of service providers and vendors during normal business hours.
 - M) The Secretary shall have the right to suspend or revoke the right of service providers and/or vendors to participate in the ERT program for failure to comply with the inventory control provisions set forth in this subsection (c)(3), or for excessive or repeated incidents of unaccounted for inventory;
- 4) complying with all requirements of the Secretary of State and the Department of Revenue concerning the security of the electronic information and funds transmissions, which shall prohibit access to a vendor's confidential information by any entity without authorization of the vendor and Secretary of State and a requirement that any entity that is authorized to access a vendor's confidential information must preserve the confidentiality and integrity of the vendor's information systems, software, data and network, the security of the registration plates and stickers, and maintaining an electronic inventory control system for the registration plates and stickers. This provision does not limit or prohibit the Secretary of State from accessing confidential information;
 - 5) retaining records of all ERT transactions as directed by the Secretary;
 - 6) posting a performance bond in an amount set by the Secretary, not to exceed \$1,000,000;
 - 7) registering as a remittance agent pursuant to 625 ILCS 5/Ch. 3, Art. IX; and

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- 8) complying with all other terms and conditions set forth in the agreement between the Secretary of State and the ERT service provider;
 - 9) providing a formal process for billing and enforcement of all vendor inventory issues and pending transaction issues and designating a specific representative to communicate with the Secretary of State on all vendor inventory issues and pending transaction issues.
- d) The ERT service provider shall enter into agreements with vendors for participation in the ERT program.
- 1) All vendors must be currently licensed and in good standing with their regulatory agencies before being selected to participate in this program.
 - 2) The Secretary shall have the sole discretionary right to review and approve these agreements and shall have the right to approve, deny or revoke the right to participate in the ERT program by individual vendors. Retail merchants wishing to serve as vendors must be approved in advance by the Secretary. Any decision to deny or revoke an individual vendor's right to participate in the ERT program shall be based on:
 - A) the vendor's prior compliance with or violations of applicable statutes, rules and regulations;
 - B) the vendor's participation in the Secretary's temporary registration permit program and any violations of the rules and regulations of the temporary registration permit program found in Section 1010.421;
 - C) violations by the vendor of this Section or violations of the terms of agreements entered into by the vendor in the ERT program;
 - D) the benefit to the public to be derived by the vendor's participation in the program;
 - E) the resources of the Secretary of State's office to support the vendor's participation in the program; and
 - F) The factors set forth in Section 1010.240(b)(2)(E)-(J).

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- 3) Vendors shall inform customers that utilizing the electronic registration and titling system is optional.
 - 4) The ERT program shall not be used to request or obtain specialty, vanity or personalized registration plates.
 - 5) Fees collected for ERT transactions are nonrefundable by the Secretary.
 - 6) Registration plates and stickers may only be issued at the time an ERT transaction is processed.
 - 7) Title, registration and registration renewal applications and other required documents shall be delivered to the Office of the Secretary of State within 20 days after vehicle sale, registration or registration renewal.
- e) Except as permitted by the Secretary during a transition period, no vendor may simultaneously participate in the ERT program and the Over-the-Counter Sales Program (see Section 1010.240).

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART F: FEES

Section 1010.540 Fees

- a) Over-the-Counter Sales Program
- The maximum fee and service charge to be imposed upon an applicant for motor vehicle renewal license plates and/or stickers by any vendor shall be \$5.50. The actual fee allowed shall be set out in the agreement between the Secretary of State and the financial institution and/or the agreement between financial institutions. No additional charge shall be imposed upon the applicant by any such person, firm, corporation or private institution, or its authorized agent for distribution of motor vehicle renewal license plates and/or stickers. A service provider may charge vendors up to \$10 for each ERT transaction. The maximum ERT fee to be imposed on the customer may not exceed the amount actually charged by the service provider to the vendor plus an amount equal to 1.5 times the amount actually charged by the service provider to the vendor and, therefore, the maximum fee to be imposed upon a customer utilizing the ERT services shall be

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\$25, in addition to any other fee permitted by law or rule. The term Financial Institution, for the purposes of this Section~~rule~~, shall mean any federal or State~~state~~ chartered bank, savings and loan, credit union, armored carrier, and any currency exchange either directly or indirectly through an armored carrier.

- b) Electronic Registration and Titling
- Vendors participating in the Electronic Registration and Titling (ERT) program may charge customers a fee for the optional service of electronically processing their vehicle titling and registration or data and for providing registration plates or stickers. The maximum fee to be imposed upon a customer utilizing the ERT services shall be \$25, in addition to any other fee permitted by law or rule. However, if the ERT services are used solely for renewing vehicle registrations, the maximum fee imposed shall be that set forth in subsection (a) of this Section. The actual ERT fee allowed to be charged by vendors shall be set out in the agreement between the Secretary of State and the ERT service provider and in the agreements between the ERT service provider and the vendors. One of the two following methods shall be used to identify the fee:
- 1) the fee shall be identified on the bill of sale, receipt or any other sales documents as "Optional ERT Fee". The "Optional ERT Fee" language shall be distinguished from other language with the use of bold, colored, italic or underscored type or by using a larger font, but in no case may the font size be smaller than that required by the Illinois Motor Vehicle Retail Installment Sales Act [815 ILCS 375]. If this method is used, not later than July 1, 2006, all pre-printed bills of sale, receipts or other sales documents shall identify the fee as "Optional ERT Fee" in bold type; or
 - 2) the fee shall be identified on a separate document, including the phrase "Optional Electronic Registration Fee", using a font size not smaller than that required by the Illinois Motor Vehicle Retail Installment Sales Act [815 ILCS 375] and with a signature line indicating the customer's acceptance or rejection of the option of paying the fee.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision
- 2) Code Citation: 23 Ill. Adm. Code 1
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1.30	Amendment
1.420	Amendment
1.440	Amendment
1.462	Repealed
- 4) Statutory Authority: 105 ILCS 5/2-3.6
- 5) A Complete Description of the Subjects and Issues Involved: The changes being proposed in Part 1 result from two separate actions: a federal monitoring finding regarding testing procedures at the high school level and PA 96-1061, effective July 14, 2010, which eliminates the option for students to take a consumer education proficiency examination.

Testing Procedures. The Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001, requires school districts to measure the proficiency of high school students in at least language arts and mathematics at least once during grades 10 through 12. In Illinois, the PSAE is the assessment used by districts for accountability purposes under ESEA, and pursuant to Section 2-3.64 of the School Code, districts are to administer the test to students in grade 11. In the last year, however, it became apparent that some school districts were defining "grade 11" using a student's completion of a certain number of credits or coursework.

In April 2010, monitors from the U.S. Department of Education (USDE) reviewed the agency's implementation of the accountability provisions of Title I, Part A, of ESEA, among other areas. In its spring 2010 Title I federal monitoring document, it cited Student Information System data as showing that approximately 8 percent of high school students had not been tested. As a result, USDE has directed the agency to take steps to ensure that all high school students are being assessed for accountability purposes. Therefore, it is proposed that Section 1.30 of the rules be amended to define "grade 11" for the purpose of administering the PSAE or IAA, as applicable, as the third school year after a student successfully completes grade 8. An exception is being made for students with Individualized Education Programs under the circumstances specified in Section 1.30. For these students, "grade 11" for the purpose of administering the PSAE or IAA will be the year during which the student turns 18 years old.

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Consumer Education Proficiency Test. Since the 1986-87 school year, Section 27-12.1 of the School Code has allowed high school students the option of being exempt from the requirement to take a course in consumer education if they are able to pass a proficiency examination. The examination is developed by the agency through a contract with a testing company in accordance with criteria found in the law and Section 1.462 of the rules.

Last year, the agency introduced legislation (which became P.A. 96-1061) to eliminate the proficiency test for several reasons:

- The annual cost for test administration and development is approximately \$120,000;
- Less than 2 percent of high school students take the test each year (an average of about 8,000 out of more than 600,000 high school students statewide); and
- the failure rate is extremely high (around 80 percent of the students who take the test each year fail).

As a result of the test's elimination, Section 1.462 can be repealed and other references to the test are being removed from Sections 1.420 and 1.440.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes; see Sections 1.30(a) and 1.420(s).
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Action:</u>	<u>Register Citation:</u>
1.75	Amendment	34 Ill. Reg. 7597; June 4, 2010
1.88	Amendment	34 Ill. Reg. 7597; June 4, 2010
1.100	Amendment	34 Ill. Reg. 7597; June 4, 2010
1.310	Amendment	34 Ill. Reg. 7597; June 4, 2010
1.320	Amendment	34 Ill. Reg. 7597; June 4, 2010
1.780	Amendment	34 Ill. Reg. 7597; June 4, 2010

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1.781	Amendment	34 Ill. Reg. 7597; June 4, 2010
1.782	Amendment	34 Ill. Reg. 7597; June 4, 2010
1.APPENDIX D	Amendment	34 Ill. Reg. 8957, July 9, 2010

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

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

217/782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2010

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

PART 1

PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: RECOGNITION REQUIREMENTS

Section

- 1.10 Public School Accountability Framework
- 1.20 Operational Requirements
- 1.30 State Assessment
- 1.40 Adequate Yearly Progress
- 1.50 Calculation of Participation Rate
- 1.60 Subgroups of Students; Inclusion of Relevant Scores
- 1.70 Additional Indicators for Adequate Yearly Progress
- 1.75 Student Information System
- 1.77 Educator Certification System
- 1.80 Academic Early Warning and Watch Status
- 1.85 School and District Improvement Plans; Restructuring Plans
- 1.88 Additional Accountability Requirements for Districts Serving Students of Limited English Proficiency Under Title III
- 1.90 System of Rewards and Recognition – The Illinois Honor Roll
- 1.95 Appeals Procedure
- 1.100 Waiver and Modification of State Board Rules and School Code Mandates

SUBPART B: SCHOOL GOVERNANCE

Section

- 1.210 Powers and Duties (Repealed)
- 1.220 Duties of Superintendent (Repealed)
- 1.230 Board of Education and the School Code (Repealed)
- 1.240 Equal Opportunities for all Students
- 1.242 Temporary Exclusion for Failure to Meet Minimum Academic or Attendance Standards
- 1.245 Waiver of School Fees
- 1.250 District to Comply with 23 Ill. Adm. Code 180 (Repealed)

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- 1.260 Commemorative Holidays to be Observed by Public Schools (Repealed)
- 1.270 Book and Material Selection (Repealed)
- 1.280 Discipline
- 1.285 Requirements for the Use of Isolated Time Out and Physical Restraint
- 1.290 Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

Section

- 1.310 Administrative Qualifications and Responsibilities
- 1.320 Evaluation of Certified Staff in Contractual Continued Service
- 1.330 Hazardous Materials Training

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section

- 1.410 Determination of the Instructional Program
- 1.420 Basic Standards
- 1.430 Additional Criteria for Elementary Schools
- 1.440 Additional Criteria for High Schools
- 1.445 Required Course Substitute
- 1.450 Special Programs (Repealed)
- 1.460 Credit Earned Through Proficiency Examinations
- 1.462 Uniform Annual Consumer Education Proficiency Test ([Repealed](#))
- 1.465 Ethnic School Foreign Language Credit and Program Approval
- 1.470 Adult and Continuing Education
- 1.480 Correctional Institution Educational Programs

SUBPART E: SUPPORT SERVICES

Section

- 1.510 Transportation
- 1.515 Training of School Bus Driver Instructors
- 1.520 School Food Services (Repealed)
- 1.530 Health Services
- 1.540 Pupil Personnel Services (Repealed)

SUBPART F: STAFF CERTIFICATION REQUIREMENTS

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Section

- 1.610 Personnel Required to be Qualified
- 1.620 Accreditation of Staff (Repealed)
- 1.630 Noncertificated Personnel
- 1.640 Requirements for Different Certificates (Repealed)
- 1.650 Transcripts of Credits
- 1.660 Records of Professional Personnel

SUBPART G: STAFF QUALIFICATIONS

Section

- 1.705 Requirements for Supervisory and Administrative Staff
 - 1.710 Requirements for Elementary Teachers
 - 1.720 Requirements for Teachers of Middle Grades
 - 1.730 Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades Six (6) and Above through June 30, 2004
 - 1.735 Requirements to Take Effect from July 1, 1991, through June 30, 2004
 - 1.736 Requirements to Take Effect from July 1, 1994, through June 30, 2004
 - 1.737 Minimum Requirements for the Assignment of Teachers in Grades 9 through 12 Beginning July 1, 2004
 - 1.740 Standards for Reading through June 30, 2004
 - 1.745 Requirements for Reading Teachers and Reading Specialists at all Levels as of July 1, 2004
 - 1.750 Standards for Media Services through June 30, 2004
 - 1.755 Requirements for Library Information Specialists Beginning July 1, 2004
 - 1.760 Standards for Pupil Personnel Services
 - 1.762 Supervision of Speech-Language Pathology Assistants
 - 1.770 Standards for Special Education Personnel
 - 1.780 Standards for Teachers in Bilingual Education Programs
 - 1.781 Requirements for Bilingual Education Teachers in Grades K-12
 - 1.782 Requirements for Teachers of English as a Second Language in Grades K-12
 - 1.790 Substitute Teacher
-
- 1.APPENDIX A Professional Staff Certification
 - 1.APPENDIX B Certification Quick Reference Chart (Repealed)
 - 1.APPENDIX C Glossary of Terms (Repealed)
 - 1.APPENDIX D State Goals for Learning
 - 1.APPENDIX E Evaluation Criteria – Student Performance and School Improvement Determination (Repealed)

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- 1.APPENDIX F Criteria for Determination – Student Performance and School Improvement (Repealed)
- 1.APPENDIX G Criteria for Determination – State Assessment (Repealed)

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-3.5, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3, and 27-23.8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-3.5, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3, 27-23.8, and 2-3.6].

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800, effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at 15 Ill. Reg. 2692, effective February 1, 1991; amended at 16 Ill. Reg. 18010, effective November 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1, 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255, effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended at 22 Ill. Reg. 22233, effective December 8, 1998; emergency amendment at 24 Ill. Reg. 6111, effective March 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12985, effective August 14, 2000; amended at 25 Ill. Reg. 8159, effective June 21, 2001; amended at 25 Ill. Reg. 16073, effective November 28, 2001; amended at 26 Ill. Reg. 1157, effective January 16, 2002; amended at 26 Ill. Reg. 16160, effective October 21, 2002; amended at 28 Ill. Reg. 8486, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 13637, effective September 27, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1891, effective January 24, 2005; amended at 29 Ill. Reg. 11811, effective July 13, 2005; amended at 29 Ill. Reg. 12351, effective July 28, 2005; amended at 29 Ill. Reg. 15789, effective October 3, 2005; amended at 29 Ill. Reg. 19891, effective November 23, 2005; amended at 30 Ill. Reg. 8480, effective April 21, 2006; amended at 30 Ill. Reg. 16338, effective September 26, 2006; amended at 30 Ill. Reg. 17416, effective October 23, 2006; amended at 31 Ill. Reg. 5116, effective March 16, 2007; amended at 31 Ill. Reg. 7135, effective April 25, 2007; amended at 31 Ill. Reg. 9897, effective June 26, 2007; amended at 32 Ill. Reg. 10229, effective June 30, 2008; amended at 33 Ill. Reg. 5448, effective March 24, 2009; amended at 33 Ill. Reg. 15193, effective October 20, 2009; amended at 34 Ill. Reg. 2959, effective February 18, 2010; emergency amendment at 34 Ill. Reg. 9533, effective June 24, 2010, for a maximum of 150 days; amended at 34 Ill. Reg. _____, effective _____.

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SUBPART A: RECOGNITION REQUIREMENTS

Section 1.30 State Assessment

The State Superintendent of Education shall develop and administer assessment instruments and other procedures in accordance with Section 2-3.64 of the School Code [105 ILCS 5/2-3.64]. In addition, school districts shall collaborate with the State Superintendent in the design and implementation of special studies.

- a) Development and Participation
 - 1) Assessment instruments and procedures shall meet generally accepted standards of validity and reliability as stated in "Standards for Educational and Psychological Testing" (1999), published by the American Educational Research Association, 1230 17th St., N.W., Washington, D.C. 20036. (No later amendments to or editions of these standards are incorporated.)
 - 2) Districts shall participate in special studies, tryouts, and/or pilot testing of these assessment procedures and instruments when one or more schools in the district are selected to do so by the State Superintendent.
 - 3) A school shall generally be selected for participation in these special studies, tryouts, and/or pilot testing no more than once every four years, except that participation may be required twice every four years in the case of the Illinois Alternate Assessment.
 - 4) *All pupils enrolled in a public or State-operated elementary school, secondary school, or cooperative or joint agreement with a governing body or board of control, a charter school operating in compliance with the Charter Schools Law [105 ILCS 5/Art. 27A], a school operated by a regional office of education under Section 13A-3 of the School Code [105 ILCS 5/13A-3], or a public school administered by a local public agency or the Department of Human Services shall be required to participate in the State assessment, whether by taking the regular assessment, with or without accommodations, or by participating in an alternate form of the assessment (Sections 2-3.25a and 2-3.64 of the School Code).*

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- A) Students who are served in any locked facility that has a State-assigned RCDTS (region/county/district/type/school) code, students who attend public university laboratory schools under Section 18-8.05(K) of the School Code, and students beyond the age of compulsory attendance (other than students with IEPs) whose programs do not culminate in the issuance of regular high school diplomas are not required to participate in the State assessment.
 - B) It is the responsibility of each district or other affected entity to ensure that all students required to participate in the State assessment do so. See also Section 1.50 of this Part.
- 5) Each district or other affected entity shall ensure the availability of reasonable accommodations for participation in the State assessment by students with disabilities, as reflected in those students' IEPs or plans developed under Section 504 of the Rehabilitation Act of 1973 (29 USC 794), or limited English proficiency.
- b) Assessment Procedures
- 1) All assessment procedures and practices shall be based on fair testing practice, as described in "Code of Fair Testing Practices in Education" (2004), published by the Joint Committee on Testing Practices of the American Educational Research Association, American Psychological Association, and National Council on Measurement in Education, 750 First Avenue, N.E., Washington, D.C. 20002-4242. (No later amendments to or editions of this code are incorporated.)
 - 2) Districts and other affected entities shall protect the security and confidentiality of all assessment questions and other materials that are considered part of the approved State assessment, including but not necessarily limited to test items, reading passages, charts, graphs, and tables.
 - 3) Districts shall promptly report to the State Superintendent all complaints received by the district of testing irregularities. A district shall fully investigate the validity of any such complaint and shall report to the State Superintendent the results of its investigation.

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4) [Districts shall administer the Prairie State Achievement Examination \(PSAE\) or the Illinois Alternate Assessment \(IAA\), if applicable under subsection \(d\) of this Section, to students in grade 11. \(See Section 2-3.64 of the School Code.\) For the purpose of this subsection \(b\)\(4\), grade 11 means the third school year after a student successfully completes grade 8, except that, for any student who has an Individualized Education Program pursuant to 23 Ill. Adm. Code 226.Subpart C \(The Individualized Education Program \(IEP\)\), has not completed grade 8 by age 15, and continues to attend school in an elementary school district as described in Section 14-6.01 of the School Code \[105 ILCS 5/14-6.01\], grade 11 shall mean the school year during which the student turns 18 years old.](#)

c) Accommodations

Students who have been identified at the local level as having limited proficiency in English as provided in 23 Ill. Adm. Code 228.15, including students not enrolled in programs of bilingual education, may participate in an accommodated State assessment, subject to the limitations set forth in Section 2-3.64 of the School Code. A student with limited proficiency in English shall be afforded extra time for completion of the State assessment when, in the judgment of the student's teacher, extra time is necessary in order for the student's performance to reflect his or her level of achievement more accurately, provided that each test must be completed in one session. See also Section 1.60(b) of this Part.

d) Illinois Alternate Assessment

Students with the most significant cognitive disabilities whose [IEPs Individualized Education Programs](#) identify the regular State assessment as inappropriate for them even with accommodations shall participate in the Illinois Alternate Assessment (IAA), based on alternate achievement standards, for all subjects tested. See also Section 1.60(c) of this Part.

e) Review and Verification of Information

Each school district and each charter school shall have an opportunity to review and, if necessary, correct the preliminary data generated from the administration of the State assessment, including information about the participating students as well as the scores achieved.

- 1) Within 10 days after the preliminary data for the Illinois Standards Achievement Test (ISAT) and the IAA are made available and within five

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days after preliminary data for the ~~PSAE~~[Prairie State Achievement Examination \(PSAE\)](#) are made available, each district or charter school shall make any necessary corrections to its demographic and score data and then use a means prescribed by the State Board to indicate either:

- A) that both its demographic and preliminary data are correct; or
 - B) that it is requesting rescoring of some or all portions of the assessment for specific students.
- 2) When districts request rescoring, staff of the State Board and/or its contractor shall have an additional period of 21 days within which to work with the affected district or charter school to make any resulting corrections.
 - 3) At the end of the 21-day period discussed in subsection (e)(2) of this Section, all districts' and charter schools' data shall stand as the basis for the applicable school report cards and determination of status. Any inaccuracies that are believed to persist at that time shall be subject to the appeal procedure set forth in Section 1.95 of this Part.
- f) Reports of State Assessment Results
- 1) Following verification of the data under subsection (e) of this Section, the State Board shall send each school and district a report containing final information from the results of each administration of the State assessment.
 - A) The scores of students who are served by cooperatives or joint agreements, in Alternative Learning Opportunities Programs established under Article 13B of the School Code, by regional offices of education under Section 13A-3 of the School Code, by local agencies, or in schools operated by the Department of Human Services, scores of students who are served in any other program or school not operated by a school district and who are scheduled to receive regular high school diplomas, all scores of students who are wards of the State, and all scores of students who have IEPs, shall be reported to the students' respective districts of residence

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and to the schools within those districts that they would otherwise attend.

- B) The scores of students enrolled in charter schools shall be reported to the chief administrator of the charter school and to any school district serving as a chartering entity for the charter school.
- 2) Each report shall include, as applicable to the receiving entity:
- A) results for each student to whom the State assessment was administered (excluding any scores deemed by the State Board to be invalid due to testing irregularities); and
 - B) summary data for the school and/or district and the State, including but not limited to raw scores, scale scores, comparison scores, including national comparisons when available, and distributions of students' scores among the applicable proficiency classifications (see subsection (h) of this Section).
- g) Each school district and each charter school shall receive notification from the State Board of Education as to the status of each affected school and the district based on the attainment or non-attainment of adequate yearly progress as reflected in the final data. These determinations shall be subject to the appeal process set forth in Section 1.95 of this Part.
- h) **Classification of Scores**
Each score achieved by a student on a regular or alternate State assessment shall be classified among a set of performance levels, as reflected in score ranges that the State Board shall disseminate at the time of testing, for the purpose of identifying scores that "demonstrate proficiency".
- 1) Each score achieved by a student on a regular State assessment (i.e., the ISAT or the PSAE) shall be classified as "academic warning", "below standards", "meets standards", or "exceeds standards". Among these scores, those identified as either meeting or exceeding standards shall be considered as demonstrating proficiency.
 - 2) Each score achieved by a student on the IAA shall be classified as "entry", "foundational", "satisfactory", or "mastery". Among these scores, those

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identified as "satisfactory" or "mastery" shall be considered as demonstrating proficiency.

- i) **Scores Relevant to Adequate Yearly Progress**
For purposes of determining whether a district or a school has made adequate yearly progress, scores achieved on a State assessment in reading or mathematics shall be "relevant scores". For schools without grades higher than 2 (that is, for schools where no State assessment is administered), scores achieved by students in Grade 2 on the Terra Nova examination (CTB McGraw-Hill, 20 Ryan Ranch Road, Monterey CA 93940 (2001)) shall also be considered "relevant scores" for school years from 2002-03 through 2005-06. Beginning with the 2006-07 school year, the determination as to whether a school in this group has made adequate yearly progress shall be the determination applicable to the school where the largest number of students go on into the third grade.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section 1.420 Basic Standards

- a) Class schedules shall be maintained in the administrative office in each attendance center of a school district.
- b) Every school district shall have an organized plan for recording pupil progress and/or awarding credit, including credit for courses completed by correspondence, on line, or from other external sources, that can be disseminated to other schools within the State.
- c) Every school district shall:
- 1) Provide curricula and staff inservice training to help eliminate unconstitutional and unlawful discrimination in our schools and society. School districts shall utilize the resources of the community in achieving the stated objective of elimination of discrimination and to enrich the instructional program.
 - 2) Include in its instructional program concepts designed to improve students' understanding of and their relationships with individuals and groups of

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different ages, sexes, races, national origins, religions, and socio-economic backgrounds.

- d) Boards shall adopt and implement a policy for the distribution of teaching assignments, including study hall and extra class duties and responsibilities.
- e) Every school system shall conduct supervisory and inservice programs for its professional staff. The staff shall be involved in planning, conducting, and evaluating supervisory and inservice programs.
- f) Sections 10-19, 18-8.05, 18-12, and 18-12.5 of the School Code [105 ILCS 5/10-19, 18-8.05, 18-12, and 18-12.5] establish certain requirements regarding the school year and the school day. School districts shall observe these requirements when preparing their calendars and when calculating average daily attendance for the purpose of claiming general State financial aid.
 - 1) Section 18-8.05(F)(2)(c) of the School Code provides that, with the approval of the State Superintendent of Education, four or more clock-hours of instruction may be counted as a day of attendance when the regional superintendent certifies that, due to a condition beyond the control of the district, the district has been forced to use multiple sessions. The State Superintendent's approval will be granted when the district demonstrates that, due to a condition beyond the control of the district, its facilities are inadequate to house a program offering five clock-hours daily to all students.
 - A) The district superintendent's request to the State Superintendent shall be accompanied by an assurance that the local school board has approved the plan for multiple sessions, including the date of the meeting at which this occurred, and evidence of the approval of the responsible regional superintendent.
 - B) Each request shall include a description of the circumstances that resulted in the need for multiple sessions; information on the buildings and grades affected; the intended beginning and ending dates for the multiple sessions; a plan for remedying the situation leading to the request; and a daily schedule showing that each student will be in class for at least four clock-hours.

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- C) Approval for multiple sessions shall be granted for the school year to which the request pertains. Each request for renewed approval shall conform to the requirements of subsections (f)(1)(A) and (B) of this Section.
 - D) Students who are in attendance for at least 150 minutes of school work but fewer than 240 minutes may be counted for a half day of attendance. Students in attendance for fewer than 150 minutes of school work shall not be counted for purposes of calculating average daily attendance.
- 2) Section 18-8.05(F)(2)(h) of the School Code allows for a determination under rules of the State Board regarding the necessity for a second year's attendance at kindergarten for certain students so they may be included in a district's calculation of average daily attendance. Districts may count such students when they determine through an assessment of their individual educational development that a second year of kindergarten is warranted.
 - 3) A school district shall be considered to have conducted a legal school day, which is eligible to be counted for General State Aid, when the following conditions are met during a work stoppage.
 - A) Fifty percent or more of the district's students are in attendance, based on the average daily attendance during the most recent full month of attendance prior to the work stoppage.
 - B) Educational programs are available at all grade levels in the district, in accordance with the minimum standards set forth in this Part.
 - C) All teachers hold certificates that are registered with the Regional Superintendent for their county of employment. Other than substitute teachers, certification appropriate to the grade level and subject area(s) of instruction is held by all teachers.
 - 4) Sections 18-12 and 18-12.5 of the School Code set forth requirements for a school district to claim General State Aid in certain circumstances when one or more, but not all, of the district's school buildings are closed either

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for a full or partial day. A school district shall certify the reasons for the closure in an electronic format specified by the State Superintendent within 30 days from the date of the incident. In addition, the certification submitted for reasons of a public health emergency under Section 18-12.5 of the School Code shall be accompanied by a signed statement from the local health department to the State Superintendent that includes:

- A) the name of the building that is being recommended for closure;
- B) the specific public health emergency that warrants the closure; and
- C) the anticipated building closure dates recommended by the health department.

5) Attendance for General State Aid Purposes

- A) For purposes of determining average daily attendance on the district's General State Aid claim, students in full-day kindergarten and first grade may be counted for a full day of attendance only when they are in attendance for four or more clock hours of school work; provided, however, that students in attendance for more than two clock hours of school work but less than four clock hours may be counted for a half day of attendance. Students in attendance for fewer than two hours of school work shall not be counted for purposes of calculating average daily attendance.
- B) For purposes of determining average daily attendance on the district's General State Aid claim, students enrolled full time in grades 2 through 12 may be counted for a full day of attendance only when they are in attendance for five or more clock hours of school work; provided, however, that students in attendance for more than two and one-half clock hours of school work but less than five clock hours may be counted for a half day of attendance. Students in attendance for fewer than two and one-half hours of school work shall not be counted for purposes of calculating average daily attendance.
- C) For purposes of determining average daily attendance for General State Aid received under Sections 18-12 and 18-12.5 of the School

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Code, "immediately preceding school day" shall include school days in the previous school year in instances in which the building closure occurs before three or more days of instruction have been provided in the school year for which attendance is being counted.

- D) For the purposes of determining average daily attendance for General State Aid under Section 10-29 of the School Code [105 ILCS 5/10-29], a school district operating a remote educational program shall document, and make available to the State Superintendent of Education or his or her designee upon request, a written or online record of instructional time for each student enrolled in the program that provides sufficient evidence of the student's active participation in the program (e.g., log in and log off process, electronic monitoring, adult supervision, two-way interaction between teacher and student, video cam).
- g) Each school board shall annually prepare a calendar for the school term, specifying the opening and closing dates and providing a minimum term of at least 185 days to ensure 176 days of actual pupil attendance, computable under Section 18-8.05 of the School Code (see Section 10-19 of the School Code).
- h) Local boards of education shall establish and maintain kindergartens for the instruction of children (see Sections 10-20.19a and 10-22.18 of the School Code [105 ILCS 5/10-20.19a and 10-22.18]).
 - 1) School districts may establish a kindergarten of either half-day or full-day duration. If the district establishes a full-day kindergarten, it must also provide a half-day kindergarten for those students whose parents or guardians request a half-day program.
 - 2) If a school district that establishes a full-day kindergarten also has 20 or more students whose parents request a half-day program, the district must schedule half-day classes, separate and apart from full-day classes, for those children. If there are fewer than 20 children whose parents request a half-day program, those students may be enrolled in either the morning or afternoon session of a full-day program provided that the following conditions are met.
 - A) Distinctive curriculum plans for the half-day and full-day

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kindergarten programs must be developed by the school district, made available to parents to assist the parents in selecting the appropriate program for their child, and maintained in district files.

- B) A common core of developmental, readiness and academic activities must be made available to all kindergarten students in the district regardless of the amount of time they attend school.
 - C) All support services (e.g., health counseling and transportation) provided by the district must be equally available to full-day and half-day students.
- i) Career Education
 - 1) The educational system shall provide students with opportunities to prepare themselves for entry into the world of work.
 - 2) Every district shall initiate a Career Awareness and Exploration Program that should enable students to make more meaningful and informed career decisions. This program should be available at all grade levels.
 - j) Co-Curricular Activities
 - 1) Programs for extra classroom activities shall provide opportunities for all students.
 - 2) The desires of the student body in the area of co-curricular activities shall be of critical importance. At all times, activities of this nature shall be carefully supervised by a school-approved sponsor.
 - k) Consumer Education and Protection
 - 1) A program in consumer education shall include at least the topics required by Section 27-12.1 of the School Code [105 ILCS 5/27-12.1].
 - 2) The superintendent of each unit or high school district shall maintain evidence showing that each student has received adequate instruction in consumer education ~~or has demonstrated proficiency by passing the Consumer Education Proficiency Test as required by law (see Section 27-~~

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~~12.1 of the School Code [105 ILCS 5/27-12.1]~~ prior to the completion of the 12th grade. Consumer education may be included in course content of other courses, or it may be taught as a separate required course.

- 3) The minimal time allocation shall not be less than nine weeks or the equivalent for grades 9-12 and shall include installment purchasing, budgeting, comparison of prices and an understanding of the roles of consumers interacting with agriculture, business, trade unions, and government in formulating and achieving the goals of the mixed free enterprise system.
 - 4) Teachers instructing in consumer education courses shall hold certification valid for the grade levels taught and have completed at least three semester hours in consumer education courses.
- l) Conservation of Natural Resources
Each district shall provide instruction on *current problems and needs in the conservation of natural resources, including, but not limited to, air pollution, water pollution, waste reduction and recycling, the effect of excessive use of pesticides, preservation of wilderness areas, forest management, protection of wildlife, and humane care of domestic animals* (Section 27-13.1 of the School Code [105 ILCS 5/27-13.1]).
 - m) Every school district has the responsibility to prepare students for full citizenship. To this end each school district should encourage student discussion and communication in areas of local, State, national and international concern.
 - n) Health Education
 - 1) Each school system shall provide a program in compliance with the Critical Health Problems and Comprehensive Health Education Act [105 ILCS 110].
 - A) There is no specific time requirement for grades K-6; however, health education shall be a part of the formal regular instructional program at each grade level.
 - B) The minimal time allocation shall not be less than one semester or equivalent during the middle or junior high experience.

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- C) The minimal time allocation shall not be less than one semester or equivalent during the secondary school experience.
 - D) If health education is offered in conjunction with another course on a "block of time" basis in a middle school, a junior high school, or a high school, instruction may be offered in any combination of the grade levels in the school, provided that the total time devoted to health education is the equivalent of one full semester's work.
- 2) Nothing in this Section shall be construed as requiring or preventing the establishment of classes or courses in comprehensive sex education or family life education as authorized by Sections 27-9.1 and 27-9.2 of the School Code [105 ILCS 5/27-9.1 and 27-9.2].
- o) **Library Media Programs**
Each school district shall provide a program of library media services for the students in each of its schools. Each district's program shall meet the requirements of this subsection (o).
- 1) **General**
The program shall include an organized collection of resources that circulate to students and staff in order to supplement classroom instruction, foster reading for pleasure, enhance information literacy, and support research, as appropriate to students of all abilities in the grade levels served. No later than the beginning of the 2014-15 school year, a district that relies solely upon the collection of a local public library shall maintain evidence that students receive instruction, direction, or assistance in locating and using resources that are applicable to these purposes from an individual who is qualified under Section 1.755 of this Part and who is acting on behalf of the school district.
 - 2) **Financial Resources**
Each district's annual budget shall include an identifiable allocation for resources and supplies for the program, except that a unit district serving fewer than 400 students or an elementary or high school district serving fewer than 200 students may demonstrate that it is meeting its students' needs through alternate means that the district has determined are adequate in light of local circumstances.

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3) Facilities

If there is no single location within a particular attendance center that is specifically devoted to a library media center, such as where classroom collections have been established instead, the district shall ensure that equitable access to library media resources is made available to students in all the grade levels served. If students' only access to library media resources is achieved by visiting a location outside their attendance center, the district shall maintain records demonstrating that all students' regular schedules include time for this purpose.

4) Staff

Nothing in this subsection (o)(4) shall be construed as prohibiting districts or schools from sharing the services of individuals qualified under Section 1.755 of this Part, and nothing in this subsection (o) shall be construed as permitting an individual who is not qualified as a library information specialist to assume that role. No later than the beginning of the 2009-10 school year, each district shall assign responsibility for overall direction of its program of library media services to an employee who holds an elementary, a secondary, a special K-12, a special preschool-age 21, an early childhood, or an administrative certificate. Except as otherwise provided in subsection (o)(4)(A) of this Section, the individual to whom this responsibility is assigned shall meet the requirements of Section 1.755 of this Part, and the individual to whom this responsibility is assigned shall not provide the services described in Section 1.755 of this Part unless he or she meets the requirements of that Section.

A) In the event that no employee of the district holds any of the qualifications enumerated in Section 1.755 of this Part, the individual to whom direction of the program is assigned shall be required to participate annually in professional development consisting of:

- i) undergraduate or graduate coursework in library science offered by a regionally accredited institution of higher education; or
- ii) one or more workshops, seminars, conferences, institutes, symposia, or other similar training events that are offered

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by the Illinois State Library, a regional library system, or another professional librarians' organization; or

- iii) one or more "library academies" if these are made available by or at the direction of the State Superintendent of Education.

- B) A district that is otherwise unable to fulfill the requirements of this subsection (o)(4) shall ensure that the overall direction of the library media program (e.g., selection and organization of materials, provision of instruction in information and technology literacy, structuring the work of library paraprofessionals) is accomplished with the advice of an individual who is qualified pursuant to Section 1.755 of this Part.

p) Physical Education

- 1) Appropriate activity related to physical education shall be required of all students each day unless otherwise permitted by Section 27-6 of the School Code [105 ILCS 5/27-6]. The time schedule shall compare favorably with other courses in the curriculum. Safety education as it relates to the physical education program should be incorporated.
- 2) There shall be a definite school policy regarding credit earned each semester in physical education with provisions for allowable variables in special cases.
- 3) If a district determines that it is difficult to implement a program of physical education that involves all students daily, the administration should consult one of the program service personnel from the State Board of Education for assistance in the development of an acceptable program.
- 4) *The physical education and training course offered in grades 5 through 10 may include health education (Section 27-5 of the School Code [105 ILCS 5/27-5]).*
- 5) *Special activities in physical education shall be provided for pupils whose physical or emotional condition, as determined by a person licensed under the Medical Practice Act [225 ILCS 60], prevents their participation in*

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the courses provided for normal children (Section 27-6 of the School Code).

- 6) Pursuant to Section 27-6 of the School Code, a student who presents an appropriate excuse from his or her parent or guardian or from a person licensed under the Medical Practice Act of 1987 shall be excused from participation in physical education. Each school board shall honor excuses signed by persons licensed under the Medical Practice Act of 1987 and shall establish a policy defining the types of parental excuses it will deem "appropriate" for this purpose, which shall include, but need not be limited to, reliance upon religious prohibitions. A board shall, however, have no authority to honor parental excuses based upon students' participation in athletic training, activities, or competitions conducted outside the auspices of the school district. For each type of excuse that will be considered "appropriate", the school board shall identify in its policy any evidence or support it will require. For example, a board may require a signed statement from a member of the clergy corroborating the religious basis of a request.
 - 7) In addition, pursuant to Section 27-6(b) of the School Code, each school board that chooses to excuse pupils enrolled in grades 9 through 12 from engaging in physical education courses under that subsection shall establish a policy to excuse pupils on an individual basis and shall have the policy on file in the local district office. The district shall maintain records showing that, in disposing of each request to be excused from physical education, the district applied the criteria set forth in Section 27-6 to the student's individual circumstances.
- q) Pupil Personnel Services
To assure provision of Pupil Personnel Services, the local district shall conduct a comprehensive needs assessment to determine the scope of the needs in the areas of:
- 1) Guidance and Counseling Needs;
 - 2) Psychological Needs;
 - 3) Social Work Needs;

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- 4) Health Needs.
- r) Social Sciences and History
- Each school system shall provide history and social sciences courses that do the following:
- 1) analyze the principles of representative government, the Constitutions of both the United States and the State of Illinois, the proper use of the flag, and how these concepts have related and currently do relate in actual practice in our world (see Section 27-21 of the School Code [105 ILCS 5/27-21]);
 - 2) *include in the teaching of United States history the role and contributions of ethnic groups in the history of this country and the State* (Section 27-21 of the School Code);
 - 3) *include in the teaching of United States history the role of labor unions and their interaction with government in achieving the goals of a mixed free-enterprise system* (Section 27-21 of the School Code);
 - 4) *include the study of that period in world history known as the Holocaust* (Section 27-20.3 of the School Code [105 ILCS 5/27-20.3]);
 - 5) *include the study of the events of Black history, including the individual contributions of African-Americans and their collective socio-economic struggles* (Section 27-20.4 of the School Code [105 ILCS 5/27-20.4]);
 - 6) *include the study of the events of women's history in America, including individual contributions and women's struggles for the right to vote and for equal treatment* (Section 27-20.5 of the School Code [105 ILCS 5/27-20.5]); and
 - 7) *include the study of the events related to the forceful removal and illegal deportation of Mexican-American U.S. citizens during the Great Depression* (Section 27-21 of the School Code).
- s) Protective eye devices shall be provided to and worn by all students, teachers, and visitors when participating in or observing dangerous vocational arts and chemical-physical courses of laboratories as specified in Section 1 of the Eye

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Protection in School Act [105 ILCS 115/1]. Such eye protective devices shall meet the nationally accepted standards set forth in "Practice for Occupational and Educational Eye and Face Protection", ANSI Z87.1-2003, issued by the American National Standards Institute, Inc., 1819 L Street, NW, Suite 600, Washington, D.C. 20036. No later additions or amendments to these standards are incorporated by this Part.

- t) Each school district shall provide instruction as required by Sections 27-3.5, 27-13.2, 27-13.3, 27-23.3, and 27-23.8 of the School Code [105 ILCS 5/27-3.5, 27-13.2, 27-13.3, 27-23.3, and 27-23.8].

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1.440 Additional Criteria for High Schools

The School Code establishes differing requirements for the coursework that high schools must offer, the courses students must take, and the courses students must pass in order to graduate.

- a) Course Offerings. Each district shall provide a comprehensive curriculum that includes at least the following offerings. The time allotment, unless specified by the School Code or applicable rules, is the option of the local school district.
- 1) Language Arts
 - 2) Science
 - 3) Mathematics
 - 4) History of the United States
 - 5) Foreign Language
 - 6) Music
 - 7) Art
 - 8) Career and Technical Education – Orientation and Preparation
 - 9) Health Education

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- 10) Physical Education
 - 11) Consumer Education
 - 12) Conservation of Natural Resources
 - 13) Driver and Safety Education (see the Driver Education Act [105 ILCS 5/27-24 through 27-24.8] and 23 Ill. Adm. Code 252)
- b) Required Participation
- 1) Each student shall be required to take one semester or the equivalent, i.e., at least 18 weeks, of health education during the secondary school experience.
 - 2) Each student shall be required to take physical education daily, except as provided in Section 27-6 of the School Code and Section 1.445 of this Part.
 - 3) Each student shall be required to take consumer education for 50 minutes per day for a period of nine weeks in any of grades 9-12, ~~unless he or she has demonstrated proficiency pursuant to the provisions of Section 27-12.1 of the School Code [105 ILCS 5/27-12.1] and Section 1.462 of this Part.~~
 - 4) Each student shall be required to take a course covering *American patriotism and the principles of representative government, as enunciated in the American Declaration of Independence, the Constitution of the United States of America and the Constitution of the State of Illinois, and the proper use and display of the American flag for not less than one hour per week, or the equivalent.* (Sections 27-3 and 27-4 of the School Code)
- c) Specific Requirements for Graduation. A "unit" is the credit accrued for a year's study or its equivalent. A student may be permitted to retake a course that he or she has already successfully completed (for example, to earn a better grade). However, credit may not be awarded more than once for completion of the same course, and the same course may not be counted more than once toward fulfillment of the State requirements for graduation.

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- 1) Each student shall be required to have accrued at least 16 units in grades 9-12 if graduating from a four-year school or 12 units in grades 10-12 if graduating from a three-year high school. In either case, one unit shall be in American History or American History and Government. (Section 27-22 of the School Code) *No student shall receive certification of graduation without passing an examination on the subjects discussed in subsection (b)(4) of this Section.*
- 2) Pursuant to Section 27-22 of the School Code, all students, except students with disabilities whose course of study is determined by an individualized education program, must successfully complete certain courses, depending upon the school year in which they enter the 9th grade and subject to the exceptions provided in Section 1.445 of this Part, as a prerequisite to receiving a high school diploma.
- 3) Credits earned by students prior to entry into Grade 9 as authorized by Section 27-22.10 of the School Code [105 ILCS 5/27-22.10] may be used to fulfill any of the requirements of subsection (c)(2) of this Section.
- d) School districts shall have on file in the local district office a description of all course offerings that may comply with the requirements of the law. A course will be accepted as meeting the relevant requirement for graduation if its description shows that its principal instructional activity is the development and application of knowledge and skills related to the applicable requirement.
 - 1) The course description for a "writing-intensive" course will be accepted for purposes of Section 27-22 of the School Code if:
 - A) a goal of the course is to use the writing that students do relative to the subject matter being presented as a vehicle for improving their writing skills;
 - B) writing assignments will be an integral part of the course's content across the time span covered by the course;
 - C) the written products students are required to prepare in order to receive credit for the course and the feedback students receive are such that:

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- i) students' writing proficiency is evaluated against expectations that are appropriate to early or late high school and encompass all of the standards applicable to State Goals 3 and 5 (see the State Goals for Learning and the Illinois Learning Standards in Appendix D to this Part); and
 - ii) students receive information from the evaluation of their written products that will permit them to improve their writing skills in terms of correct usage; well-organized composition; communication of ideas for a variety of purposes; and locating, organizing, evaluating, and using information.
- 2) The writing-intensive study provided in at least one writing-intensive course must be designed to address and integrate the elements of the writing process and to refine or apply research skills.
- e) It is the responsibility of the school district's administration to provide parents and guardians timely and periodic information concerning graduation requirements for all students, particularly in cases where a student's eligibility for graduation may be in question.
 - f) Additional requirements for graduation may be adopted by local boards of education. Boards of education may accept courses completed in a community college toward graduation.

(Source: Amended at 34 Ill. Reg. _____, effective _____)

Section 1.462 Uniform Annual Consumer Education Proficiency Test (Repealed)

- a) ~~Section 27-12.1(b) of The School Code (Ill. Rev. Stat. 1985, ch. 122, par. 27-12.1(b) requires that the State Board of Education furnish to each school district a uniform Annual Consumer Education Proficiency Test to be administered by each school district to those pupils of the district in grades 9 through 12 who elect to take the test.~~
- b) ~~Any pupil who takes the test, which no pupil may do more than once in any school year, and who achieves a score thereon which is not less than the score~~

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~~established by the State Board of Education, as provided in subsection (d) of this Section, shall be excused from having to receive instruction in consumer education otherwise required by Section 27-12.1(a) of The School Code.~~

- e) **Test Development**
The State Board of Education will annually develop a Consumer Education Proficiency Test:
 - 1) which measures student proficiency in the area of consumer education; and
 - 2) which can be administered in a uniform manner throughout the state.
- d) **Proficiency Score**
The minimum score for passing the Consumer Education Proficiency Test will be 70 percent correct answers, based on a pilot test taken by a representative sample of Illinois students who have completed course work in consumer education and who have teacher assigned grades A or B.
- e) **Test Distribution**
Not later than September 15 of each year, the State Board of Education will send the following items to each school district in the state that serves students in grades 9 through 12:
 - 1) Copies of the Uniform Annual Consumer Education Proficiency Test and the corresponding answer sheets.
 - 2) An answer overlay indicating the correct response to each item on the test.
 - 3) A format for scoring the test, which shall be used to determine each student's raw score and whether or not the student's score is at least equal to the minimum proficiency score established pursuant to the provisions of subsection (d) of this Section and specified on the scoring form.
 - 4) Instructions needed to ensure uniform test administration including the date — established pursuant to subsection (f) of this Section — on which the test shall be given to students in grades 9 through 12 who elect to take test.
- f) **Dates of Test Administration**

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- 1) ~~The test shall be administered annually on either the last Tuesday or Wednesday in January.~~
 - 2) ~~There may be a year in which a school, for reasons beyond its control, is unable to administer the test on either of the regularly scheduled dates. In that situation, the district must submit a written request for an alternate test date for that school.~~
- g) **School District Responsibilities**
~~School districts serving students in grades 9 through 12 shall have the following responsibilities regarding the Uniform Annual Consumer Education Proficiency Test.~~
- 1) **Student Notification**
~~Districts shall annually provide to all students in grades 9 through 12 and/or their parents or guardians a written notice at least ten (10) school days prior to each test date, which shall at least include:~~
 - A) ~~the date(s), time(s) and location(s) of test administration;~~
 - B) ~~the provisions of subsections (a) and (b) of this Section; and~~
 - C) ~~the procedure students shall use to indicate they wish to take the test.~~
 - 2) **Test Security**
~~Districts shall establish test security measures which shall at least provide:~~
 - A) ~~that no copies of the test or answer key shall be made; and~~
 - B) ~~that the answer keys and, except during administration of the test, all copies of the test shall be kept in a secure location to which persons who are not involved in the administration of the the test do not have access; and~~
 - C) ~~that persons involved in administering the test do not reveal test questions or answers to students prior to administration of the test.~~

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- 3) ~~Student Test Results~~
~~Within 45 days after each test date, districts shall provide to students and/or their parents or guardians a notice which shall include:~~
- ~~A) the student's test score; and~~
 - ~~B) a statement that the student has demonstrated proficiency as required in subsection (b) of this Section and is excused from receiving instruction in Consumer Education; or~~
 - ~~C) a statement that the student has not demonstrated proficiency and must receive instruction in Consumer Education as required by Section 27-12.1(a) of The School Code, or the student may take the test again in a subsequent school year.~~
- 4) ~~Temporary Student Records~~
~~Districts shall maintain student test results in the "Student Temporary Record" as defined in 23 Ill. Adm. Code 375.10 (Student Records).~~
- 5) ~~Reporting Requirements~~
~~Upon the written request of the State Superintendent of Education, districts shall provide information related to the testing (e.g., test scores, grade level distribution, and item results) within 30 days of each test date.~~

(Source: Repealed at 34 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Technology Immersion Pilot Project
- 2) Code Citation: 23 Ill. Adm. Code 365
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
365.10	Amendment
365.20	Amendment
365.30	Amendment
365.40	Amendment
365.50	Amendment
365.60	Amendment
- 4) Statutory Authority: 105 ILCS 65
- 5) A Complete Description of the Subjects and Issues Involved: The Children's Low-cost Laptop Program [105 ILCS 65] is a two-year pilot initiative designed to enable qualifying school districts to take advantage of decreases in the cost of technology to establish opportunities to introduce computing skills to students at the elementary grade levels (i.e., grades 3 through 8). The program focuses on schools that serve a substantial percentage of low-income students, are low-achieving, and have limited access to technological resources. The program is similar in scope to the Technology Immersion Pilot Program, which was first funded in 2006 and automatically "sunssets" August 31, 2010.

The proposed changes to Part 365 recognize the differences between the two programs. As noted above, the program has been expanded to include grades 3 through 5, which previously did not participate. Rather than receiving laptop computers from the state, as was the case with the predecessor program, school districts receiving a Children's Low-cost Laptop Program grant will purchase the equipment directly. Further, the use of the technology under the new program will respond to the district's already existing technology plan. Under the technology immersion program, districts were required to establish a committee to plan for the use of the laptop computers, in conjunction with strategies outlined in existing technology plans.

The rules also are being amended, as per the Act, to more specifically target grants to ensure geographic distribution on a statewide basis (see Section 365.60(b)). Other changes are being proposed to incorporate procedures that are now standard to competitive grant programs.

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

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

(217) 782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None

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- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: At the time that the agenda was submitted for publication, the State Board was not aware that bonds had been sold through the Build Illinois Bond Fund and appropriated to the Children's Low-cost Laptop Program.

The full text of the Proposed Amendments is identical to that of the Emergency Amendments, and can be found in this issue of the Illinois Register on page 12997:

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- 1) Heading of the Part: Public Information, Rulemaking and Organization
- 2) Code Citation: 2 Ill. Adm. Code 5050
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
5050.30	Amended
5050.100	Amended
5050.200	Amended
5050.APPENDIX A	Amended
- 4) Statutory Authority: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/9.05]
- 5) Effective Date of Amendments: August 18, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? The rulemaking does not include an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act.
- 8) A copy of the adopted amendments is on file in the Board of Higher Education's office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: Because this rulemaking is adopted under Section 5-15 of the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100/5-15], the Board was not required to publish Proposed Amendments.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Because this rulemaking is adopted under Section 5-15 of the IAPA, it is not subject to First Notice publication or Second Notice review by JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Because this rulemaking is adopted under Section 5-15 of the IAPA, it is not subject to Second Notice review by JCAR

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- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The amendments update the internal rules to align with legislative changes to the Board membership and changes to the staff organization chart.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Karen Helland
Agency Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, Second Floor
Springfield, Illinois 62701-1404

217/557-7358
Fax No. 217/782-8548
helland@ibhe.org

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

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE F: EDUCATIONAL AGENCIES
CHAPTER III: BOARD OF HIGHER EDUCATION

PART 5050
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

SUBPART A: PUBLIC INFORMATION

- Section
- 5050.10 Individual or Group Requests for Making Presentations to the Board
- 5050.20 Proposals for New Board Policies or Amendments to Existing Policy
- 5050.30 Information Requests

SUBPART B: RULEMAKING

- Section
- 5050.100 Rulemaking Procedures

SUBPART C: ORGANIZATION

- Section
- 5050.200 Organization of Illinois Board of Higher Education
- 5050.APPENDIX A Organization Chart

AUTHORITY: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/9.05].

SOURCE: Adopted and codified at 8 Ill. Reg. 16822, effective August 30, 1984; amended at 29 Ill. Reg. 2713, effective February 3, 2005; amended at 34 Ill. Reg. 12794, effective August 18, 2010.

SUBPART A: PUBLIC INFORMATION

Section 5050.30 Information Requests

Requests for information or assistance from the Illinois Board of Higher Education should be

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directed to the Executive Director, Illinois Board of Higher Education, 431 East Adams Street,
| Second Floor, Springfield, Illinois 62701-[14041418](#).

(Source: Amended at 34 Ill. Reg. 12794, effective August 18, 2010)

SUBPART B: RULEMAKING

Section 5050.100 Rulemaking Procedures

- a) New rules, amendments or repealers will be initiated at the direction of the Board or its Executive Director, and may result in some cases from statutory changes, court decisions, or suggestions from interested individuals or advisory committees. Proposed new rules, amendments or repealers will be presented at an open public meeting of the Board prior to publication in the Illinois Register.
- b) Following Board approval, proposed rules, amendments or repealers will be published in the Illinois Register. During the 45-day "first notice" period, interested persons or agencies may provide comments.
- c) Review of proposed rules, amendments or repealers by the Joint Committee on Administrative Rules will take place during the "second notice" period. The Joint Committee on Administrative Rules will review any comments on the rules which were submitted to the issuing agency by interested individuals or agencies.
- d) Proposed new rules, amendments or repealers which have met the requirements for public input and Joint Committee on Administrative Rules review, will be adopted at a second public meeting of the Board.
- e) Individuals or organizations proposing the creation, amendment or repeal of a rule may do so by writing to the Chairperson or Executive Director of the Illinois Board of Higher Education at 431 East Adams Street, Second Floor, Springfield, Illinois 62701-[14041418](#). The written statement should include specific language, and in the case of existing rules, cite the specific rule to be amended or repealed. Justification for the proposal shall also be included.

(Source: Amended at 34 Ill. Reg. 12794, effective August 18, 2010)

SUBPART C: ORGANIZATION

BOARD OF HIGHER EDUCATION

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Section 5050.200 Organization of Illinois Board of Higher Education

- a) The Illinois Board of Higher Education, the state coordinating agency for public and private postsecondary education, is composed of ~~1645~~ members: ten members appointed by the Governor with the consent of the Senate (including one faculty member from a public university), a member appointed by the Governor to represent public universities, a member appointed by the Governor to represent independent institutions, the Chairman of the Illinois Community College Board, the Chairman of the Illinois Student Assistance Commission, and two student members~~a student member~~ selected by the recognized student advisory committee to the IBHE, one of whom must be a non-traditional undergraduate student who is at least 24 years old and represents the view of non-traditional students, such as a person who is employed or is a parent [110 ILCS 205/2].
- b) There are five standing advisory committees to the Board: the Faculty Advisory Council, the Independent College and University Advisory Committee, the Proprietary Advisory Committee, the Student Advisory Committee, and the Council of Community College Presidents. ~~In addition, two members of the Illinois Board of Higher Education serve with two members of the Illinois State Board of Education, two members of the Illinois Community College Board, and two members of the Illinois Workforce Investment Board on a Joint Education Committee (JEC). The JEC was created to address issues of common interest to both elementary/secondary and postsecondary education.~~
- c) The Board is supported by a staff headed by an Executive Director who serves at the pleasure of the Board. The organizational structure is illustrated by function on the chart labeled Appendix of this Part.
- d) To the extent practicable, Board meetings will be held on the first Tuesday of every other month. The Board shall convene at least six times per year. The annual meeting schedule shall be adopted by the Board at its last meeting of the calendar year for the following calendar year. The meeting calendar shall be posted on the Board's web site (www.ibhe.org). *Special or additional meetings may be held on call of the Chairman, or upon a call signed by at least 6 members, or upon call of the Governor [110 ILCS 205/4].* All Board meetings shall be conducted in accordance with the Open Meetings Act [5 ILCS 120/1.01].
- e) A Vice-Chairperson shall be elected by the Board. The Vice-Chairperson shall preside at all meetings in the absence of the Chairperson. In the absence of the

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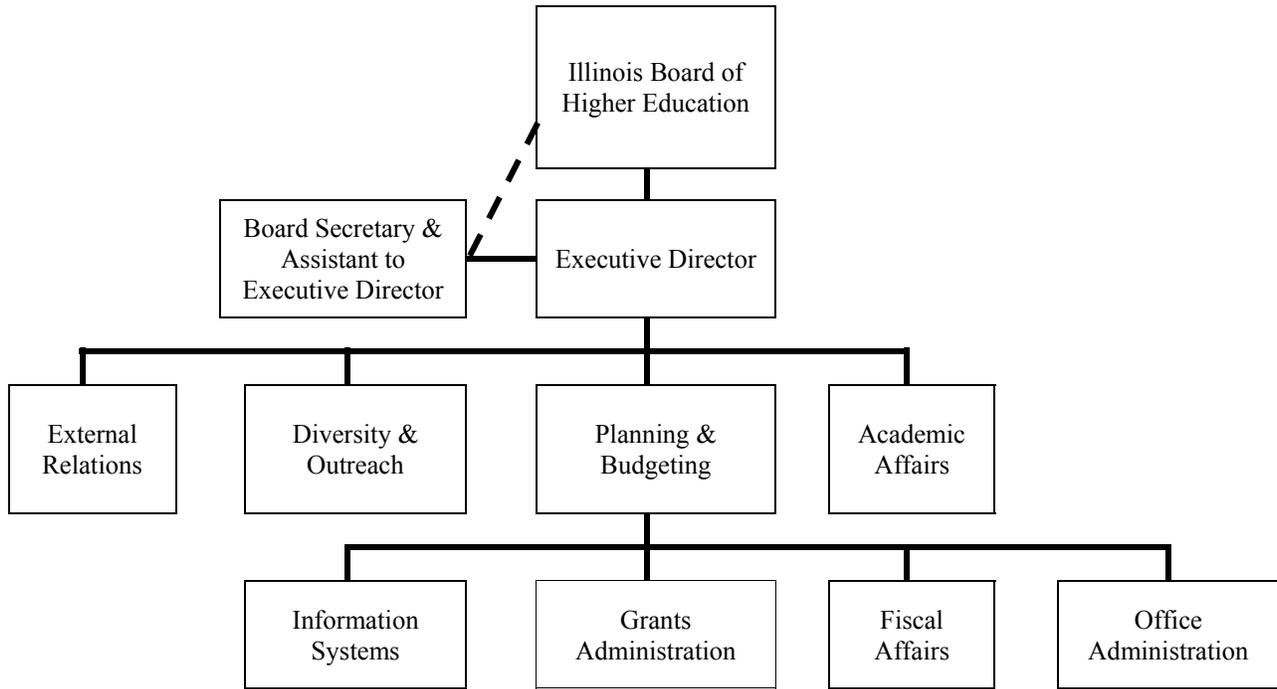
Chairperson and the Vice-Chairperson at any regular meeting, the members present shall designate one of those in attendance to serve as acting Chairperson for that meeting only.

(Source: Amended at 34 Ill. Reg. 12794, effective August 18, 2010)

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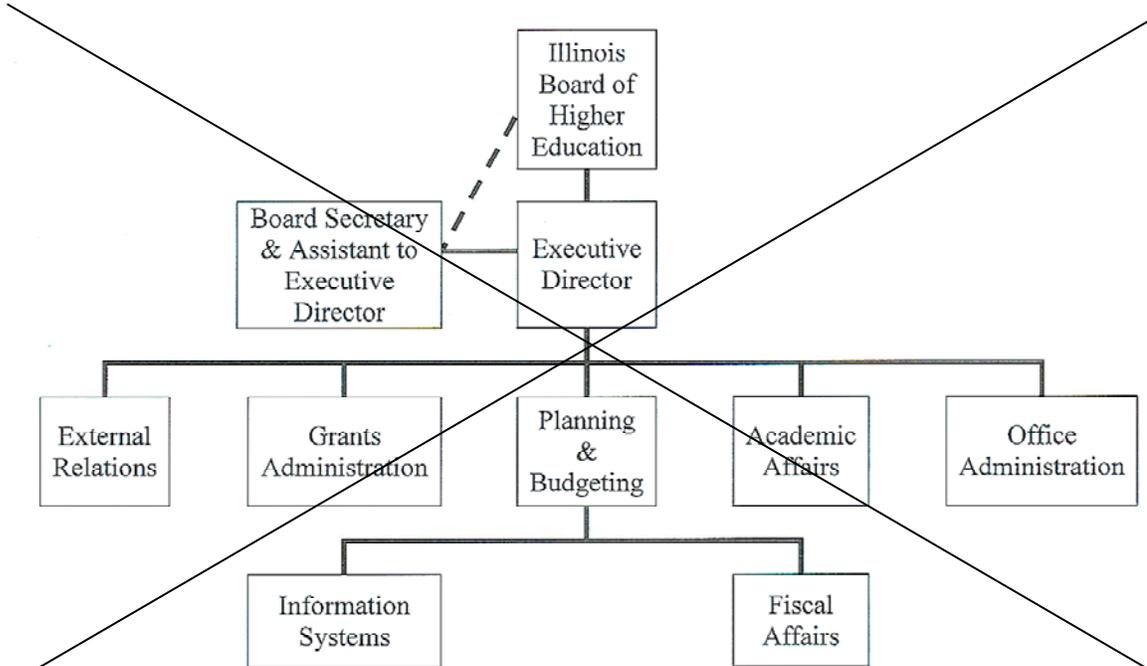
NOTICE OF ADOPTED AMENDMENTS

Section 5050.APPENDIX A Organization Chart



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(Source: Amended at 34 Ill. Reg. 12794, effective August 18, 2010)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Pre-Licensing and Continuing Education
- 2) Code Citation: 50 Ill. Adm. Code 3119
- 3) Section Number: 3119.45 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Sections 500-25, 500-30 and 500-35 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/500-25, 500-30, 500-35, and 401]
- 5) Effective Date of Rulemaking: August 20, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 479; January 8, 2010
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version:
 - a. The Department made several stylistic changes throughout the rule at JCAR's request.
 - b. Changes adopted at 34 Ill. Reg. 5856 in the April 23, 2010 *Illinois Register* in a simultaneous amendment to this Part were included in this version. The changes included obtaining a college degree as a means of exemption from the pre-licensing requirements of this Part, as well as a reduction in the number of CE hours from 30 to 24.
 - c. In Section 3119.45(a)(2), second line, changed "below" to "in this subsection (a)(2)".

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- d. In Section 3119.45(b)(1), first line, deleted "Except as set in subpart (5) below" and restored "Each"; third line, changed "Three" to "As set forth in subsection (b)(5), three".
- e. Section 3119.45(b)(5), changed text to "Each producer whose license is subject to renewal shall meet the classroom ethics instruction requirement by registering for, and successfully completing, three hours of classroom ethics instruction."
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: The amendments to this Part implement provisions of Public Act 96-839 requiring producers to register for and complete three hours of classroom ethics instruction.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Kelly Kruger, Assistant Deputy Director
Producer Section
Department of Insurance
320 West Washington Street
Springfield, Illinois 62767-0001

217/785-2263

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ii: INSURANCE PRODUCERS, LIMITED INSURANCE
REPRESENTATIVES AND BUSINESS ENTITIES

PART 3119
PRE-LICENSING AND CONTINUING EDUCATION

Section	
3119.10	Purpose
3119.20	Definitions
3119.30	Provider Responsibilities
3119.40	Responsibilities of Applicant for Insurance Producer Licenses and Licensed Insurance Producers Until 1/1/97 (Repealed)
3119.45	Responsibilities of the Applicant for Insurance Producer Licenses and the Licensed Insurance Producers
3119.50	Pre-Licensing – Course of Study Requirements
3119.60	Continuing Education Requirements
3119.65	Course Credit
3119.70	Course and Provider Disqualification
3119.75	Additional Penalties
3119.80	Severability
3119.EXHIBIT A	Request for Certification of a Pre-Licensing Course (Repealed)
3119.EXHIBIT B	Request for Certification of a Continuing Education Course (Repealed)
3119.EXHIBIT C	Provider List – Proof of Completion (Repealed)
3119.EXHIBIT D	Provider List – Proof of Completion (Continuing Education) (Repealed)
3119.EXHIBIT E	Course of Study – Life
3119.EXHIBIT F	Course of Study – Accident/Health
3119.EXHIBIT G	Course of Study – Fire
3119.EXHIBIT H	Course of Study – Casualty/Motor Vehicle

AUTHORITY: Implementing Sections 500-25, 500-30 and 500-35 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/500-25, 500-30, 500-35, and 401].

SOURCE: Adopted at 9 Ill. Reg. 80, effective January 1, 1985; amended at 15 Ill. Reg. 69, effective January 1, 1991; amended at 16 Ill. Reg. 126, effective January 1, 1992; amended at 18 Ill. Reg. 16568, effective November 1, 1994; amended at 20 Ill. Reg. 10340, effective July 19, 1996; amended at 21 Ill. Reg. 13820, effective October 15, 1997; amended at 25 Ill. Reg. 6480, effective May 3, 2001; amended at 26 Ill. Reg. 16522, effective October 28, 2002; amended at

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29 Ill. Reg. 15515, effective September 29, 2005; amended at 34 Ill. Reg. 5856, effective April 7, 2010; amended at 34 Ill. Reg. 12802, effective August 20, 2010.

Section 3119.45 Responsibilities of the Applicant for Insurance Producer Licenses and the Licensed Insurance Producers

a) Applicants for Insurance Producer Licenses

- 1) Prior to taking the licensing examination, each applicant shall complete the pre-licensing education requirements for each class of insurance for which an examination is being taken. The pre-licensing education course must be used within 1 year after completion.
- 2) Applicants who either have earned a college degree in insurance or hold any of the designations listed [in this subsection \(a\)\(2\) below](#) will be exempt from the pre-licensing requirement of this Part. A copy of the college degree or certification for the following designations must be provided to the Department at the time of licensure application.

Class of Insurance	Designation
Life	CEBS, ChFC, CIC, CFP, CLU, FLMI, and LUTCF
Accident and Health	RHU, CEBS, REBC, and HIA
Property and Casualty	AAI, ARM, CIC, and CPCU

- 3) The following abbreviations and acronyms are used in subsection (a)(2):

Life Designations

CEBS	Certified Employee Benefits Specialist
ChFC	Chartered Financial Consultant
CIC	Certified Insurance Counselor
CFP	Certified Financial Planner
CLU	Chartered Life Underwriter
FLMI	Fellow Life Management Institute
LUTCF	Life Underwriting Training Council Fellow

Accident and Health Designations

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

RHU	Registered Health Underwriter
CEBS	Certified Employee Benefits Specialist
REBC	Registered Employee Benefits Consultant
HIA	Health Insurance Associate
Property and Casualty Designations	
AAI	Accredited Advisor Insurance
ARM	Associate in Risk Management
CIC	Certified Insurance Counselor
CPCU	Chartered Property and Casualty Underwriter

b) Licensed Insurance Producers

- 1) Each producer shall complete 24 hours of continuing education requirements prior to requesting an extension of an insurance producer license. [As set forth in subsection \(b\)\(5\), three](#)~~Three~~ of the 24 hours of continuing education must consist of classroom ethics. The producer should complete the course no later than 1 month prior to the license extension date to allow time for the provider to submit proof of completion to the Director. Each producer shall maintain a record of each course completed for 3 years from the date of completion. The record shall include the name of the provider, the course title, and the date of completion.
- 2) Hours taken, course material provided or presented, in whole or in part, or in conjunction with a pre-licensing course that is not certified as pre-licensing education requirement, shall not be used to meet continuing education requirements.
- 3) Courses initiated or completed prior to the original issue date of the license shall not be used to meet continuing education requirements.
- 4) The producer may accumulate a maximum of 36 credit hours on file with the Department.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

- 5) [Each producer whose license is subject to renewal shall meet the classroom ethics instruction requirement by registering for, and successfully completing, three hours of classroom ethics instruction.](#)

(Source: Amended at 34 Ill. Reg. 12802, effective August 20, 2010)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting
- 2) Code Citation: 17 Ill. Adm. Code 550
- 3) Section Number: 550.30 Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29]
- 5) Effective Date of Amendment: August 20, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 7, 2010; 34 Ill. Reg. 6270
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part was amended to update open sites and site specific regulations for the 2010 hunting season.
- 16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

George Sisk, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 550
RACCOON, OPOSSUM, STRIPED SKUNK, RED FOX, GRAY FOX, COYOTE
AND WOODCHUCK (GROUNDHOG) HUNTING

Section

550.10	General Regulations
550.20	Statewide Regulations
550.30	Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting on Department-Owned, -Leased or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29].

SOURCE: 5 Ill. Reg. 8833, effective August 25, 1981; codified at 5 Ill. Reg. 10636; emergency amendment at 5 Ill. Reg. 11593, effective October 20, 1981, for a maximum of 150 days; emergency expired March 17, 1982; amended at 6 Ill. Reg. 10714, effective August 20, 1982; amended at 7 Ill. Reg. 10782, effective August 24, 1983; amended at 7 Ill. Reg. 16098, effective November 22, 1983; amended at 8 Ill. Reg. 21593, effective October 23, 1984; amended at 9 Ill. Reg. 16204, effective October 9, 1985; emergency amendment at 9 Ill. Reg. 18151, effective November 12, 1985, for a maximum of 150 days; emergency expired April 11, 1986; amended at 10 Ill. Reg. 16649, effective September 22, 1986; amended at 11 Ill. Reg. 9540, effective May 5, 1987; amended at 12 Ill. Reg. 11730, effective June 30, 1988; amended at 13 Ill. Reg. 10598, effective June 19, 1989; amended at 14 Ill. Reg. 10798, effective June 20, 1990; amended at 15 Ill. Reg. 11598, effective August 2, 1991; amended at 16 Ill. Reg. 11078, effective June 30, 1992; amended at 17 Ill. Reg. 10795, effective July 1, 1993; amended at 18 Ill. Reg. 10090, effective June 21, 1994; amended at 19 Ill. Reg. 11787, effective August 3, 1995; amended at 20 Ill. Reg. 10874, effective August 5, 1996; amended at 21 Ill. Reg. 9077, effective June 26, 1997; amended at 22 Ill. Reg. 14836, effective August 3, 1998; amended at 23 Ill. Reg. 9066, effective July 28, 1999; amended at 24 Ill. Reg. 8938, effective June 19, 2000; amended at 25 Ill. Reg. 9895, effective July 17, 2001; amended at 26 Ill. Reg. 14680, effective September 20, 2002; amended at 28 Ill. Reg. 11873, effective July 27, 2004; amended at 29 Ill. Reg. 12471, effective July 28, 2005; amended at 30 Ill. Reg. 12133, effective June 28, 2006; amended at 31 Ill. Reg. 13106, effective August 30, 2007; amended at 32 Ill. Reg. 10093, effective June 30, 2008;

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amended at 33 Ill. Reg. 9680, effective June 26, 2009; amended at 34 Ill. Reg. 12808, effective August 20, 2010.

Section 550.30 Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting on Department-Owned, -Leased or -Managed Sites

- a) All the regulations in 17 Ill. Adm. Code 510 – General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
- b) For sites where hunter quotas exist and permits are required a drawing shall be held prior to the opening of the season. The date of the drawing shall be announced by the Department by public announcement and the drawing shall be held at the site. The number of permits per site shall be determined pursuant to 17 Ill. Adm. Code 510.20.
- c) .22 caliber or smaller rimfire firearms permitted from sunset to sunrise unless otherwise specified.
- d) Coyote and striped skunk season shall coincide with the statewide fox season unless otherwise specified.
- e) No woodchuck (groundhog) hunting allowed unless otherwise specified.
- f) Statewide regulations as provided for in this rule apply at the following sites (exceptions are in parentheses):

Anderson Lake Conservation Area (all hunting to begin after the close of duck season)

Apple River Canyon State Park

Argyle Lake State Park

Banner Marsh State Fish and Wildlife Area (coyote only; coyotes can be taken with archery equipment when the site is open to archery deer hunting during archery shooting hours; coyotes can be taken with shotguns, no deer slugs allowed, on days when the site is open to upland hunting with upland shooting hours)

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Big Bend State Fish and Wildlife Area (coyote season from August 1 through the following February 28)

Big River State Forest

Butterfield Trail State Recreation Area

Cache River State Natural Area

Campbell Pond Wildlife Management Area

Cape Bend State Fish and Wildlife Area

Carlyle Lake Lands and Waters – Corps of Engineers Management Lands

Carlyle Lake Wildlife Management Area (subimpoundment area closed 7 days prior to and during the southern zone waterfowl season)

Cypress Pond State Natural Area

Deer Pond State Natural Area

Devil's Island State Fish and Wildlife Area

Dog Island Wildlife Management Area

Eldon Hazlet State Park (north of Allen Branch and west of Peppenhorst Branch)

Ferne Clyffe State Park – Cedar Draper Bluffs Hunting Area

Fort de Chartres Historic Site (muzzleloading firearms or bow and arrow only)

Hanover Bluff State Natural Area

Horseshoe Lake Conservation Area – Alexander County (Public Hunting Area except Controlled Hunting Area)

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Johnson Sauk Trail State Recreation Area (archery only; coyote and fox only; site coyote season runs concurrently with the site archery deer season; site fox season begins when the statewide fox season opens, runs concurrently with the site archery deer season, and closes the earlier of either the statewide fox season closing or the site archery deer season closing)

Kankakee River State Park (coyote, fox, skunk and opossum may be taken during their respective seasons that fall within the archery deer season by archery only; shotgun only hunting opens the day after the close of the site upland game season or archery deer season, whichever is later, and closes with the close of the statewide fox season; statewide hours; hunters must sign-in/sign-out and report harvest and effort at check station)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to and during duck season; the defined Baldwin Lake Waterfowl Rest Area is closed)

Kinkaid Lake Fish and Wildlife Area

Marseilles State Fish and Wildlife Area (coyote and fox only; fox closes first Thursday after January 10; coyote open to hunting from August 1 until the first Thursday after January 10 and when other hunting seasons are open on the site; not open during spring turkey season; hunting hours are 30 minutes before sunrise until sunset; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may only enter the site from designated parking lots)

Marshall County Fish and Wildlife Area (raccoon, opossum only; season opens day after duck season)

Mazonia State Fish and Wildlife Area (archery only; coyote, fox, raccoon, skunk and opossum may be taken during their respective seasons that fall within the archery deer hunting season; statewide hours; hunters must sign-in/sign-out and report harvest and effort at the check station)

Mermet Lake State Fish and Wildlife Area (hunting limited to upland game area; hunting hours ½ hour before sunrise to ½ hour after sunset)

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Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pools 16, 17, 18, 21, 22 and 24 (groundhog hunting allowed) (c)

Momence Wetlands State Natural Area (archery only; coyote, fox, raccoon, skunk and opossum may be taken during their respective seasons that fall within the archery deer hunting season; statewide hours; hunters must sign-in/sign-out and report harvest and effort at check station)

Moraine View State Park (archery only; coyote only; season runs concurrently with site archery deer season)

Oakford Conservation Area

Peabody River King State Fish and Wildlife Area (West subunit only)

Rall Woods State Natural Area

Randolph County Conservation Area

Ray Norbut State Fish and Wildlife Area

Rend Lake Project Lands and Waters

Sangamon County Conservation Area

Shawnee National Forest, Oakwood Bottoms and LaRue Scatters (season closes 7 days before opening of duck season and remains closed through the duck season; at Oakwood Bottoms non-toxic shot only)

Sielbeck Forest Natural Area

Siloam Springs State Park

Silver Springs State Fish and Wildlife Area (coyote only, no dogs allowed; season open from the day after archery deer season ends through the last day of February; shotgun with shotshells only; sign-in/sign-out and report

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of harvest required)

Skinner Farm State Habitat Area

Spoon River State Forest (all hunters must sign-in/sign-out)

Tapley Woods State Natural Area (shotguns or muzzleloading rifles only may be used from sunset-sunrise)

Trail of Tears State Forest

Turkey Bluffs State Fish and Wildlife Area

Walnut Point State Park (sign-in/sign-out required; raccoon hunting only)

Washington County Conservation Area

Weinberg-King State Park (c) (d)

Weinberg-King State Park – Scripps Unit (use of dogs for hunting coyote is not allowed)

Weinberg-King State Park – Spunky Bottoms Unit

Wildcat Hollow State Forest

Winston Tunnel State Natural AreaWise Ridge State Natural Area

Witkowsky State Wildlife Area (coyote only; season shall coincide with archery and firearm deer season at this site; archery only during the archery deer season at this site)

Woodford County Fish and Wildlife Area (raccoon, opossum only; season opens after duck season)

- g) Violation of a site-specific regulation is a Class B misdemeanor. Statewide regulations apply except that hunters must obtain a permit from the Department;

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where hunter quotas exist, permits are allocated as described in subsection (b); permits must be in possession while hunting; the permit must be returned by February 15 or hunter will forfeit hunting privileges at that site the following year (exceptions are in parentheses):

Beaver Dam State Park (bow and arrow only)

Chauncey Marsh (obtain permit at Red Hills State Park Headquarters)

Clinton Lake State Recreation Area

Coffeen Lake State Fish and Wildlife Area (coyote only, shotgun or bow and arrow)

Copperhead Hollow State Wildlife Area (raccoon and coyote only)

Crawford County Conservation Area

Des Plaines State Fish and Wildlife Area (coyote only, no dogs allowed; season opens the day after archery deer season closes and ends February 28; shotgun with shotshells only; site permit required)

Eagle Creek State Park (season opens day after second firearm deer season; closes December 20; hunting sunset to sunrise only; raccoon only)

Fox Ridge State Park

Green River State Wildlife Area (skunk and coyote close the last day of February; .22 rimfire firearms permitted from 30 minutes after sunset until 30 minutes before sunrise)

Hamilton County Conservation Area

Harry "Babe" Woodyard State Natural Area

Hennepin Canal State Trail (archery only; coyote and raccoon only; season open only when the site archery deer season is open)

Hidden Springs State Forest

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Horseshoe Lake State Park (Madison County) (coyote only, bow and arrow only)

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Unit (shotgun and bow and arrow only)

Iroquois County Wildlife Management Area (season opens the day after Permit Pheasant Season)

Jim Edgar Panther Creek State Fish and Wildlife Area (statewide seasons for coyote and striped skunk)

Kankakee River State Park (no rifle or handgun hunting allowed; the furbearer hunting season opens the day after the last day of the site's upland hunting seasons through statewide close of respective seasons for furbearers except striped skunk and coyote close with fox season)

Kickapoo State Park

Lake Shelbyville – Kaskaskia and West Okaw Wildlife Management Areas

Lincoln Trail State Park (season opens day after first firearm deer season; closes December 20; hunting hours sunset to sunrise only; raccoon only)

Matthiessen State Park (season closed during the site firearm or muzzleloader deer seasons; site permit may be obtained at the Starved Rock State Park office; hunting hours are from 30 minutes after sunset until 30 minutes before sunrise; raccoon or opossum only; hunting south of the Vermilion River Area only; no dogs allowed)

Mautino State Fish and Wildlife Area (archery only; coyote and raccoon only; season open only when the site archery deer season is open)

Meeker State Habitat Area (obtain permit at Sam Parr State Park headquarters)

Middle Fork Fish and Wildlife Management Area

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Moraine View State Park (season opens the second Monday in December; night hunting only; raccoon only)

Pyramid State Park – Captain Unit (no hunting on waterfowl refuge)

Pyramid State Park – Denmark Unit (no hunting on waterfowl refuge)

Pyramid State Park – East Conant Unit

Pyramid State Park – Galum Unit

Ramsey Lake State Park

Sahara Woods State Fish and Wildlife Area

Saline County Fish and Wildlife Area

Sam Parr State Park

Sand Ridge State Forest (coyote and striped skunk seasons – opening of the statewide raccoon season until the day before opening of the statewide spring turkey season)

Sanganois State Fish and Wildlife Area (statewide seasons for coyote and striped skunk)

Sangchris Lake State Park (fox, coyote and striped skunk hunting only; statewide seasons for fox, coyote and striped skunk except, during central zone duck and Canada goose season, hunters pursuing waterfowl or upland game may take fox, coyote and striped skunk with shotgun only in accordance with site-specific regulations set forth in 17 Ill. Adm. Code 530 and 590)

Stephen A. Forbes State Park

Ten Mile Creek State Fish and Wildlife Area (statewide coyote, striped skunk, and groundhog hunting allowed; .22 caliber or smaller rimfire firearms permitted 24 hours a day)

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Wolf Creek State Park (season opens day after second firearm deer season; closes December 20; hunting sunset to sunrise only; raccoon only)

- h) Violation of a site regulation is a Class B misdemeanor (see 520 ILCS 5/2.30).

(Source: Amended at 34 Ill. Reg. 12808, effective August 20, 2010)

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- 1) Heading of the Part: Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, Beaver and Woodchuck (Groundhog) Trapping
- 2) Code Citation: 17 Ill. Adm. Code 570
- 3) Section Number: 570.40 Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 2.30, 2.33 and 3.5]
- 5) Effective Date of Amendment: August 20, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 7, 2010; 34 Ill. Reg. 6282
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part was amended to update open sites and site-specific regulations for the 2010 hunting season.
- 16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

George Sisk, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

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

PART 570

MUSKRAT, MINK, RACCOON, OPOSSUM, STRIPED SKUNK, WEASEL,
RED FOX, GRAY FOX, COYOTE, BADGER, BEAVER AND
WOODCHUCK (GROUNDHOG) TRAPPING

Section

570.10	Statewide Zones
570.20	Statewide Season Dates
570.30	Statewide Hours, Daily Limit and Possession Limit
570.35	Use of .22 Rimfire Rifles by Trappers During Deer Gun Season
570.40	Trapping Regulations on Department-Owned, -Leased or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 2.30, 2.33 and 3.5].

SOURCE: Adopted at 5 Ill. Reg. 9767, effective September 17, 1981; codified at 5 Ill. Reg. 10637; amended at 6 Ill. Reg. 10709, effective August 20, 1982; amended at 7 Ill. Reg. 10778, effective August 24, 1983; amended at 8 Ill. Reg. 21589, effective October 23, 1984; amended at 9 Ill. Reg. 15864, effective October 7, 1985; amended at 10 Ill. Reg. 16644, effective September 24, 1986; amended at 12 Ill. Reg. 12034, effective July 7, 1988; emergency amendments at 12 Ill. Reg. 16261, effective September 23, 1988, for a maximum of 150 days; emergency expired February 20, 1989; amended at 13 Ill. Reg. 10589, effective June 15, 1989; amended at 14 Ill. Reg. 14775, effective September 4, 1990; amended at 14 Ill. Reg. 19854, effective December 3, 1990; amended at 15 Ill. Reg. 11586, effective August 2, 1991; amended at 16 Ill. Reg. 11069, effective June 30, 1992; amended at 17 Ill. Reg. 10785, effective July 1, 1993; amended at 17 Ill. Reg. 18796, effective October 19, 1993; amended at 18 Ill. Reg. 10077, effective June 21, 1994; amended at 19 Ill. Reg. 12640, effective August 29, 1995; amended at 20 Ill. Reg. 12351, effective August 30, 1996; amended at 21 Ill. Reg. 9070, effective June 26, 1997; amended at 22 Ill. Reg. 14809, effective August 3, 1998; amended at 23 Ill. Reg. 9055, effective July 28, 1999; amended at 24 Ill. Reg. 8929, effective June 19, 2000; amended at 25 Ill. Reg. 9887, effective July 17, 2001; amended at 26 Ill. Reg. 13809, effective September 5, 2002; amended at 27 Ill. Reg. 749, effective January 6, 2003; amended at 28 Ill. Reg. 11883, effective July 27, 2004; amended at 29 Ill. Reg. 9643, effective June 27, 2005; amended at 30 Ill. Reg. 12143, effective June 28, 2006; amended at 31 Ill. Reg. 13117, effective August 30, 2007; amended at 32 Ill. Reg.

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10104, effective June 30, 2008; amended at 33 Ill. Reg. 9691, effective June 26, 2009; amended at 34 Ill. Reg. 12820, effective August 20, 2010.

Section 570.40 Trapping Regulations on Department-Owned, -Leased or -Managed Sites

- a) General Regulations
 - 1) All the regulations in 17 Ill. Adm. Code 510 – General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
 - 2) On areas where special Department tags are required for trappers, traps without tags attached will be subject to confiscation.
 - 3) Trappers must stay within assigned areas.
 - 4) For sites where permits are required a drawing shall be held prior to the opening of the season. The date of the drawing shall be announced by the Department by public announcement (publicly announced means that the information referred to will be included on the Department's Internet Home Page at <http://dnr.state.il.us>, published in Outdoor Illinois, provided to outdoor writers for newspapers, and placed on the Department's Toll Free Hotline) and the drawing shall be held at the site. Persons participating in the drawing must have either a current or previous year trapping license. The number of permits per site shall be determined pursuant to 17 Ill. Adm. Code 510.20. Permit applicants must submit name and address to the site prior to drawing. Permits must be in possession while trapping on the area.
 - 5) All sites except ~~Blanding Wildlife Area~~, Kinkaid Lake Fish and Wildlife Area, Mississippi River Pools 16, 17, 18, 21, 22, 24, and Rend Lake Wildlife Management Area require trappers to submit a harvest report to the site superintendent within 20 days following the close of the trapping season. Failure to report shall result in the trapper being ineligible to trap at that site for the following year.
 - 6) Body-gripping traps with a 10-inch jaw spread or larger must be totally submerged in water when set.
 - 7) Any person who violates the site specific regulations shall be guilty of a

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Class B Misdemeanor.

- 8) No trapping is permitted in subimpoundments or designated waterfowl management units during duck season.
 - 9) .22 caliber or smaller rimfire firearms permitted unless otherwise specified.
- b) Statewide regulations as provided for in this Part apply at the following sites (exceptions in parentheses):

Beall Woods State Park (water sets only, site permit required)

~~Blanding Wildlife Area (trapping area includes the islands and associated backwater sloughs immediately upstream from Lock and Dam 12; no trapping on mainland)~~

Chauncey Marsh State Natural Area (obtain permit at Red Hills State Park headquarters)

Copperhead Hollow State Wildlife Area (site permit required)

Frank Holten State Park (water sets only; designated areas only)

Kinkaid Lake Fish and Wildlife Area

Mississippi River Pools 16, 17, 18, 21, 22, 24 (no trapping on U.S. Fish and Wildlife Service National Wildlife Refuges in Pools 21, 22 and 24)

Pyramid State Park (water sets only)

Ray Norbut State Fish and Wildlife Area

Red Hills State Park (site permit required)

Rend Lake Project Lands and Waters (water sets only)

Sam Parr State Park (water sets only, site permit required)

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Sielbeck Forest Natural Area (water sets only)

Siloam Springs State Park

Snakeden Hollow State Fish and Wildlife Area

Weinberg-King State Park – Scripps Unit (site permit required)

Weinberg-King State Park – Spunky Bottoms Unit (site permit required)

- c) Statewide regulations as provided for in this Part apply at the following sites; in addition, a permit is required; only Egg Traps[®], D-P (Dog-Proof) Traps[®], box traps, cage traps, and traps of similar design may be used for land sets (exceptions in parentheses):

Butterfield Trail State Recreation Area

Cache River State Natural Area

Cape Bend State Fish and Wildlife Area

Carlyle Lake Lands and Waters – Corps of Engineers Managed Lands

Carlyle Lake Wildlife Management Area

Clinton Lake Recreation Area

Cypress Pond State Natural Area

Deer Pond State Natural Area

Devil's Island State Fish and Wildlife Area

Eldon Hazlet State Park – north of Allen Branch and west of Peppenhorst Branch only

Ferne Clyffe State Park – Cedar Draper Bluffs Hunting Area

Fort de Chartres Historic Site

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NOTICE OF ADOPTED AMENDMENT

Harry "Babe" Woodyard State Natural Area

Horseshoe Lake Conservation Area

I & M Canal State Park

Kaskaskia River Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to duck season; the defined Baldwin Lake Waterfowl Rest Area is closed)

Kickapoo State Recreation Area

Kidd Lake State Natural Area

Lake Murphysboro State Park

Lake Shelbyville – Kaskaskia and West Okaw Management Areas (no more than 50 traps may be used per permit)

Lowden State Park – Kilbuck Creek Habitat Area

Meeker State Habitat Area (obtain permit at Sam Parr State Park headquarters)

Mermet Lake Fish and Wildlife Area

Middle Fork State Fish and Wildlife Area

Mississippi River Fish and Waterfowl Area (Pools 25, 26) (land sets accessed by land only allowed during duck season; water sets allowed after duck season closes)

Moraine Hills State Park (water sets only; only body-gripping traps with a jaw spread of 5 inches or less may be used; no more than two persons may enter drawing on a single card)

Moraine View State Park (no more than 2 persons may enter drawing on a single card)

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Peabody River King Fish and Wildlife Area (east, west, and south subunits only)

Pyramid State Park – East Conant Unit

Pyramid State Park – Galum Unit

Randolph County Conservation Area

Sanganois Fish and Wildlife Area

South Shore State Park

Ten Mile Creek State Fish and Wildlife Area

Turkey Bluffs Fish and Wildlife Area

Washington County Conservation Area

Wise Ridge State Natural Area

- d) Statewide regulations as provided for in this Part apply at the following sites (exceptions in parentheses); in addition, a permit is required; only Egg Traps[®], D-P (Dog-Proof) Traps[®], box traps, cage traps, and traps of similar design may be used for land sets; only body-gripping traps with a jaw spread of 5 inches or less, foothold traps with a jaw spread of 4½ inches or less and square body-gripping traps with a 10 inch jaw spread may be used for water sets; snares may be used for water sets:

Anderson Lake Conservation Area

Argyle Lake State Park

Beaver Dam State Park

Big Bend Fish and Wildlife Area (after the close of rabbit season foothold traps with a jaw spread of 7½ inches or less may be used for water sets)

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Coffeen Lake State Fish and Wildlife Area

Coleta Ponds

Dog Island Wildlife Management Area

Giant City State Park

Hanover Bluff State Natural Area (~~water sets only~~)

Hennepin Canal Parkway including Sinnissippi Lake (trappers must register at park office; no floats may be set more than 14 days prior to the season and must be removed at the conclusion of the season; no land sets)

Hidden Springs State Forest

Horseshoe Lake State Park – Madison County

Horseshoe Lake State Park (Gabaret, Mosenthein and Chouteau Island Units (Madison County))

Jim Edgar Panther Creek State Fish and Wildlife Area (only Egg Traps[®], D-P (Dog-Proof) Traps[®], box traps, cage traps, traps of similar design, and homemade dog-proof traps; homemade dog-proof traps must be designed with a leg hold trap no larger than a number two size in an enclosed wood, metal or durable plastic container with a single access opening of no larger than 1½ inch diameter, and body-gripping traps must be completely submerged)

Johnson-Sauk Trail State Park (no foothold water sets)

Jubilee College State Park

Kankakee River State Park (trappers must wear blaze orange while checking traps; no trapping adjacent to bike or horse trails; south of the Kankakee River, only dog proof type traps may be used until the close of the upland hunting season; no trapping on campground areas until closed)

Kishwaukee River State Fish and Wildlife Area (site trapping season ends

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on the last day of archery deer season)

Lake Le-Aqua-Na State Park

Little Rock Creek State Habitat Area

Mackinaw River State Fish and Wildlife Area (water sets only)

Marshall County Fish and Wildlife Area

Mautino State Fish and Wildlife Area (trappers must register at the Hennepin Canal office; no floats may be set more than 14 days prior to the season and must be removed at the conclusion of the season; no land sets)

Morrison Rockwood State Park

Pekin Lake State Fish and Wildlife Area (water sets only)

Pyramid State Park – Captain Unit (no trapping on waterfowl refuge during waterfowl season; no foothold traps; body-gripping traps must be submerged)

Pyramid State Park – Denmark Unit (no trapping on waterfowl refuge during waterfowl season; no foothold traps; body-gripping traps must be submerged)

Ramsey Lake State Park

Rock Cut State Park

Saline County State Fish and Wildlife Area

Sam Dale Lake Conservation Area

Sahara Woods State Fish and Wildlife Area

Sangchris Lake State Park

Shabbona Lake State Park

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Sparland Fish and Wildlife Area

Spoon River State Forest

Spring Lake Conservation Area (water sets only)

Starved Rock/Matthiessen State Park

Stephen A. Forbes State Park

Trail of Tears State Forest

Union County Conservation Area

Weldon Springs State Park (permit required by site drawing)

- e) Trapping is prohibited on all other Department-owned, -leased or -managed sites except by special permit which shall be issued by the Department when it is determined that the harvest of a species would enhance the biological balance of the resource.
- 1) All regulations shall be according to species regulations as provided for in this Part.
 - 2) Permit application information and site specific regulations shall be announced publicly by the Department through the news media by September 1 of each year.
 - 3) Site specific regulations shall be listed on the application and permit and posted at the site.
- f) Violation of site specific regulations is a Class B misdemeanor (see 520 ILCS 5/2.30).

(Source: Amended at 34 Ill. Reg. 12820, effective August 20, 2010)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Dove Hunting
- 2) Code Citation: 17 Ill. Adm. Code 730
- 3) Section Number: 730.20 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11]
- 5) Effective Date of Amendment: August 20, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 7, 2010; 34 Ill. Reg. 6293
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part was amended to update the list of sites open for the 2010 hunting season
- 16) Information and questions regarding this adopted amendment shall be directed to:

George Sisk, Legal Counsel

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 730
DOVE HUNTING

Section

730.10	Statewide Regulations
730.20	Regulations at Various Department-Owned or -Managed Sites
730.30	Youth and Youth/Adult Dove Hunts at Various Department-Owned or -Managed Sites (Repealed)
730.40	Youth Dove Hunting

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10 and 2.11].

SOURCE: Adopted at 5 Ill. Reg. 8792, effective August 25, 1981; codified at 5 Ill. Reg. 10644; amended at 6 Ill. Reg. 9631, effective July 21, 1982; emergency amendment at 6 Ill. Reg. 10040, effective August 2, 1982, for a maximum of 150 days; emergency expired December 30, 1982; amended at 7 Ill. Reg. 10767, effective August 24, 1983; emergency amendment at 7 Ill. Reg. 10999, effective August 24, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 13680, effective July 25, 1984; amended at 9 Ill. Reg. 11601, effective July 16, 1985; emergency amendment at 9 Ill. Reg. 14025, effective September 4, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 15590, effective September 16, 1986; amended at 11 Ill. Reg. 9526, effective May 5, 1987; amended at 11 Ill. Reg. 11346, effective June 10, 1987; amended at 12 Ill. Reg. 12186, effective July 15, 1988; amended at 13 Ill. Reg. 10513, effective June 15, 1989; amended at 14 Ill. Reg. 11193, effective June 29, 1990; amended at 15 Ill. Reg. 9951, effective June 24, 1991; amended at 16 Ill. Reg. 11041, effective June 30, 1992; amended at 17 Ill. Reg. 10761, effective July 1, 1993; amended at 18 Ill. Reg. 10009, effective June 21, 1994; amended at 19 Ill. Reg. 10588, effective July 1, 1995; amended at 20 Ill. Reg. 10861, effective August 5, 1996; amended at 21 Ill. Reg. 11700, effective August 12, 1997; amended at 22 Ill. Reg. 14792, effective August 3, 1998; amended at 23 Ill. Reg. 9043, effective July 28, 1999; amended at 24 Ill. Reg. 8911, effective June 19, 2000; amended at 25 Ill. Reg. 11373, effective August 14, 2001; amended at 26 Ill. Reg. 13590, effective September 3, 2002; amended at 27 Ill. Reg. 12666, effective July 21, 2003; amended at 28 Ill. Reg. 12865, effective September 1, 2004; amended at 29 Ill. Reg. 9797, effective June 24, 2005; amended at 30 Ill. Reg. 12251, effective June 28, 2006; amended at 31 Ill. Reg. 11738, effective July 27, 2007; amended at 32 Ill. Reg.

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14857, effective August 27, 2008; amended at 33 Ill. Reg. 9702, effective June 26, 2009; amended at 34 Ill. Reg. 12831, effective August 20, 2010.

Section 730.20 Regulations at Various Department-Owned or -Managed Sites

- a) All the regulations in 17 Ill. Adm. Code 510 – General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
- b) General Regulations
 - 1) Hunters shall possess only bismuth or lead shot size #7½, 8, 9 or size #6 steel or smaller for taking of doves, except as noted under subsection (b)(2), and except these restrictions do not apply during the November portion of dove season.
 - 2) Only non-toxic shot (as defined by the U.S. Fish and Wildlife Service in 50 CFR 20), #6 steel shot or #7½ bismuth shot or smaller may be possessed on the following areas:
 - Anderson Lake Conservation Area
 - Banner Marsh State Fish and Wildlife Area
 - Big Bend State Fish and Wildlife Area (#)
 - Cache River State Natural Area
 - Cape Bend State Fish and Wildlife Area
 - Carlyle Lake Wildlife Management Area (subimpoundments only)
 - Chain O'Lakes State Park
 - Clinton Lake State Recreation Area (dove management fields only)
 - Des Plaines Conservation Area
 - Double T State Fish and Wildlife Area

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Eldon Hazlet State Park (#)

Green River State Wildlife Area

Hennepin Canal Parkway State Park

Horseshoe Lake Conservation Area (Alexander County)

Horseshoe Lake State Park (Madison County) (#)

Horseshoe Lake State Park (Madison County) Gabaret,
Mosenthein, Chouteau Island Unit (#)

Johnson-Sauk Trail State Park

Jubilee College State Park

Kankakee River State Park (#)

Kaskaskia River State Fish and Wildlife Area (designated areas)

Lake Shelbyville – Kaskaskia and West Okaw Wildlife Management
Areas (waterfowl management units and designated non-toxic shot units
only)

Mackinaw River State Fish and Wildlife Area

Marshall State Fish and Wildlife Area (#)

Mautino State Fish and Wildlife Area

Mazonia State Fish and Wildlife Area (#)

Mississippi River State Fish and Wildlife Area (Pools 25 and 26)

Moraine View State Park

Mt. Vernon Game Propagation Center (#)

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Peabody River King State Fish and Wildlife Area

Pyramid State Park – Captain Unit

Pyramid State Park – Denmark Unit

Pyramid State Park – East Conant Unit

Pyramid State Park – Galum Unit

Rend Lake State Fish and Wildlife Area and Corps of Engineers managed areas of Rend Lake

Sam Parr State Fish and Wildlife Area (#)

Sand Prairie Pheasant Habitat Area

Sanganois State Fish and Wildlife Area

Sangchris Lake State Park

Shabbona Lake State Park

Silver Springs State Fish and Wildlife Area

Snakeden Hollow State Fish and Wildlife Area/Victoria Pheasant Habitat Area

Spoon River State Forest

Ten Mile Creek State Fish and Wildlife Area (areas posted as rest area on the Eads and Belle Rive Units)

Union County Conservation Area

- 3) On areas where hunters are required to hunt from marked or staked sites, hunters must hunt within 10 feet of the marked site.
- 4) No hunting is allowed within 100 yards of a designated dove management

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field except for hunters who are part of the hunter quota for that field.

- 5) At sites indicated by (#), hunters are required to check in and/or sign out as provided in 17 Ill. Adm. Code 510.
 - 6) At sites where additional regulations apply, they are noted in parentheses after the site name.
 - 7) Hunting hours and hunting dates at all sites that are open during the upland game season shall coincide with hunting hours and hunting dates listed for the respective sites listed in 17 Ill. Adm. Code 530.
- c) Statewide season regulations as provided for in this rule shall apply at the following sites:

Argyle Lake State Park (season opens day after Labor Day) (#)

Cache River State Natural Area (#)

Campbell Pond Wildlife Management Area (#)

Cape Bend State Fish and Wildlife Area (#)

Carlyle Lake Lands and Waters – Corps of Engineers managed lands (#)

Chauncey Marsh (permit required; may be obtained at Red Hills State Park headquarters; permits must be returned by 15 February)

Corps of Engineers managed areas of Rend Lake

Cypress Pond State Natural Area (#)

Deer Pond State Natural Area

Devil's Island State Fish and Wildlife Area

Dog Island Wildlife Management Area (#)

Ferne Clyffe State Park (#)

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Ft. de Chartres State Historic Site (muzzleloading shotgun only) (#)

Ft. Massac State Park (#)

Freeman Mine (permit required)

Marshall State Fish and Wildlife Area (#)

Mazonia State Fish and Wildlife Area (season closes September 30) (#)

Meeker State Habitat Area (permit required; may be obtained at Sam Parr State Fish and Wildlife Area headquarters; must be returned by February 15)

Mermet Lake State Fish and Wildlife Area (#)

Mississippi River Pools 16, 17 and 18

Mississippi River Pools 21, 22, 24

Mississippi River State Fish and Waterfowl Management Area (Pools 25 and 26)

Oakford Conservation Area

Ray Norbut State Fish and Wildlife Area (#)

Red Hills State Park (#)

Sahara Woods State Fish and Wildlife Area (#)

Sand Ridge State Forest (permit required; must be returned by February 15)

Sangamon County Conservation Area

Sielbeck Forest Natural Area (#)

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Spoon River State Forest (#)

Trail of Tears State Forest (#)

Weinberg-King State Park – Spunky Bottoms Unit (#)

Wildcat Hollow State Forest

Wise Ridge State Natural Area

- d) Statewide regulations as provided in this Part shall apply at the following sites except that hunting hours are 12 noon to 5 p.m. daily September 1-5; season closes September 30. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Banner Marsh State Fish and Wildlife Area (sunrise to noon daily September 1-5, drawing one hour before sunrise; black powder firearms only on September 2) (#)

Double T State Fish and Wildlife Area (#)

Hennepin Canal State Park (#)

Iroquois County Wildlife Management Area (#)

Jubilee College State Park (hunting allowed only on opening day, Saturdays, Sundays, Wednesdays and holidays) (#)

Mautino State Fish and Wildlife Area (#)

Morrison Rockwood State Park (#)

Sam Dale Lake Conservation Area (#)

Sanganois State Fish and Wildlife Area

Snakeden Hollow State Fish and Wildlife Area/Victoria Pheasant Habitat Area

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- e) Statewide regulations as provided for in this Part shall apply at the following sites, except that hunting hours are 12 noon to 5 p.m. daily September 1-5. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Anderson Lake Conservation Area (#)

Big Bend State Fish and Wildlife Area

Big River State Forest (#)

Carlyle Lake Wildlife Management Area (#)

Chain O'Lakes State Park (closes September 5) (#)

Clinton Lake State Recreation Area (dove management fields only) (#)

Eldon Hazlet State Park (closes October 14) (#)

Fox Ridge State Park (dove management fields only)

Harry "Babe" Woodyard State Natural Area (permit required) (#)

Hidden Springs State Forest (dove management fields only)

Horseshoe Lake State Fish and Wildlife Area (Alexander County) (season closes at the end of the first statewide split season) (#)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closes October 14; the defined Baldwin Lake Waterfowl Rest Area is closed) (#)

Kinkaid State Fish and Wildlife Area (#)

Lake Shelbyville – Kaskaskia and West Okaw Wildlife Management Areas (dove management fields only)

Marseilles State Fish and Wildlife Area (after Labor Day, site is closed on Fridays, Saturdays, and Sundays through October; hunters must leave their guns at the stake site when retrieving downed birds; unauthorized

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personnel may not be on the site outside of the posted check station operating hours; hunters may only enter the site from designated parking lots) (#)

Middle Fork State Fish and Wildlife Area (dove management fields only) (#)

Moraine View State Park (dove management fields only; season closes October 14) (#)

Newton Lake Fish and Wildlife Area (dove management units) (#)

Peabody River King State Fish and Wildlife Area (east subunit closes October 14) (#)

Pyramid State Park (no dove hunting is allowed September 1-5 within 200 yards of a designated dove management field, except for hunters who are part of the hunter quota for that field; all hunters must register as a group not to exceed 4 names per card; a hunter's name may only appear on one lottery card; the lottery card shall be in the possession of the hunter or group while hunting) (#)

Pyramid State Park – Captain Unit (permit required; permit must be returned by February 15; successful lottery participants must report their daily harvest during September 1-5 in harvest boxes on each management unit; unsuccessful lottery participants and other hunters not participating in the lottery drawing may only hunt in designated areas during September 1-5 (i.e., all land west of the Western Haul Road and all land east of the Eastern Haul Road to the shore of Super Lake to South Haul Road); all hunters must register as a group not to exceed 4 names per card; a hunter's name may only appear on one lottery card; the lottery card shall be in the possession of the hunter or group while hunting)

Pyramid State Park – Denmark Unit (permit required; permit must be returned by February 15; successful lottery participants must report their daily harvest during September 1-5 in harvest boxes on each management unit; unsuccessful lottery participants and other hunters not participating in the lottery drawing may only hunt in designated areas during September 1-5 (i.e., all land south of Quonset Hut Road to Tangen Cemetery Road to

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Brushy Creek Road); all hunters must register as a group not to exceed 4 names per card; a hunter's name may only appear on one lottery card; the lottery card shall be in the possession of the hunter or group while hunting)

Pyramid State Park – East Conant Unit (permit required; permit must be returned by February 15; successful lottery participants must report their daily harvest during September 1-5 in harvest boxes on each management unit; no dove hunting is allowed September 1-5 within 200 yards of a designated dove management field except for hunters who are part of the hunter quota for that field; all hunters must register as a group not to exceed 4 names per card; a hunter's name may only appear on one lottery card; the lottery card shall be in the possession of the hunter or group while hunting)

Pyramid State Park – Galum Unit (permit required; permit must be returned by February 15; successful lottery participants must report their daily harvest during September 1-5 in harvest boxes on each management unit; no dove hunting is allowed September 1-5 within 200 yards of a designated dove management field except for hunters who are part of the hunter quota for that field; all hunters must register as a group not to exceed 4 names per card; a hunter's name may only appear on one lottery card; the lottery card shall be in the possession of the hunter or group while hunting)

Randolph County State Conservation Area (#)

Siloam Springs State Park (#)

Turkey Bluffs State Fish and Wildlife Area (#)

Union County State Fish and Wildlife Area (season closes at the end of the first statewide split season) (#)

Washington County Conservation Area (closes October 14) (#)

Weinberg-King State Park (#)

- f) Statewide regulations as provided for in this Part shall apply at the following sites,

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except that hunting hours are 12 noon to 5 p.m. daily September 1-30. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Crawford County State Fish and Wildlife Area (#)

Hamilton County State Fish and Wildlife Area (#)

Lake Le Aqua Na State Park (#)

Sam Parr State Fish and Wildlife Area (#)

Shabbona Lake State Park (#)

Skinner Farm State Habitat Area (#)

Stephen A. Forbes State Park (season opens day after Labor Day) (#)

- g) Statewide regulations as provided for in this Part shall apply at the following sites, except that hunting hours are 12 noon to 5 p.m. daily. Hunting is allowed on opening day, Wednesday, and Saturday only. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Giant City State Park (#)

Saline County State Fish and Wildlife Area (#)

- h) Statewide regulations apply except that hunting hours are 12 noon to 5 p.m. from September 1-5; hunters must obtain a free permit from the Department; permits must be in possession while hunting on the site. Permit must be returned and harvest reported by February 15 or hunter will forfeit hunting privileges for that site for the following season.

Clinton Lake State Recreation Area (except dove management fields)

Fox Ridge State Park (except dove management units; shooting hours after September 5 are 12 noon to sunset)

Hidden Springs State Forest (except dove management fields)

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Kickapoo State Park

Lake Shelbyville – Eagle Creek State Park (season opens day after Labor Day; closes October 14; shooting hours are 12 noon to sunset)

Lake Shelbyville – Kaskaskia and West Okaw Wildlife Management Areas (except dove management fields; shooting hours after September 5 are 12 noon to sunset)

Middle Fork State Fish and Wildlife Area (except dove management units)

Moraine View State Park (except dove management fields; season closes October 14)

Newton Lake Fish and Wildlife Area (except dove management units)

- i) Statewide regulations as provided for in this Part shall apply at the following sites, except that hunting hours are sunrise to 11:30 a.m. daily September 1-5; season closes September 30. A drawing will be held one hour before sunrise if more hunters show up than can be accommodated.

Johnson-Sauk Trail State Recreation Area (#)

Mt. Vernon Game Propagation Center (#)

Rend Lake State Fish and Wildlife Area (#)

Ten Mile Creek State Fish and Wildlife Area (season closes on statewide closing date; permit required; must be returned by February 15)

- j) Permit Areas

- 1) Permit Season Regulations

A) Permit season dates shall be September 1-5 and hunting hours are 12 noon to 5 p.m. at the sites listed at the end of this subsection.

B) Permit Applications
Applicants must contact the Department to obtain a permit

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reservation. Starting dates and methods for making reservations will be publicly announced. Applicants making reservations will be sent confirmation. Up to 6 reservations, but only one per applicant, may be made. Multiple reservations for the same person will not be accepted; further, persons attempting to make multiple reservations will forfeit the privilege to obtain a reservation for that season.

- C) Each person may apply for only one area and receive one permit per season. An applicant may reapply only if his previous application was unsuccessful.
 - D) Hunting at these areas is by special permit only for the first five days of the season; thereafter, no permits are required for hunting these sites, except at Jim Edgar Panther Creek State Fish and Wildlife Area as indicated in subsection (i)(3). All permits will be issued from Springfield and not from the site, except at Panther Creek State Fish and Wildlife Area as indicated in subsection (i)(3).
 - E) Check in time for registration shall be between 9 a.m. and 11 a.m. each day. Openings after 11 a.m. will be filled by drawing for standbys if more hunters register than there are vacancies.
 - F) All hunters must wear a DNR issued backpatch.
- 2) Non-Permit Season Regulations
- A) Non-permit season shall be September 6-30 except as indicated in parentheses.
 - B) Non-permit hunting hours shall be 12 noon to sunset except as indicated in parentheses.
 - C) No permits are required except as indicated in parentheses.
 - D) Check in and check out is required except as indicated in parentheses.

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E) Hunter quotas will be filled on a first come-first served basis.

3) Sites

Coffeen Lake State Fish and Wildlife Area (non-permit hunting hours are 12 noon to 5:00 p.m.)

Des Plaines Conservation Area (non-permit hunting hours are 12 noon to 5 p.m.)

Edward R. Madigan State Park

Green River State Wildlife Area/Sand Prairie Habitat Area (non-permit hunting hours are sunrise to sunset)

Horseshoe Lake State Park (Madison County) (non-permit hunting hours are 12 noon to 5 p.m.)

Horseshoe Lake State Park (Madison County) Gabaret, Mosenthein, Chouteau Island Unit (non-permit hunting hours are 12 noon to 5:00 p.m. September 6 through October 14)

Jim Edgar Panther Creek State Fish and Wildlife Area (for days 6 through 10 of the season, hunting hours are noon to 6:00 p.m. and hunters must check in and out at the site office; permit required as indicated in subsection (i) for days 11 through the end of the statewide dove season; hunting hours for days 11 through the end of the statewide dove season are sunrise to sunset; on the Controlled Unit only those hunters engaged in the controlled pheasant hunting program may take doves during the November portion of the dove season; on the Quail Management Unit only those hunters with Quail Management Unit Permits may take doves during the November portion of the dove season)

Kankakee River State Park

Mackinaw River State Fish and Wildlife Area (non-permit hunting hours sunrise to sunset; each permit authorizes the holder to bring one hunting partner)

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Matthiessen State Park (non-permit hunting hours are sunrise to sunset)

Ramsey Lake State Park (non-permit hunting hours are 12 noon to 5 p.m.)

Sangchris Lake State Park (closed after Sunday of the third weekend in September; designated fields will be open from sunrise to 12 noon starting the 6th day of the dove season)

Silver Springs State Park (closed during National Hunting and Fishing Day Weekend)

k) Violation of a site specific regulation is a petty offense (see 520 ILCS 5/2.20).

(Source: Amended at 34 Ill. Reg. 12831, effective August 20, 2010)

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- 1) Heading of the Part: Crow, Woodcock, Snipe, Rail and Teal Hunting
- 2) Code Citation: 17 Ill. Adm. Code 740
- 3) Section Number: 740.20 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5] and Migratory Bird Hunting (50 CFR 20, August 25, 1987)
- 5) Effective Date of Amendment: August 20, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 7, 2010; 34 Ill. Reg. 6310
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part was amended to update the list of open sites and site-specific regulations for the 2010 hunting season.
- 16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

George Sisk, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 740
CROW, WOODCOCK, SNIPE, RAIL AND TEAL HUNTING

Section

740.10 Statewide Regulations

740.20 Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5] and Migratory Bird Hunting (50 CFR 20, August 25, 1987).

SOURCE: Adopted at 5 Ill. Reg. 8896, effective August 25, 1981; codified at 5 Ill. Reg. 10645; amended at 6 Ill. Reg. 357, effective December 23, 1981; amended at 6 Ill. Reg. 9648, effective July 21, 1982; amended at 7 Ill. Reg. 8815, effective July 15, 1983; amended at 8 Ill. Reg. 16796, effective August 30, 1984; amended at 9 Ill. Reg. 11620, effective July 16, 1985; peremptory amendments at 9 Ill. Reg. 14383, effective September 5, 1985; amended at 10 Ill. Reg. 15607, effective September 16, 1986; amended at 11 Ill. Reg. 9575, effective May 5, 1987; emergency amendments at 11 Ill. Reg. 15253, effective August 28, 1987, for a maximum of 150 days; emergency expired January 25, 1988; amended at 12 Ill. Reg. 12261, effective July 15, 1988; amended at 13 Ill. Reg. 12869, effective July 21, 1989; amended at 14 Ill. Reg. 11207, effective June 29, 1990; amended at 15 Ill. Reg. 10057, effective June 24, 1991; amended at 16 Ill. Reg. 11162, effective June 30, 1992; amended at 17 Ill. Reg. 10877, effective July 1, 1993; amended at 18 Ill. Reg. 9998, effective June 21, 1994; amended at 19 Ill. Reg. 10577, effective July 1, 1995; amended at 20 Ill. Reg. 10851, effective August 5, 1996; amended at 21 Ill. Reg. 9061, effective June 26, 1997; amended at 22 Ill. Reg. 14782, effective August 3, 1998; amended at 23 Ill. Reg. 9033, effective July 28, 1999; amended at 24 Ill. Reg. 8901, effective June 19, 2000; amended at 25 Ill. Reg. 11364, effective August 14, 2001; amended at 26 Ill. Reg. 13605, effective September 3, 2002; amended at 28 Ill. Reg. 12882, effective September 1, 2004; amended at 29 Ill. Reg. 9814, effective June 27, 2005; amended at 30 Ill. Reg. 12267, effective June 28, 2006; amended at 31 Ill. Reg. 9199, effective June 18, 2007; amended at 32 Ill. Reg. 10125, effective June 30, 2008; amended at 33 Ill. Reg. 9719, effective June 26, 2009; amended at 34 Ill. Reg. 12848, effective August 20, 2010.

Section 740.20 Regulations at Various Department-Owned or -Managed Sites

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a) All the rules in 17 Ill. Adm. Code 510 apply in this Section, unless this Section is more restrictive. Violation of a site specific regulation is a petty offense (see 520 ILCS 5/2.20).

b) Woodcock, snipe and rail hunting; statewide regulations as provided for in this Part shall apply at the following areas (exceptions are in parentheses):

Anderson Lake Conservation Area (closed 7 days before duck season)

Big Bend State Fish and Wildlife Area

Big River State Forest

[Butterfield Trail State Recreation Area](#)

Cache River State Natural Area

Campbell Pond Wildlife Management Area

Cape Bend State Fish and Wildlife Area

Carlyle Lake Lands and Waters – Corps of Engineers managed lands

Carlyle Lake Wildlife Management Area (sub-impoundment area closes 7 days prior to the southern zone waterfowl season)

Crawford County Conservation Area

Cypress Pond State Natural Area

Deer Pond State Natural Area

Devil's Island

Dog Island Wildlife Management Area

Eldon Hazlet State Park (North of Allen Branch and west of Peppenhorst Branch only)

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Ferne Clyffe State Park

Ft. de Chartres Historic Site (hunting with muzzleloading shotgun only)

Ft. Massac State Park

Giant City State Park

Hamilton County Conservation Area (statewide hours until rabbit season, then 8:00 a.m. to 4:00 p.m.)

Horseshoe Lake Conservation Area (public hunting area except controlled goose hunting area)

Iroquois County Wildlife Management Area (season closes the day before permit pheasant season; 4:00 p.m. daily closing; sign in/out required; closed to snipe hunting)

Jubilee College State Park (season coincides with Jubilee Upland season, 17 Ill. Adm. Code 530.110)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to waterfowl season; the defined Baldwin Lake Waterfowl Rest Area is closed)

Kinkaid Lake Fish and Wildlife Area

Marseilles State Fish and Wildlife Area (woodcock only; Monday-Thursday only through October; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may only enter the site from designated parking lots)

Mermet Lake Fish and Wildlife Area

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pools 16, 17, and 18

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Mississippi River Pools 21, 22 and 24

Oakford Conservation Area

Peabody River King State Fish and Wildlife Area (West subunit only;
woodcock only)

Pyramid State Park

Ramsey Lake State Park (statewide hours until rabbit season begins; then
8:00 a.m. to 4:00 p.m.)

Randolph County Conservation Area (woodcock only)

Ray Norbut State Fish and Wildlife Area

Red Hills State Park

Rend Lake State Fish and Wildlife Area and Corps of Engineers managed
areas of Rend Lake

Rice Lake Wildlife Area (season open during teal season only; sunrise
until 1:00 p.m.)

Sahara Woods State Fish and Wildlife Area

Saline County Fish and Wildlife Area

Sam Dale Lake Conservation Area (statewide hours until rabbit season,
then 8:00 a.m. to 4:00 p.m.)

Sam Parr State Park (statewide hours until rabbit season, then 8:00 a.m. to
4:00 p.m.)

Sand Ridge State Forest (During the controlled pheasant hunting season,
hunters must abide by those portions of 17 Ill. Adm. Code 530.105 and
530.110 which pertain to Sand Ridge State Forest)

Sielbeck Forest Natural Area

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Skinner Farm State Habitat Area

Snake Den Hollow Fish and Wildlife Area/Victoria Pheasant Habitat Area
(closes September 30)

Stephen A. Forbes State Park (statewide hours until rabbit season, then
8:00 a.m. to 4:00 p.m.)

Trail of Tears State Forest

Turkey Bluffs Fish and Wildlife Area

Union County Conservation Area (Firing Line Management Area only)

Washington County Conservation Area (woodcock only)

Weinberg-King State Park

Weinberg-King State Park – Spunky Bottoms Unit (check-in/check-out
required)

Wildcat Hollow State Forest

Wise Ridge State Natural Area

- c) Woodcock, snipe and rail hunting permitted, exceptions as noted in parentheses. Hunters must obtain a permit from site office and permit must be in possession while hunting. Failure to report harvest by February 15 will result in loss of hunting privileges at that site for the following year.

Chauncey Marsh State Natural Area (obtain permit at Red Hills State Park headquarters)

Clinton Lake State Recreation Area (4:00 p.m. daily closing)

Fox Ridge State Park (woodcock only; 4:00 p.m. daily closing)

Harry "Babe" Woodyard State Natural Area (woodcock only; closes

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October 31)

Hidden Springs State Forest (4:00 p.m. daily closing)

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein,
Chouteau Island Unit (permit required)

Jim Edgar Panther Creek State Fish and Wildlife Area (hunters are restricted to the Open Units portion of the site during the controlled pheasant season, except those hunters who possess a valid Quality Unit or Controlled Unit permit)

Kickapoo State Park (woodcock only; 4:00 p.m. daily closing; closed during firearm deer season)

Lake Shelbyville – Eagle Creek State Park (woodcock only; 4:00 p.m. daily closing; closes opening day of site's pheasant season)

Lake Shelbyville – Kaskaskia and West Okaw Wildlife Management Area (4:00 p.m. daily closing)

Meeker State Habitat Area (obtain permit at Sam Parr State Park headquarters)

Middle Fork Fish and Wildlife Area (woodcock only; 4:00 p.m. daily closing; closed during firearm deer season)

Moraine View State Park (woodcock only; 4:00 p.m. daily closing; season closes the day before site's controlled pheasant season)

Newton Lake State Fish and Wildlife Area (woodcock only; closed during firearm deer season)

Pyramid State Park – Captain Unit (open to hunters with a quality upland permit, daily draw waterfowl permit and site permit)

Pyramid State Park – Denmark Unit (open to hunters with a quality upland permit, daily draw waterfowl permit and site permit)

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Pyramid State Park – East Conant Unit (open to hunters with a quality upland permit, daily draw waterfowl permit and site permit)

Pyramid State Park – Galum Unit (permit required; must be returned by February 15)

Sanganois State Fish and Wildlife Area

Ten Mile Creek Fish and Wildlife Area (non-toxic shot only for woodcock hunting in waterfowl rest areas)

- d) Teal hunting; statewide regulations as provided for in this Part shall apply on the following sites, except no permanent blinds allowed except as authorized in 17 Ill. Adm. Code 590.15, 590.20, 590.40 and 590.50 (exceptions are in parentheses):

Anderson Lake Conservation Area

Blanding Wildlife Area

Cache River State Natural Area

Campbell Pond Wildlife Management Area

Cape Bend State Fish and Wildlife Area

Carlyle Lake Lands and Waters – Corps of Engineers managed lands (waters of Peppenhorst Branch and Allen Branch north of the buoys only)

Carlyle Lake Wildlife Management Area (teal hunting prohibited east of Kaskaskia River from the Cox's Bridge Access north to DNR property boundary)

Chain O'Lakes State Park (hunting is allowed only from numbered blind sites; the blinds need not be completed)

Chauncey Marsh State Natural Area (obtain permit at Red Hills State Park headquarters)

Clinton Lake State Recreation Area (hunting in waterfowl areas East of

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Parnell Bridge and North of Route 54 only)

Coffeen Lake State Fish and Wildlife Area (hunters must sign in prior to hunting and sign out reporting harvest at the end of each day; hunting from staked sites only; no permanent blinds; hunting by boat access only; no cutting vegetation on site; hunting north of North 6th Avenue only; four hunters per blind site; no fishing north of North 6th Avenue during this season)

Cypress Pond State Natural Area

Deer Pond State Natural Area

Des Plaines Conservation Area (hunting is allowed only from numbered blind sites; the blinds need not be completed)

Devil's Island

Dog Island Wildlife Management Area

Eldon Hazlet State Park – North Allen Branch Waterfowl Management Area

Ft. de Chartres Historic Site (hunting is allowed from anchored, portable boat blinds only)

Horseshoe Lake Conservation Area – Public Hunting Area (Alexander County)

Horseshoe Lake State Park (Madison County) (hunting is allowed only from numbered blind sites; blind builders must claim their blinds ½ hour before shooting time each day or blind is open to the public; blinds need not be completed)

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Unit (permit required)

Kaskaskia River State Fish and Wildlife Area (the defined Baldwin Lake Waterfowl Rest Area is closed)

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Kidd Lake State Natural Area (hunters must check in and out and report harvest each day; hunter quota filled on a first come-first served basis; cutting of vegetation is prohibited)

Lake Shelbyville – Kaskaskia and West Okaw Wildlife Management Areas (site permit described in subsection (c) applies)

Lake Shelbyville – Corps of Engineers Managed Lands and Waters

Lake Sinnissippi Fish and Wildlife Area (hunting is allowed only from numbered blind sites; blind builders must claim their blinds ½ hour before shooting time each day or blind is open to the public; blinds need not be completed)

Marshall State Fish and Wildlife Area – all management units (check-in and check-out required)

Meredosia Lake

Mississippi River Fish and Waterfowl Management Area (Mississippi River Pools 25 and 26) (blind builders must claim their blinds ½ hour before shooting time or the blind is open for that day's hunt; no hunting allowed in the designated Batchtown waterfowl rest area, Crull Hollow waterfowl rest area and Godar waterfowl rest area)

Mississippi River Pools 16, 17 and 18

Mississippi River Pools 21, 22 and 24

Oakford Conservation Area

Pyramid State Park – Captain Unit (permit required; must be returned by February 15; hunting not allowed in Captain Unit waterfowl rest area)

Pyramid State Park – Denmark Unit (permit required; must be returned by February 15; hunting not allowed in Denmark Unit waterfowl rest area)

Pyramid State Park – Galum Unit (permit required; must be returned by

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February 15)

Ray Norbut Fish and Wildlife Area

Rend Lake State Fish and Wildlife Area and Corps of Engineers managed areas of Rend Lake (no trespassing or hunting allowed on Rend Lake Refuge during teal or early Canada goose seasons)

Rice Lake Fish and Wildlife Area (check in and check out required; sunrise until 1:00 p.m.)

Saline County Fish and Wildlife Area

Sanganois State Fish and Wildlife Area (permit required)

Snake Den Hollow Fish and Wildlife Area/Victoria Pheasant Habitat Area

Stephen A. Forbes State Park (walk-in hunting in the subimpoundment only)

Ten Mile Creek State Fish and Wildlife Area (permit required)

Turkey Bluffs State Fish and Wildlife Area

Union County Conservation Area (public hunting area and firing line unit only)

Weinberg-King State Park – Spunky Bottoms Unit (check-in/check-out required)

Wise Ridge State Natural Area

Woodford Fish and Wildlife Area

- e) Crow Hunting
 - 1) Statewide regulations as provided for in this Part shall apply at the following sites (season dates in parentheses):

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Anderson Lake Conservation Area

Big Bend State Fish and Wildlife Area

Big River State Forest

Green River State Wildlife Area (January 1 through statewide closing)

Hamilton County State Fish and Wildlife Area

Jim Edgar Panther Creek State Fish and Wildlife Area (East and West Open Units)

Mississippi River Pools 16, 17, 18

Mississippi River State Fish and Wildlife Area (Pools 25 and 26)

Pyramid State Park – Captain Unit (no hunting in waterfowl rest area; permit required, must be returned by February 15)

Pyramid State Park – Denmark Unit (no hunting in waterfowl rest area; permit required, must be returned by February 15)

Pyramid State Park – East Conant Unit (permit required, must be returned by February 15)

Pyramid State Park – Galum Unit (permit required, must be returned by February 15)

Ray Norbut Fish and Wildlife Area

Rend Lake State Fish and Wildlife Area and Corps of Engineers managed areas of Rend Lake

Sanganois State Fish and Wildlife Area (day after Canada goose season closes through statewide closing; nontoxic shot only; permit required)

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Spoon River State Forest (all hunters must sign in/sign out)

Stephen A. Forbes State Park

Weinberg-King State Park – Spunky Bottoms Unit (check-in/check-out required)

Wise Ridge State Natural Area

- 2) Crow hunting permitted, exceptions as noted in parentheses. Hunters must obtain a permit from site office and permit must be in possession while hunting. Failure to report harvest by March 15 will result in loss of hunting privileges at that site for the following year:

Horseshoe Lake State Park (Madison County) (begins the day after controlled pheasant hunting closes through the end of February)

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Unit

Sand Ridge State Forest

Ten Mile Creek Fish and Wildlife Area (non-toxic shot only for crow hunting in waterfowl rest areas)

- 3) All hunters must make a reasonable effort to retrieve downed birds. All crows must be removed from the site by the hunter.

(Source: Amended at 34 Ill. Reg. 12848, effective August 20, 2010)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Crossbow and Standing Vehicle Hunting Authorizations
- 2) Code Citation: 17 Ill. Adm. Code 760
- 3) Section Number: 760.21 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 2.25, 2.26 and 2.33 of the Wildlife Code [520 ILCS 5/2.25, 2.26 and 2.33]
- 5) Effective Date of Amendment: August 20, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 7, 2010; 34 Ill. Reg. 6324
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part was amended to update specifications for crossbow hunting equipment.
- 16) Information and questions regarding this adopted amendment shall be directed to:

George Sisk, Legal Counsel

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 760
CROSSBOW AND STANDING VEHICLE
HUNTING AUTHORIZATIONS

Section

760.10	Issuance of Permits
760.20	Crossbow Permits
760.21	Crossbow Equipment Requirements
760.22	Crossbow Hunting Rules
760.30	Standing Vehicle Permits
760.40	Rejection of Application/Revocation of Permits

AUTHORITY: Implementing and authorized by Sections 2.25, 2.26 and 2.33 of the Wildlife Code [520 ILCS 5/2.25, 2.26 and 2.33].

SOURCE: Adopted at 24 Ill. Reg. 4950, effective March 13, 2000; amended at 24 Ill. Reg. 19178, effective December 18, 2000; amended at 25 Ill. Reg. 6899, effective May 21, 2001; amended at 25 Ill. Reg. 15585, effective November 21, 2001; amended at 32 Ill. Reg. 3294, effective February 25, 2008; amended at 34 Ill. Reg. 12862, effective August 20, 2010.

Section 760.21 Crossbow Equipment Requirements

Crossbows used in hunting shall meet all of the following specifications:

- a) shall use a bowstring to propel the bolt or arrow and have a minimum peak draw weight of 125 pounds and a maximum peak draw weight of 200 pounds;
- b) have a minimum ~~limb width of 24 inches and a minimum overall~~ length (from butt of stock to front of limbs) of 24 inches;
- c) have a working safety;
- d) be used with fletched bolts or arrows of not less than 14 inches in length (not including point) with a broadhead. Broadheads may have fixed or expandable blades, but they must be a minimum 7/8 inch diameter when fully opened.

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Broadheads with fixed blade must be metal or flint-, chert- or obsidian-napped; broadheads with expandable blades must be metal. All other bows and arrows, including electronic arrow tracking devices utilizing radio telemetry, are illegal; and

- e) In accordance with 17 Ill. Adm. Code 530, flu flu arrows must be used on State-owned and -managed hunting areas for the taking of upland game.

(Source: Amended at 34 Ill. Reg. 12862, effective August 20, 2010)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Illinois List of Endangered and Threatened Fauna
- 2) Code Citation: 17 Ill. Adm. Code 1010
- 3) Section Number: 1010.30 Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 7 of the Illinois Endangered Species Protection Act [520 ILCS 10/7]
- 5) Effective Date of Amendment: August 20, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 7, 2010; 34 Ill. Reg. 6328
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: In 2009, the Illinois Endangered Species Protection Board approved modifications to this Part which were supported by sufficient scientific evidence and were in compliance with criteria established in 520 ILCS 10/7 and Section 5.1.1 of the Illinois Endangered Species Protection Board's Policy and Operation Manual. The Department proposed amendments to this Part to implement these changes which were adopted on October 30, 2009. However, Board staff recently discovered

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there are errors in this Part which needed to be corrected. This Part was amended to correct the status for two species from endangered to threatened, correct spelling errors and correct generic placement of one species.

- 16) Information and questions regarding this adopted amendment shall be directed to:

George Sisk, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION
 CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
 SUBCHAPTER c: ENDANGERED SPECIES

PART 1010
 ILLINOIS LIST OF ENDANGERED AND THREATENED FAUNA

Section

1010.10	Official List
1010.20	Definitions
1010.25	Criteria Used for Listing
1010.30	List
1010.40	Effective Date (Repealed)

AUTHORITY: Implementing and authorized by Section 7 of the Illinois Endangered Species Protection Act [520 ILCS 10/7].

SOURCE: Filed December 21, 1977, effective December 31, 1977; codified at 5 Ill. Reg. 10653; amended at 8 Ill. Reg. 13705, effective July 25, 1984; amended at 13 Ill. Reg. 4179, effective March 17, 1989; amended at 16 Ill. Reg. 103, effective December 20, 1991; amended at 18 Ill. Reg. 1134, effective January 18, 1994; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. 3118, effective March 3, 1997; amended at 23 Ill. Reg. 5556, effective April 26, 1999; amended at 28 Ill. Reg. 12895, effective September 1, 2004; amended at 33 Ill. Reg. 14739, effective October 30, 2009; amended at 34 Ill. Reg. 12866, effective August 20, 2010.

Section 1010.30 List

a) ENDANGERED FISHES OF ILLINOIS

Northern Brook Lamprey	<i>Ichthyomyzon fossor</i>
Lake Sturgeon	<i>Acipenser fulvescens</i>
Pallid Sturgeon**	<i>Scaphirhynchus albus</i>
River Chub	<i>Nocomis micropogon</i>
Sturgeon Chub	<i>Macrhybopsis gelida</i>
Bigeye Chub	<i>Hybopsis amblops</i>
Pallid Shiner	<i>Hybopsis amnis</i>
Pugnose Shiner	<i>Notropis anogenus</i>
Bigeye Shiner	<i>Notropis boops</i>

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Blacknose Shiner	<i>Notropis heterolepis</i>
Taillight shiner	<i>Notropis maculatus</i>
Weed Shiner	<i>Notropis texanus</i>
Cypress Minnow	<i>Hybognathus hayi</i>
Greater Redhorse	<i>Moxostoma valenciennesi</i>
Northern Madtom	<i>Noturus stigmosus</i>
Redspotted Sunfish	<i>Lepomis miniatus</i>
Bluebreast Darter	<i>Etheostoma camurum</i>
Western Sand Darter	<i>Ammocrypta clarum</i>
Harlequin Darter	<i>Etheostoma histrio</i>

b) THREATENED FISHES OF ILLINOIS

Least Brook Lamprey	<i>Lampetra aepyptera</i>
Cisco	<i>Coregonus artedi</i>
Gravel Chub	<i>Erimystax x-punctatus</i>
Ironcolor Shiner	<i>Notropis chalybaeus</i>
Blackchin Shiner	<i>Notropis heterodon</i>
River Redhorse	<i>Moxostoma carinatum</i>
Eastern Sand Darter	<i>Ammocrypta pellucidum</i>
Longnosed Sucker	<i>Catostomus catostomus</i>
Banded Killifish	<i>Fundulus diaphanus</i>
Starhead Topminnow	<i>Fundulus dispar</i>
Bantam Sunfish	<i>Lepomis symmetricus</i>
Iowa Darter	<i>Etheostoma exile</i>

c) ENDANGERED AMPHIBIANS AND REPTILES OF ILLINOIS

Salamanders

Eastern Hellbender	<i>Cryptobranchus alleganiensis</i>
Silvery Salamander	<i>Ambystoma platineum</i>
Spotted Dusky Salamander	<i>Desmognathus conanti</i>
Mudpuppy	<i>Neoturus maculosus</i>

Turtles

Alligator Snapping Turtle	<i>Macrochelys temminckii</i>
Blanding's Turtle	<i>Emydoidea blandingii</i>
Yellow Mud Turtle	<i>Kinosternon flavescens</i>
Smooth Softshell	<i>Apalone mutica</i>

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Spotted Turtle
River Cooter

Clemmys guttata
Pseudemys concinna

Snakes

Coachwhip
Broad-banded Watersnake
Great Plains Ratsnake
Eastern Massasauga

Masticophis flagellum
Nerodia fasciata
Pantherophis emoryi
Sistrurus catenatus

d) THREATENED AMPHIBIANS AND REPTILES OF ILLINOIS

Salamanders

Jefferson Salamander
Four-toed Salamander
[Mudpuppy](#)

Ambystoma jeffersonianum
Hemidactylium scutatum
[Necturus maculosus](#)

Frogs and Toads

Bird-voiced Treefrog
Illinois Chorus Frog
Eastern Narrowmouth Toad

Hyla avivoca
Pseudacris illinoensis
Gastrophryne carolinensis

Turtles

Ornate Box Turtle

Terrapene ornata

Snakes

Lined Snake
Plains Hog-Nosed Snake
Mississippi Green Watersnake
Flathead Snake
Kirtland's Snake
Eastern Ribbonsnake
Timber Rattlesnake

Tropidoclonion lineatum
Heterodon nasicus
Nerodia cyclopion
Tantilla gracilis
Clonophis kirtlandi
Thamnophis sauritus
Crotalus horridus

e) ENDANGERED BIRDS OF ILLINOIS

American Bittern

Botaurus lentiginosus

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Snow Egret	<i>Egretta thula</i>
Little Blue Heron	<i>Egretta caerulea</i>
Black-crowned Night Heron	<i>Nycticorax nycticorax</i>
Yellow-crowned Night Heron	<i>Nyctanassa violacea</i>
Osprey	<i>Pandion haliaetus</i>
Northern Harrier	<i>Circus cyaneus</i>
Swainson's Hawk	<i>Buteo swainsoni</i>
Greater Prairie Chicken	<i>Tympanuchus cupido</i>
Black Rail	<i>Laterallus jamaicensis</i>
King Rail	<i>Rallus elegans</i>
Piping Plover**	<i>Charadrius melodus</i>
Upland Sandpiper	<i>Bartramia longicauda</i>
Wilson's Phalarope	<i>Phalaropus tricolor</i>
Common Moorhen	<i>Gallinula chloropus</i>
Loggerhead Shrike	<i>Lanius ludovicianus</i>
Common Tern	<i>Sterna hirundo</i>
Forster's Tern	<i>Sterna forsteri</i>
Least Tern**	<i>Sternula antillarum</i>
Black Tern	<i>Chlidonias niger</i>
Barn Owl	<i>Tyto alba</i>
Short-eared Owl	<i>Asio flammeus</i>
Bewick's Wren	<i>Thryomanes bewickii</i>
Swainson's Warbler	<i>Limnithlypis swainsonii</i>
Yellow-headed Blackbird	<i>Xanthocephalus</i> <i>xanthocephalus</i>
	<i>Coccyzus erythrophthalmus</i>

f) THREATENED BIRDS OF ILLINOIS

Least Bittern	<i>Ixobrychus exilis</i>
Peregrine Falcon	<i>Falco peregrinus</i>
Cerulean Warbler	<i>Dendroica carulea</i>
Mississippi Kite	<i>Ictinia mississippiensis</i>
Black-billed Cuckoo	Coccyzus erythrophthalmus

g) ENDANGERED MAMMALS OF ILLINOIS

Southeastern Myotis	<i>Myotis austroriparius</i>
Gray Bat**	<i>Myotis grisescens</i>

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Indiana Bat**	<i>Myotis sodalis</i>
Rafinesque's Big-eared Bat	<i>Corynorhinus rafinesquii</i>
Eastern Wood Rat	<i>Neotoma floridana</i>

h) THREATENED MAMMALS OF ILLINOIS

Gray/Timber Wolf	<i>Canis lupus</i>
Franklin's Ground Squirrel	<i>Spermophilus franklinii</i>
Golden Mouse	<i>Ochrotomys nuttalli</i>
Rice Rat	<i>Oryzomys palustris</i>

i) ENDANGERED INVERTEBRATE ANIMALS OF ILLINOIS

Snails

Iowa Pleistocene Snail**	<i>Discus macclintocki</i>
Hydrobiid Cave Snail	<i>Fontigens antroecetes</i>
Shawnee Rocksnail	<i>Lithasia obovata</i>

Mussels

Spectaclecase	<i>Cumberlandia monodonta</i>
Salamander Mussel	<i>Simpsonaias ambigua</i>
Rabbitsfoot	* <i>Quadrula cylindrica</i>
Orange-foot Pimpleback**	<i>Plethobasus cooperianus</i>
Sheepnose	<i>Plethobasus cyphus</i>
Clubshell**	<i>Pleurobema clava</i>
Ohio Pigtoe	<i>Pleurobema cordatum</i>
Kidneyshell	<i>Ptychobranthus fasciolaris</i>
Fanshell**	<i>Cyprogenia stegria</i>
Fat Pocketbook**	<i>Potamilus capax</i>
Purple Lilliput	<i>Toxolasma lividus</i>
Rainbow	<i>Villosa iris</i>
Pink Mucket	<i>Lampsilis abrupta</i>
Wavy-rayed Lampmussel <u>Lampmussel</u>	<i>Lampsilis fasciola</i>
Higgins Eye**	<i>Lampsilis higginsii</i>
Snuffbox	<i>Epioblasma triquetra</i>

Crustaceans

Anomalous Spring Amphipod	<i>Crangonyx anomalus</i>
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DEPARTMENT OF NATURAL RESOURCES

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Pacard's Cave Amphipod	Crangonyx packardi
Illinois Cave Amphipod	Gammarus acherondytes
Iowa Amphipod	Stygobromus iowae
Indiana Crayfish	Orconectes indianensis
Kentucky Crayfish	Orconectes kentuckiensis
Oxbow Crayfish	Orconectes lancifer
Crayfish	Orconectes placidus
Isopod	Caecidotea lesliei
Isopod	Caecidotea spatulata

Scorpions

Common Striped Scorpion	Centruroides vittatus
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Dragonflies

Hine's Emerald's Dragonfly**	Somatochlora hineana
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Springtails

Madonna Cave Springtail	Pygmarrhopalites Arrhopalites madonnensis
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Stoneflies

Robust Springfly	Diploperla Diplopera robusta
Central Forestfly	Prostoia completa

Leafhoppers

Leafhopper	Athysanella Anthysanella incongrua
Leafhopper	Paraphlepsius lupalus

Butterflies and Moths

Eryngium Stem Borer	Papaipema eryngii
Arogos Skipper	Atrytone arogos
Ottoo Skipper	Hesperia ottoe
Hoary Elfin	Incisalia polios

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

Karner Blue Butterfly**
Swamp Metalmark

Lycaeides melissa samuelis
Calephelis muticum

j) THREATENED INVERTEBRATE ANIMALS OF ILLINOIS

Mussels

Ebonysshell
Purple Wartyback
Elephant-ear
Spike
Slippershell
Butterfly
Black Sandshell
Little Spectaclecase

Fusconaia ebena
Cyclonaias tuberculata
Elliptio crassidens
Elliptio dilatata
Alasmidonta viridis
Ellipsaria lineolata
Ligumia recta
Villosa lienosa

Dragonflies

Elfin Skimmer

Nannothemis bella

Leafhoppers

Redveined Prairie Leafhopper

Aflexia rubranura

Butterflies

Cobweb Skipper
Regal Fritillary

Hesperia metea
Speyeria idalia

(Source: Amended at 34 Ill. Reg. 12866, effective August 20, 2010)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Construction in Floodways of Rivers, Lakes and Streams
- 2) Code Citation: 17 Ill. Adm. Code 3700
- 3) Section Number: 3700.40 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 23, 29a and 30 of the Rivers, Lakes and Streams Act [615 ILCS 5/23, 29a and 30]
- 5) Effective Date of Amendment: August 20, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: June 4, 2010; 34 Ill. Reg. 7589
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part was amended to update the Chicago address for the Department's Office of Water Resources.
- 16) Information and questions regarding this adopted amendment shall be directed to:

George Sisk, Legal Counsel

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER h: WATER RESOURCESPART 3700
CONSTRUCTION IN FLOODWAYS OF RIVERS, LAKES AND STREAMS

Section	
3700.10	Purpose
3700.20	Definitions
3700.30	Jurisdiction
3700.40	Permit Application
3700.50	Notice to Interested Parties
3700.60	Departmental Standards
3700.70	Special Provisions for Bridges and Culverts
3700.75	Special Provisions for Levees and Floodwalls
3700.80	Statewide Permits
3700.90	Denial of Applications
3700.100	Violations and Enforcement
3700.110	Final Administrative Decision

AUTHORITY: Implementing and authorized by Sections 23, 29a and 30 of the Rivers, Lakes and Streams Act [615 ILCS 5/23, 29a and 30].

SOURCE: Adopted at 17 Ill. Reg. 4484, effective March 23, 1993; emergency amendment at 18 Ill. Reg. 790, effective January 14, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 8167, effective May 16, 1994; recodified from 92 Ill. Adm. Code 700, Department of Transportation, to the Department of Natural Resources, at 22 Ill. Reg. 7362; amended at 27 Ill. Reg. 7774, effective April 21, 2003; amended at 29 Ill. Reg. 8316, effective May 26, 2005; amended at 34 Ill. Reg. 12875, effective August 20, 2010.

Section 3700.40 Permit Application

An applicant who desires a permit under this Part shall file with the Department an application consisting of a properly executed application form and all plans and information required to determine the effect of the construction on the carrying capacity of the stream. All portions of the application form, including the name and address of the applicant, a description of the proposed activity, the location of the proposed activity, and the names and addresses of all adjoining property owners, shall be completed and all required attachments must be submitted

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before a determination of permissibility will be made. Application forms may be obtained from the Illinois Department of Natural Resources, Office of Water Resources at the following addresses:

One Natural Resources Way
Springfield IL 62702-1271

[Michael A. Bilandic Building](#)
[160 N. LaSalle Street, Suite S-70036 S. Wabash, Suite 1415](#)
Chicago IL [6060160603](#)

Region 2 Office
2050 West Stearns Road
Bartlett IL 60103

Many activities permitted under this Part require review of the U.S. Army Corps of Engineers and the Illinois Environmental Protection Agency. To simplify application procedures, the Illinois Department of Natural Resources, Office of Water Resources utilizes a joint application form with these two agencies.

(Source: Amended at 34 Ill. Reg. 12875, effective August 20, 2010)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Regulation of Public Waters
- 2) Code Citation: 17 Ill. Adm. Code 3704
- 3) Section Number: 3704.50 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by the Rivers, Lakes and Streams Act [615 ILCS 5]
- 5) Effective Date of Amendment: August 20, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: June 4, 2010; 34 Ill. Reg. 7593
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part was amended to update the Chicago address for the Department's Office of Water Resources.
- 16) Information and questions regarding this adopted amendment shall be directed to:

George Sisk, Legal Counsel

DEPARTMENT OF NATURAL RESOURCES

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Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER h: WATER RESOURCESPART 3704
REGULATION OF PUBLIC WATERS

Section

3704.10	Purpose
3704.20	Definitions
3704.30	Jurisdiction
3704.40	List of Public Waters and Provision For Additions
3704.50	Permit Application
3704.60	Notice to Interested Parties
3704.70	Land Conversions and Fill Material Placement
3704.80	Department Evaluation
3704.90	Departmental Standards
3704.100	Emergency Permit
3704.110	Statewide and Regional Permits
3704.120	General Permits
3704.130	Denial of Applications
3704.140	Violations and Enforcement
3704.150	Final Administrative Decision
3704.APPENDIX A	Public Bodies of Water

AUTHORITY: Implementing and authorized by the Rivers, Lakes and Streams Act [615 ILCS 5].

SOURCE: Adopted at 17 Ill. Reg. 4494, effective March 23, 1993; recodified from 92 Ill. Adm. Code 704, Department of Transportation, to the Department of Natural Resources, at 22 Ill. Reg. 7362; amended at 27 Ill. Reg. 7778, effective April 21, 2003; amended at 29 Ill. Reg. 8320, effective May 26, 2005; amended at 34 Ill. Reg. 12879, effective August 20, 2010.

Section 3704.50 Permit Application

An applicant who desires a permit under this Part shall file with the Department an application consisting of a properly executed application form and all plans and information required to determine the effect of the construction on the public body of water. All portions of the application form, including the name and address of the applicant, a description of the proposed

DEPARTMENT OF NATURAL RESOURCES

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activity, the location of the activity, and the names and addresses of all adjoining property owners, shall be completed and all required attachments must be submitted before a determination of permissibility will be made. Application forms may be obtained from the Illinois Department of Natural Resources, Office of Water Resources at any of the following addresses:

One Natural Resources Way
Springfield IL 62702-1271

[Michael A. Bilandic Building](#)
[160 N. LaSalle Street, Suite S-70036 S. Wabash, Suite 1415](#)
Chicago IL [6060160603](#)

Region 2 Office
2050 West Stearns Road
Bartlett IL 60103

Many activities permitted under this Part require review of the U.S. Army Corps of Engineers and the Illinois Environmental Protection Agency. To simplify application procedures, the Illinois Department of Natural Resources, Office of Water Resources utilizes a joint application form with these two agencies.

(Source: Amended at 34 Ill. Reg. 12879, effective August 20, 2010)

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- 1) Heading of the Part: Hearings and Enforcement Proceedings
- 2) Code Citation: 11 Ill. Adm. Code 204
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
204.20	Amend
204.25	New
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rulemaking: August 20, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 7181; May 21, 2010
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Changes made were grammatical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendment currently in effect? No
- 14) Are there any other proposed amendments pending on this Part? No
- 15) Summary and purpose of Rulemaking: Previously, Section 204.20 allowed licensees to appeal all stewards' rulings and decisions through a formal administrative hearing process presided over by a hearing officer and recorded by a court reporter. Both sides were usually represented by counsel, an evidentiary hearing was conducted under formal rules of evidence, the hearing officer awaited the transcript and then produced his or her report and recommendation to the Board. The report and the entire record was sent to the Board

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members for review and presentation at the next available Board meeting. The process was often cumbersome, time consuming and expensive, with some hearings pending up to a year or two due to an arduous judiciary process.

An evidentiary administrative hearing affording maximum protection and due process to the licensee is required by Section 16 of the Horse Racing Act for any matters concerning the suspension of a license. Our previous rules extended the formal evidentiary hearing process to all appeals of stewards' rulings. The result was that an appeal of a \$50 fine was afforded the same due process and administrative hearing proceeding as an appeal of a lengthy suspension, resulting in expensive, inefficient formal Board hearings to settle relatively minor matters. The adopted rulemaking provides an alternate proceeding designed to be more efficient in terms of cost and man-hours for minor matters such as appeals for fines of \$500 or less, and the disqualification of horses for interference (without a penalty to the jockey/driver) during the running of a race.

An alternative type of proceeding is not without precedent in State agencies. The Illinois Department of Revenue has an informal review procedure for taxpayer protests. Other racing jurisdictions have also adopted a two-tiered appeal process. The adopted procedure is defined as a "Director's Review Conference" or DRC. The DRC is mandatory for appeals of stewards' rulings for fines of \$500 or less and disqualifications resulting from a claim of foul or interference in the absence of a jockey/driver penalty. Licensees facing larger fines, suspensions, or disqualifications under the Medication Part 603 will have the option of the DRC in lieu of an administrative hearing under Section 16 of the statute. However, any single member of the Board may *sua sponte* direct any appeal to a formal administrative hearing before the Board if the case merits the Board's personal attention.

Section 204.25 lays out the procedures for the DRC. It states that the DRC will be presided over by the Racing Board executive director or his designated reviewer. The Board counsels and the administrative law judges cannot serve as designated reviewers. The licensee will be able to submit documentation and present his defense in an informal setting. The designated reviewer will question the parties and any witnesses presented and consider all relevant evidence. The DRC will be recorded by audiotape or similar media.

At the conclusion of the DRC, the executive director or designated reviewer will render a decision. The reviewer may resolve the issue in favor of the licensee, resolve the issue in favor of the Board stewards, or modify the penalty or ruling

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Final decisions from the Director's Review Conference will not be further appealable to the Board; however, they will be subject to Illinois Administrative Review Law.

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

Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601

312/814-5017

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULESPART 204
HEARINGS AND ENFORCEMENT PROCEEDINGS

Section	
204.10	Applicability
204.20	Requests for Hearing
204.25	Requests and Proceedings for Director's Review Conference
204.30	Purse Distribution
204.40	Appointment and Disqualification
204.50	Transcripts
204.60	Appearances
204.65	Discovery
204.70	Service
204.80	Subpoenas
204.85	Proceedings for Hearings Involving Action by the Board
204.90	Proceedings for Hearings Involving Action by Organization Licensees
204.100	Evidence
204.110	Stipulations
204.120	Continuances
204.130	Closing Arguments
204.140	Findings of Fact and Conclusions of Law

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Appeals and Enforcement Proceedings, amended December 30, 1977; codified at 5 Ill. Reg. 10876; amended at 10 Ill. Reg. 3825, effective February 13, 1986; amended at 18 Ill. Reg. 7419, effective April 29, 1994; amended at 22 Ill. Reg. 14494, effective August 1, 1998; amended at 26 Ill. Reg. 10806, effective July 1, 2002; amended at 34 Ill. Reg. 12883, effective August 20, 2010.

Section 204.20 Requests for Hearing

- a) Any person aggrieved by a final ~~decision, order, or~~ ruling of the [Stewardsstewards](#)

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may, as a matter of right, request a Board hearing. ~~The~~~~Such~~ a hearing shall be a proceeding de novo.

- b) All requests for hearings shall:
- 1) be in writing;
 - 2) contain an address and telephone number where the petitioner may be notified; and
 - 3) identify the ~~Stewards'~~~~stewards'~~ ruling and state the specific reasons for the request.
- c) Requests for hearing under this Part shall be filed no later than five business days after receipt of notice of the ~~Stewards'~~~~stewards'~~ ruling, ejection ~~or~~, exclusion or other action of the Board. If the petitioner is the subject of a pre-hearing suspension or exclusion, the~~The~~ Board shall conduct its hearing within seven regular business days after the receipt of ~~thesueh~~ request unless the petitioner or the Board requests a postponement and shows good cause and the petitioner specifically waives the seven day hearing requirement.
- d) For appeals concerning civil penalties of \$500 or less or disqualifications based on an occurrence in the race such as interference or a claim of foul where no penalty was assessed against the driver or jockey, the petitioner shall be required to submit to a Director's Review Conference conducted pursuant to Section 204.25.
- e) For appeals concerning a suspension, exclusion, civil penalty greater than \$500, redistribution of the purse after the race results have been finalized by the Stewards, or disqualification based on a violation of 11 Ill. Adm. Code 603 (Medication), the petitioner shall be entitled to an administrative hearing pursuant to this Part or shall be given the option of submitting to a Director's Review Conference conducted pursuant to Section 204.25. Should a petitioner request a Director's Review Conference, his or her right to an administrative hearing shall be deemed waived.
- f) Notwithstanding subsections (d) and (e), any single member of the Board may sua sponte direct that any appeal be subject to a formal administrative hearing if the case merits the Board's personal attention.

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- g) Requests for hearing may be filed in person at, or by mail addressed to, the Board's office at 100 W. Randolph, Suite ~~7-70141-100~~, Chicago, Illinois 60601. Requests submitted by mail will be deemed timely if postmarked no later than five business days after receipt of notice of the Stewards'~~stewards'~~ ruling, ejection ~~or~~; exclusion or other action of the Board.

(Source: Amended at 34 Ill. Reg. 12883, effective August 20, 2010)

Section 204.25 Requests and Proceedings for Director's Review Conference

- a) Any properly filed appeal concerning a ruling of the Stewards resulting in a civil penalty in an amount of \$500 or less or for a disqualification based on an occurrence in the race such as interference, or a claim of foul for which no penalty was assessed against the jockey or driver, shall be required to submit to a Director's Review Conference conducted pursuant to this Section.
- b) Any properly filed appeal concerning a ruling of the Stewards resulting in a suspension, exclusion, civil penalties greater than \$500, redistribution of the purse after the race results are finalized by the Stewards, or disqualification based on a violation of 11 Ill. Adm. Code 603 (Medication), may, in lieu of an administrative hearing, request a Director's Review Conference.
- c) The Director's Review Conference process affords licensees the opportunity to resolve protests **without** a formal administrative hearing before an Administrative Law Judge. The Executive Director of the Board or his **or her** designee shall serve as the designated reviewer in accordance with the provisions of this Section. The Executive Director or reviewer shall have authority and knowledge of the rules and regulations of the Board sufficient to make a reasoned and appropriate resolution of the matter.
- d) All requests for a Director's Review Conference shall:
- 1) be in writing;
 - 2) contain an address and telephone number where the petitioner may be notified;

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- 3) identify the Stewards' ruling and state the specific reasons for the request; and
- 4) include a list of all supporting documentation to be presented at the Director's Review Conference.
- e) Unless unavailability of the Executive Director and/or designee requires otherwise, the Director's Review Conference shall be conducted within 30 calendar days after the request.
- f) Board counsel and any Board employee who may be called as a witness shall not serve as the designated reviewer. Administrative Law Judges shall in no instance serve as the designated reviewer under this Section.
- g) At the Director's Review Conference, Board counsel shall present the Stewards' evidence to the reviewer. The licensee may be represented by counsel or may appear without counsel and present his or her evidence and witnesses. The reviewer shall consider all relevant evidence.
- h) The Illinois Administrative Procedure Act [5 ILCS 100], Section 16 of the Illinois Horse Racing Act [230 ILCS 5], and Sections 204.40, 204.50, 204.60, 204.65, 204.70, 204.80, 204.85, 204.90, 204.100, 200.110, 204.120, 204.130 and 204.140 of this Part shall not apply to the Director's Review Conference. Rules of evidence shall be construed liberally, and hearsay shall be allowed at the reviewer's discretion. The reviewer may ask questions of the witnesses and the parties during the Director's Review Conference.
- i) Director's Review Conferences conducted under this Part shall be recorded by audiotape or other similar media.
- j) At the conclusion of the Director's Review Conference, the reviewer shall issue a written report of his or her findings. The reviewer can find in favor of the licensee, uphold the Stewards' ruling, or modify the penalty. Decisions of the reviewer may not be appealed to the Board, but are subject to the Administrative Review Law [735 ILCS 5/Art. III].
- k) Requests for a Director's Review Conference may be filed in person at, or by mail addressed to, the Board's office at 100 W. Randolph, Suite 7-701, Chicago, Illinois 60601. Requests submitted by mail will be deemed timely if postmarked

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no later than five regular business days after receipt of notice of the Stewards' ruling, ejection or exclusion or other action of the Board.

(Source: Added at 34 Ill. Reg. 12883, effective August 20, 2010)

DEPARTMENT OF REVENUE

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- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
100.3200	Amendment
100.5020	Amendment
100.8000	New Section
100.8010	New Section
100.9750	Amendment
- 4) Statutory Authority: 35 ILCS 5/303, 35 ILCS 5/505, 35 ILCS 5/803 and 804, 35 ILCS 5/102 and 5/1501
- 5) Effective Date of Amendments: August 19, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department of Revenue's principal office and is available for public inspection.
- 9) Notice of Proposals Published in Illinois Register:
34 Ill. Reg. 6339, May 07; 2010
34 Ill. Reg. 6566, May 14; 2010
34 Ill. Reg. 7189, May 21; 2010
34 Ill. Reg. 7513, May 28; 2010
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: In Section 100.3200(a)(1)(A), italicized "*in that state he or she is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax*" and added "[35 ILCS 5/303(f)(1)]" after corporate stock tax.

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In Section 100.3200(a)(1)(B), italicized "that *state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not subject the taxpayer to such a tax*" and added "[35 ILCS 5/303(f)(2)]" after such a tax.

In Section 100.8000(e)(1), "to the whole of the tax" was added after ratio.

Other non-substantive grammatical and punctuation changes were made in agreement with JCAR. Four separately proposed rulemakings were combined to create this one adopted rulemaking. See # 9 above. This is a consolidated rulemaking with 2 new sections being added and 3 sections being amended.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Section 100.3200 – This text updates the guidance on when a taxpayer is "taxable in another state" for purposes of allocation and apportionment of income in order to properly incorporate the decision in *Dover Corp. v. Dept. of Revenue*, 271 Ill.App.3d 700 (1995). Under the IITA, allocation of some items of nonbusiness income is done by an alternative rule if the primary rule would allocate the income to a state in which the taxpayer is not taxable. Also, the sales factor treatment of sales of tangible personal property and sales of services use an alternative rule if the primary rule would source the sales to a state in which the taxpayer is not subject to tax.

Section 100.5020 – This text amends the regulation dealing with extensions of time to file returns to reflect the new withholding provisions for pass-through entities, to remove unnecessary references to specific forms and to delete an erroneous citation of a federal income tax regulation regarding late payment penalties.

Sections 100.8000 & 100.8010 – Formal guidance is provided for payment of estimated income taxes, and in particular, rules are provided for short taxable years where the IITA provides that no estimated taxes need be made except as provided in regulations.

Section 100.9750 – This text amends the regulation explaining the Illinois income tax treatment of entities whose separate existence is disregarded for federal income tax purposes to reflect a recent change in federal practice, under which an entity that is

DEPARTMENT OF REVENUE

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generally disregarded for purposes of reporting and paying income tax is nevertheless recognized as a separate entity for purposes of withholding tax from employees.

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

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

217/782-7055

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)

SUBPART B: CREDITS

Section

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

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

DEPARTMENT OF REVENUE

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Section

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

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

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or

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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
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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

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20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001;

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amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010.

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

Section 100.3200 Taxability in Other State (IITA Section 303)

a) General definition

- 1) For purposes of allocation of nonbusiness income and for purposes of the sales factor used in apportioning business income, a taxpayer is taxable in another state if:

- A) *in that state he or she is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax [35 ILCS 5/303(f)(1)]*~~in that~~

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~~state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or~~

- B) ~~*that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not subject the taxpayer to such a tax [35 ILCS 5/303(f)(2)]. that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not subject the taxpayer to such a tax*~~

- 2) A taxpayer is subject to one of the specified taxes in subsection (a)(1)(A) in a particular state only if he or she is subject to thesueh tax by reason of income-producing activities in thatsueh state. For example, a corporation thatwhich pays a minimum franchise tax in order to qualify for the privilege of doing business in a state is not subject to tax by that state within the meaning of subsection (a)(1)(A) if the amount of thatsueh minimum tax bears no relation to the corporation's activities within thatsueh state. Further, a taxpayer claiming to be taxable in another state under the ~~testtests~~ set forth in subsection (a)(1)(A) must establish not only that under the laws of thatsueh state he or she is subject to one of the specified taxes, but that he or she, in fact, pays thesueh tax. If a taxpayer is subject to one of the taxes specified in subsection (a)(1)(A) but does not, in fact, pay thesueh tax, thesueh taxpayer may not claim to be taxable in the state imposing thesueh tax under the test set forth in subsection (a)(1)(A) or (a)(1)(B) this subsection (a)(2). (See Dover Corp. v. Dept. of Revenue, 271 Ill. App. 3d 700 (1995).) On the other hand, if a taxpayer is not subject in a given state to any of the taxes specified in subsection (a)(1)(A) but thesueh taxpayer establishes that his or her activities in thatsueh state are such as to give the state jurisdiction to subject him or her to a net income tax, then, under the test set forth in this subsection (a)(2), the taxpayer is taxable in thatsueh state, notwithstanding the fact that thatsueh state has not enacted legislation subjecting him or her to thesueh tax. For purposes of this Section:

- A) A net income tax is a tax for which an individual may claim a deduction under 26 USC 164(a)(3) or for which a foreign tax credit may be claimed under 26 USC 901.

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- B) In the case of any state other than a foreign country or political subdivision of a foreign country~~thereof~~, the determination of whether ~~a~~such state has jurisdiction to subject the taxpayer to a net income tax will be determined under the Constitution, ~~and~~ and treaties of the United States. Such a state does not have jurisdiction to subject the taxpayer to a net income tax if it is prohibited from imposing ~~that~~such a tax by reason of the provisions of Public Law 86-272; (15 USC Sections 381-385). See 100.9720 of this Part for guidance on nexus standards under the Constitution and statutes of the United States.
- C) In the case of any foreign country or political subdivision of a foreign country~~thereof~~, the determination of whether ~~a~~such state has jurisdiction to subject the taxpayer to a net income tax will be determined as if the foreign country or political subdivision were a state of the United States or a political subdivision of a U.S. state~~thereof~~. A person who is not required to pay net income tax by a foreign country or political subdivision as the result of a treaty provision exempting certain persons, business activities or sources of income from tax is not subject to net income tax in that jurisdiction.
- D) A person is not subject to tax in another state or in a foreign country under subsection (a)(1)(B) if that state or country imposes a tax on net income, unless he or she can show a specific provision of that state's or country's constitution, statutes or regulations, or a holding of that state's or country's courts or taxing authorities, that exempts the person from taxation even though that person could be subject to a net income tax under the Constitution, statutes and treaties of the United States.
- b) Examples. Section 100.3200 of this Part may be illustrated by the following examples:
- 1) EXAMPLE~~Example~~ 1. A corporation, although subject to the provisions of the net income tax statute imposed by X state, has never filed income tax returns in that jurisdiction and has never paid income tax to X. For purposes of allocation and apportionment of A's income, A is not taxable in X state because it does not meet the~~either~~ test specified in either

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subsection (a)(1)(A) or (1)(B)(2).

- 2) ~~EXAMPLE~~Example 2. B corporation, an Illinois corporation, is actively engaged in manufacturing farm equipment in Y foreign country. Y does not impose a franchise tax measured by net income or a corporate stock tax. It does impose a franchise tax for the privilege of doing business, but B corporation is not subject to that tax because it applies only to corporations incorporated under Y's laws. Y also imposes a net income tax upon foreign corporations doing business within its boundaries, but B is not subject to that tax because the income tax statute grants tax exemption to corporations manufacturing farm equipment. For purposes of allocation and apportionment of B's income, B is taxable in Y country. B does not meet the test specified in subsection (a)(1)(A), but does meet the test specified in subsection (a)(1)(B)(2), since Y has jurisdiction to impose a net income tax on B.

(Source: Amended at 34 Ill. Reg. 12891, effective August 19, 2010)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section 100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)

- a) Tentative Payments. An extension of time to file a return permitted under this Section is not to be construed as an extension by the Department of the time for payment of tax due on such return.
- b) Automatic Illinois Extensions. The Department will grant an automatic extension of 6 months (7 months for corporations) to file any Illinois income tax return except returns due under Article 7 of the IITA~~Form IL-941~~. No application form need be filed by a taxpayer to obtain this extension. If a balance of tentative tax is due, the taxpayer should transmit the payment with the appropriate form (~~Form IL-505-I and Form IL-505-B~~) by the original filing due date in order to avoid the penalty for underpayment of tax (IITA Section 1005) and statutory interest (IITA Section 1003).
- c) Additional Extensions Beyond the Automatic Extension Period. The Department will approve an extension of more than 6 months (7 months for corporations) if an extension of more than 6 months is granted by the Internal Revenue Service. For corporations the additional Illinois extension will be one month beyond any

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approved federal extension of longer than 6 months. For all other taxpayers, the additional extension will be for the length of time approved by the Internal Revenue Service. All taxpayers must attach a copy of the approved federal extension to their return when it is filed.

d) Penalty and Interest on Underpayment of Tax

1) IITA Section 1005 Penalty

A penalty of 6% per annum on any tax underpayment shall be assessed if the amount of tax required to be shown on a return is not paid on or before the date required for filing the return (determined without regard to any extension of time to file) for returns due prior to January 1, 1994. For returns due on and after January 1, 1994, without regard to extensions, the penalty shall be determined in the manner and at the rate prescribed by the UPIA, Uniform Penalty and Interest Act [35 ILCS 735/3] ("the UPIA") and 86 Ill. Adm. Code 700. However, (as specified in the Internal Revenue Code Regulations, 26 CFR 301.6651-1(c)(3)), no penalty will be assessed if the amount of the underpayment is 10% or less of the amount of tax required to be shown on the return and the taxpayer pays such amount due by the extended due date.

2) IITA Section 1003 Interest. Interest at the rate of 9% per annum (or at such adjusted rate as is established under 26 USCIRC Section 6621(b)) will be assessed for the period from the due date of the return to the date of payment for any amount of tax not paid on or before the due date (determined without regard to any extension) for returns due before January 1, 1994. For returns due on and after January 1, 1994, without regard to extensions, the penalty shall be determined in the manner and at the rate prescribed by the UPIA, Uniform Penalty and Interest Act [35 ILCS 735/3] ("the UPIA") and 86 Ill. Adm. Code 700.

e) Late Filing Penalty

1) The Department will not assess IITA Section 1001 late filing penalty for the period of any extension provided by the IITA and this regulation.

2) For returns due prior to January 1, 1994, *in case of failure to file any tax return required under this Act on the date prescribed therefor (determined with regard to any extensions of time for filing), unless it is shown that*

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such failure is due to reasonable cause (as defined in [Section 6651 of the Internal Revenue Code](#), 26 USC 6651) there shall be added as a penalty to the amount required to be shown as tax on such return 7.5% of the amount of such tax if the failure is not for more than one month, with an additional 7.5% for each additional month or fraction thereof during which such failure continues, not exceeding 37.5% in the aggregate. (Section 1001 of the IITA, effective until January 1, 1994).

- 3) For returns due on and after January 1, 1994, [without regard to extensions](#), in case of failure to file any tax return required under this Act on the date prescribed therefor, (determined with regard to any extensions of time for filing) there shall be added as a penalty the amount prescribed by Section 3-3 of the [UPIA, Uniform Penalty and Interest Act](#). (Section 1001 of the IITA, effective January 1, 1994)

(Source: Amended at 34 Ill. Reg. 12891, effective August 19, 2010)

SUBPART U: ESTIMATED TAX PAYMENTS**Section 100.8000 Payment of Estimated Tax (IITA Section 803)**

- a) Requirement to Pay Estimated Tax. Every taxpayer other than an estate, trust, partnership, subchapter S corporation or farmer is required to pay estimated tax for the taxable year, in such amount and with such forms as the Department shall prescribe, if the amount payable as estimated tax can reasonably be expected to be more than:
 - 1) \$250 for taxable years ending before December 31, 2001 and \$500 for taxable years ending on or after December 31, 2001; or
 - 2) \$400 for corporations. (IITA Section 803(a))
- b) Definitions. For purposes of this Section:
 - 1) The term "estimated tax" means the excess of the total regular income tax and replacement taxes expected to be imposed for the taxable year under IITA Section 201, including the amount of any credit required to be recaptured under the IITA, over the sum of:

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- A) the total amount expected to be withheld against that tax under IITA Article 7; plus
- B) the total estimated credits against those taxes allowable for the taxable year.
- 2) The term "farmer" means an individual whose gross income from farming for the taxable year is at least $\frac{2}{3}$ of total gross income for that year. (IITA Section 803(e) A taxpayer has "gross income from farming" for the taxable year to the extent the taxpayer has gross income from farming for the current taxable year under Internal Revenue Code section 6654(i)(2).
- 3) The term "nursing home" means a skilled nursing or intermediate long term care facility that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act [210 ILCS 45]. (IITA Section 806)
- c) Exceptions
- 1) Farmers. The requirement to make payments of estimated tax expressly excludes farmers from its application. (See IITA Section 803(a).)
- 2) Nursing Homes. No estimated tax payments are required by an individual who is 65 years of age or older and is a permanent resident of a nursing home. (IITA Section 806)
- 3) Reasonable Expectation that the Threshold Requirement for Payment of Estimated Tax Will Not Be Met. In any case in which the amount payable as estimated tax for a taxable year exceeds \$500 for an individual (\$250 for taxable years ending on or before December 31, 2001) or \$400 for a corporation, the taxpayer shall be required to pay estimated tax unless it can show, by clear and convincing evidence, that its basis for expecting to owe a smaller amount was reasonable. A reasonable expectation at the beginning of the taxable year does not exempt the taxpayer from the obligation to make estimated tax payments if circumstances change during the year. A taxpayer may have reasonable cause for failing to make an estimated payment early in the taxable year and not have reasonable cause for failure to make estimated payments later in the same taxable year, after circumstances have changed.

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- d) Due Dates for Payment of Estimated Tax. Installments of estimated tax shall be paid on or before the dates prescribed under Section 100.8010. The payment of any installment may be made in advance of the applicable due date. Payments of estimated tax shall be applied as set forth under Section 100.8010 and 86 Ill. Adm. Code 700.500.
- e) Joint Payment of Estimated Tax. *If they are eligible to do so for federal tax purposes, a husband and wife may pay estimated tax as if they were one taxpayer, in which case the liability with respect to the estimated tax shall be joint and several. If a joint payment is made but the husband and wife elect to determine their taxes under the IITA separately, the estimated tax for such year may be treated as the estimated tax of either husband or wife, or may be divided between them, as they may elect. (IITA Section 803(c))*
- 1) The Department will accept any allocation between spouses of joint estimated payments made by them, provided only that the total of the amounts so allocated equals the total amount paid. In the absence of proof of an agreed allocation between the spouses, the joint estimated tax payments shall be allocated between the husband and wife in accordance with this subsection (e)(1). The portion of those payments to be allocated to a spouse shall be that portion of the aggregate of all those payments that bears the same ratio to the whole of the tax that the amount of tax (as defined under Section 100.8010(b)(2)) shown on the separate return of the taxpayer bears to the sum of the tax shown on the separate returns of the spouses.
- 2) When one of the spouses dies during the taxable year and joint estimated tax payments were made, but a joint return is not subsequently filed, estimated tax payments (including any joint payments made after the death of the spouse) may be divided between the decedent and the surviving spouse in the proportion to which the surviving spouse and the legal representative of the decedent may agree. The Department will accept any allocation between the surviving spouse and the decedent, provided only that the total of the amounts so allocated equals the total amount paid. In the event the surviving spouse and legal representative fail to agree, the estimated tax shall be allocated between the surviving spouse and decedent in the same manner as the estimated tax of husband and wife

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who fail to agree to an allocation of estimated tax to separate returns in accordance with subsection (e)(1).

- 3) The exemption from payment of estimated tax for farmers under IITA Section 803(a) and subsection (c)(1) of this Section shall apply to a couple filing a joint return only if $\frac{2}{3}$ of the total gross income of the couple is from farming.
 - 4) No estimated tax payment is required by a couple filing a joint return if either spouse is 65 years of age or older and a permanent resident of a nursing home, and therefore is exempt from payment of estimated tax under IITA Section 806 and subsection (c)(2) of this Section.
- f) Cross References. For payment of estimated tax by electronic funds transfer, see 86 Ill. Adm. Code 750.

(Source: Added at 34 Ill. Reg. 12891, effective August 19, 2010)

Section 100.8010 Failure to Pay Estimated Tax (IITA Sections 804 and 806)

- a) Penalty Imposed. Except as otherwise provided, IITA Section 804(a) imposes a penalty, computed in the manner and at the rate prescribed under Section 3-3 of the Uniform Penalty and Interest Act, upon an underpayment of an installment of estimated tax. See 86 Ill. Adm. Code 700.300 for the penalty rates applicable to a particular taxable year.
- b) Definitions. For purposes of this Section:
 - 1) Underpayment. An underpayment of an installment of estimated tax means the excess of the required installment (as determined under subsection (d)) over the amount of that installment paid on or before the due date for that installment.
 - 2) Tax. For purposes of this Section, the term "tax" means the total regular income tax and replacement tax imposed under IITA Section 201 for the taxable year, including the amount of any credit required to be recaptured under the IITA, less the amount of any credit allowed against that tax for the taxable year. Amounts withheld pursuant to IITA Article 7, or paid by or on behalf of the taxpayer on account of that tax, including a payment of

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estimated tax, shall not be considered a credit against that tax for purposes of this Section. (See IITA Section 804(g).)

- 3) The "tax shown on the taxpayer's return" shall be the amount of tax as shown on the original tax return for the taxable year (including any corrected return for the taxable year filed on or before the due date of the original return, including extensions). The "tax shown on the taxpayer's return" does not include the tax shown on an amended return filed subsequent to the due date of the original return for the taxable year, including extensions.

c) Installment Due Dates

1) In General

A) Individuals. When the taxable year consists of a calendar year, IITA Section 803(d) requires installments of estimated tax to be made on or before each of the following dates:

- i) The 1st installment is due April 15 of that taxable year;
- ii) The 2nd installment is due June 15 of that taxable year;
- iii) The 3rd installment is due September 15 of that taxable year; and
- iv) The 4th installment is due January 15 of the immediately succeeding taxable year.

B) Corporations. The due dates prescribed for the payment of an installment of estimated tax by a calendar year corporation shall be the same as in the case of an individual under subsection (c)(1)(A), except that the 4th installment is due December 15 of the taxable year rather than January 15 of the immediately succeeding taxable year. (See IITA Section 803(d).)

C) Fiscal Year. When the taxable year consists of a fiscal year (i.e., a 12-month taxable year commencing on any date other than January

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1), IITA Section 803(g) requires installments of estimated tax to be made on or before each of the following dates:

- i) The 1st installment is due on the 15th day of the 4th month of that taxable year;
- ii) The 2nd installment is due on the 15th day of the 6th month of that taxable year;
- iii) The 3rd installment is due on the 15th day of the 9th month of that taxable year; and
- iv) The 4th installment is due the 15th day of the 12th month of that taxable year (in the case of a corporation) or of the 1st month of the immediately succeeding taxable year (in the case of an individual).

2) Due Date of Required Installment on a Saturday, Sunday or Holiday. See Section 100.5000(b) if the due date of a required installment of estimated tax occurs on a Saturday, Sunday or Holiday.

d) Amount of Required Installment

1) General Rule. Except as otherwise provided by this Section, the amount of any required installment shall be 25% of the required annual payment (as defined by subsection (d)(1)(A)). (IITA Section 804(c)(1)(A))

A) Required Annual Payment. The required annual payment means the lesser of:

- i) 90% of the tax shown on the taxpayer's return for the taxable year or, if no return is filed, 90% of the tax for that year; or
- ii) if a return showing a liability for tax was filed for the preceding taxable year, and that taxable year consisted of a period of 12 months, 100% of the tax shown on the taxpayer's return for that preceding taxable year. (IITA Section 804(c)(1)(B))

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B) When an individual taxpayer filed a joint return for the preceding taxable year but does not file a joint return with the same spouse for the current taxable year, the individual's tax shown on the return for the preceding taxable year under this subsection (d)(1) shall be that portion of the tax shown on the joint return that bears the same ratio to the whole of the tax that the amount of the tax for which the taxpayer would have been liable had a separate return been filed for the preceding taxable year bears to the sum of the taxes for which the taxpayer and his spouse would have been liable had each spouse filed a separate return for the preceding taxable year.

C) When a married couple files a joint return for the current taxable year, but did not file a joint return with each other for the preceding taxable year, the tax shown on the return for the preceding taxable year shall be the sum of the taxes shown on the separate returns of each spouse for that preceding taxable year or of the amount determined under subsection (d)(1)(B) for each spouse that filed a joint return in the preceding taxable year.

2) Annualized Income Installment

A) Annualized Income Installment as Required Installment. With respect to any required installment, if the taxpayer establishes that the annualized income installment (determined in accordance with this subsection (d)(2)) is less than the required installment computed under subsection (d)(1), then the annualized income installment shall be deemed to be the required installment. (IITA Section 804(c)(2)(A))

B) For purposes of this subsection (d)(2), any reduction in a required installment resulting from the application of this subsection (d)(2)(B) shall be recaptured by increasing the amount of the next required installment determined under subsection (d)(2)(A) by the amount of that reduction, and by increasing subsequent required installments to the extent that the reduction has not previously been recaptured under this subsection (d)(2)(B). (IITA Section 804(c)(2)(A)(ii))

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EXAMPLE 1

Taxpayer, an individual whose taxable year is the calendar year, determines his or her required annual payment under subsection (d)(1) to be \$13,648. Accordingly, the required installment under subsection (d)(1) for the 1st installment due April 15 of the taxable year equals \$3,412 (i.e., 25% of \$13,648). Taxpayer determines that his or her annualized income installment for that 1st installment period under this subsection (d)(2) is only \$1,278. Accordingly, Taxpayer pays \$1,278 as the required installment on April 15.

When Taxpayer determines the required installment for the 2nd installment due June 15, Taxpayer must increase the required installment determined under subsection (d)(1) by the excess of the required installment computed under that subsection for the 1st period over the annualized income installment for that period, or \$2,134 (i.e., \$3,412 - \$1,278). Hence, the required installment computed under subsection (d)(1) for the 2nd installment due June 15 of the taxable year equals \$5,546 (i.e., \$3,412 + \$2,134).

In determining the required installment due June 15, Taxpayer computes his or her annualized income installment for that period to be \$1,660. Because the annualized income installment is less than the required installment for that period under subsection (d)(1) of \$5,546, Taxpayer pays \$1,660 as the required installment on June 15.

EXAMPLE 2

Assuming the same facts as in Example 1, when Taxpayer determines the required installment for the 3rd period due September 15, he or she must increase the required installment computed under subsection (d)(1) by \$3,886, which is the excess of the required installment due on June 15 as computed in Example 1 over the annualized income installment for that period (i.e., \$5,546 - \$1,660). Hence, the required installment computed under

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subsection (d)(1) for the 3rd installment due September 15 is \$7,298 (i.e., \$3,412 + \$3,886).

In determining his or her required installment due September 15, Taxpayer computes his or her annualized income installment for that period to be \$3,414. Because the annualized income installment is less than the required installment for that period under subsection (d)(1) of \$7,298, Taxpayer pays \$3,414 as the required installment on September 15.

EXAMPLE 3

Assuming the same facts as in Example 2, when Taxpayer determines the required installment due January 15 of the next taxable year, he or she must increase the required installment computed under subsection (d)(1) by \$3,884, which is the excess of the required installment for the 3rd installment period over the annualized income installment for that period (i.e., \$7,298 - \$3,414). Hence, the required installment under subsection (d)(1) for the installment due on January 15 is \$7,296 (i.e., \$3,412 + \$3,884).

- C) Computation of Annualized Income Installment. The "annualized income installment" for a particular installment due date is computed as follows:
- i) Compute year-to-date net income under subsection (d)(2)(E).
 - ii) Use year-to-date income to compute annualized Illinois net income under subsection (d)(2)(F).
 - iii) Compute the tax due on annualized Illinois net income under subsection (d)(2)(G).
 - iv) Subtract any credits allowed under subsection (d)(2)(H).
 - v) Multiply the result by the applicable percentage for the installment due date, as provided in subsection (d)(2)(I).

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- vi) Subtract the total of all prior required installments for the taxable year.
- D) Applicable Period. Year-to-date net income shall be computed for the applicable period as if that period comprised a separate taxable year. Under IITA Section 804(c)(2)(D), the applicable period for an individual is all the months of the taxable year that end prior to the installment due date for which the annualized net income installment is computed. Under IITA Section 804(c)(2)(E), the applicable period for a corporation is:
- i) For the installment due on the 15th day of the 4th month of the taxable year, the 1st 3 months of the taxable year.
- ii) For the installment due on the 15th day of the 6th month of the taxable year, the 1st 5 months of the taxable year or, at the election of the taxpayer, the 1st 3 months of the taxable year.
- iii) For the installment due on the 15th day of the 9th month of the taxable year, the 1st 8 months of the taxable year or, at the election of the taxpayer, the 1st 6 months of the taxable year.
- iv) For the installment due on the 15th day of the 12th month of the taxable year, the 1st 11 months of the taxable year or, at the election of the taxpayer, the 1st 9 months of the taxable year.
- E) Year-to-date Net Income. Year-to-date net income is computed by treating the applicable period as a short taxable year, using the following principles:
- i) The determination of whether an item income or expense is recognized in the applicable period shall be made according to the taxpayer's method of accounting used for federal income tax purposes. (IITA Section 402(a))

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- ii) In applying the allocation and apportionment provisions of IITA Article 3, the taxpayer shall take into account only the items that would be taken into account for allocation and apportionment purposes if the months ending prior to the installment date constituted the taxable year. For example, in computing the apportionment factor under IITA Section 304(a), a nonresident taxpayer takes into account only its actual gross receipts for the months in the taxable year ending prior to the installment date.
 - iii) Items of income and deduction received from a partnership, subchapter S corporation, trust or estate shall be treated as received or incurred by the taxpayer during the applicable period only if the last day of the taxable year of the partnership, subchapter S corporation, trust or estate falls within that applicable period. (See IRC sections 706(a) and 1366(a)(1).)
- F) Annualized Illinois Net Income. Annualized Illinois net income is equal to the Illinois net income determined under subsection (d)(2)(E), multiplied by 12 and divided by the number of months in the applicable period, and minus:
- i) any Illinois net loss deduction under IITA Section 207 available for deduction in the taxable year; provided that, in the case of a unitary business group filing a combined return when a person becomes a member of the group during the taxable year, no net loss carryover of that member may be taken into account in any applicable period ending before that person became a member; and
 - ii) the exemptions allowed under IITA Section 204 based on the facts and circumstances as of the last day of the applicable period.
- G) Tax Due on Annualized Illinois Net Income. The tax due on the annualized Illinois net income shall be computed by multiplying the annualized Illinois net income by the applicable rate or rates under IITA Section 201, and by adding to the product of that

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calculation the amount of any credit required under the IITA to be recaptured based on events occurring during the applicable period.

H) Credits. The credits allowed against the tax due on the annualized Illinois net income shall include any credits allowed under the IITA based on events occurring during the applicable period. For purposes of this subsection (d)(2)(H), "credits" do not include any amount withheld from the taxpayer or any overpayment shown on the taxpayer's return for the prior taxable year for which an election was made to apply the overpayment against the estimated tax obligation for the present year. These amounts are treated as payments of estimated tax under subsection (e). In determining the credits allowed against the tax under this subsection (d)(2)(H):

i) Credits shall not be annualized, but shall be computed on the facts and circumstances of the applicable period, except to the extent that the credit, or a limitation on the amount of any credit, is based upon the amount of Illinois net income, or the amount of any item of income or expenditure taken into account in computing Illinois net income. In that case, the credit or limitation shall be determined on the basis of the Illinois net income or other item earned, received or incurred during the applicable period and annualized in accordance with this subsection (d)(2). For example, the credit under IITA Section 201(h) for property placed in service during the taxable year by a high impact business shall be based on the amount of qualifying investment made during the applicable period, without annualizing that investment. However, the limitation on the amount of the IITA 201(h) credit shall be based on the tax imposed by IITA Section 201(a) and (b), as annualized under this subsection (d)(2). In contrast, the credit allowed under IITA Section 201(k) is based upon the amount of Illinois research and development expenses deducted from gross income in the computation of taxable income. Accordingly, the credit shall be based on the annualized amount of qualifying expenses for the calendar months of the taxable year ending prior to the installment date.

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ii) The entire amount of any credit carried forward from a prior year and available for use in the taxable year may be applied to reduce the tax on the annualized Illinois net income; provided that, in the case of a unitary business group filing a combined return when a person becomes a member of the group during the taxable year, no credit carryover of that member may be taken into account in any applicable period ending before that person became a member.

D) Applicable Percentage. The applicable percentage with respect to each required installment date shall be as follows:

<u>Installment</u>	<u>Applicable %</u>
<u>1st</u>	<u>22.5%</u>
<u>2nd</u>	<u>45%</u>
<u>3rd</u>	<u>67.5%</u>
<u>4th</u>	<u>90%</u>

e) Application of Payments to Required Installments

1) Unless expressly directed by the taxpayer to apply a payment to some other installment, each payment received by the Department will be applied first to any unpaid balance of the 1st estimated tax installment due and any excess of the payment over that unpaid balance will be applied to any unpaid balance of the 2nd estimated tax installment, and then the 3rd and 4th, in order. Amounts withheld by a partnership, subchapter S corporation or trust on behalf of the taxpayer under IITA Section 709.5 are treated as payments received by the Department on the last day of the taxable year of the partnership, subchapter S corporation or trust and applied in accordance with this subsection (e)(1). (See IITA Section 709.5(b).)

2) In the case of an individual, the amount of tax withheld under IITA Article 7 shall be deemed a payment of estimated tax. An equal part of the amount so withheld for the taxable year shall be deemed paid on each installment due date prescribed by this Section, unless the taxpayer establishes the dates on which all amounts were actually withheld. In the latter case, all

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amounts withheld shall be considered as payments of estimated tax on the dates those amounts were actually withheld. (IITA Section 804(g)) When more than one taxable year begins in any calendar year, no portion of the amount withheld during the calendar year will be treated as a payment of estimated tax for any taxable year other than the last taxable year beginning in that calendar year.

3) An individual having amounts withheld under Section 4(10) of the State Salary and Annuity Withholding Act [5 ILCS 365/4(10)] may elect to have amounts withheld treated as estimated tax payments made on the dates those amounts were actually withheld. (IITA 804(g-5)) The election shall be made according to Department forms. In the absence of an election, an equal part of the amount withheld shall be deemed paid on each installment due date prescribed by this Section that falls within the designated period for which the withholding was made.

4) Application of Credit for Overpayment Reported on the Return for the Prior Taxable Year. The amount credited against estimated tax pursuant to a timely election to do so under IITA Section 909(b) shall be applied to each installment, beginning with the 1st installment due, to the extent necessary to satisfy the taxpayer's obligation or to minimize the penalty due under IITA Section 804 with respect to that installment, provided that no amount will be applied later than the date on which the return on which the election is made was filed. See Section 100.9400(b) regarding the election to have the amount of any overpayment, or portion of an overpayment, credited against estimated tax.

f) Application of IITA Section 804 to Short Taxable Year

1) Penalty Imposed. Except as otherwise provided, the taxpayer shall be liable to a penalty, computed in the manner and at the rate prescribed under Section 3-3 of the Uniform Penalty and Interest Act [35 ILCS 735/3-3], upon an underpayment of an installment of estimated tax required under this Section with respect to a short taxable year.

2) Underpayment Defined. An underpayment of an installment of estimated tax required with respect to a short taxable year means the amount of the required installment as determined under this subsection (f) over the

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amount of that installment paid on or before the due date of the installment.

- 3) In the case of a taxable year that is terminated early, the taxpayer is required to pay the amount due on each installment due date falling on or before the end of the taxable year, determined under subsection (d) of this Section in the same manner as for a full taxable year, and both corporations and individuals shall be required to pay the full amount of the required annual payment computed under subsection (d)(1)(A) on the 15th day of the 1st month beginning after the end of the taxable year.
- 4) Installment Due Dates in the Case of a Taxable Year Beginning Less Than 12 Months before the Expected End of the Tax
- A) Individuals. Installments of estimated tax are not required in the case of a short taxable year of less than 4 full months. When the short taxable year consists of a period of at least 4 full months, installments of estimated tax are required on or before each of the following dates:
- i) The 1st installment shall be due on 15th day of the 4th full month of that taxable year;
- ii) A 2nd installment shall be due on the 15th day of the 6th full month of that taxable year, unless the short taxable year ends prior to or during that 6th full month;
- iii) A 3rd installment shall be due on the 15th day of the 9th full month of that taxable year, unless the short taxable year ends prior to or during that 9th full month;
- iv) The full amount of the required annual payment computed under subsection (d)(1)(A) shall be due on or before the 15th day of the 1st month of the succeeding taxable year.
- B) Corporations. Installments of estimated tax are not required in the case of a short taxable year of less than 4 months. When the short taxable year consists of a period of at least 4 months, installments of estimated tax are required to be paid on or before the same due

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dates provided in subsection (f)(4)(A) as if the taxable year was 12 months, provided that the full amount of the required annual payment computed under subsection (d)(1)(A) shall be due on or before the 15th day of the last month of the short taxable year.

C) The taxpayer shall substitute for 25% of the required annual payment under subsection (b)(1) a percentage of the required annual payment that results in an equal percentage of the required annual payment as being the amount of the required installment. That percentage shall be based on the number of installments required for the short taxable year under this subsection (f)(4).

5) Amount of Required Installment. The amount of any required installment in the case of a short taxable year shall be determined by applying the provisions of subsection (b), with the following adjustments:

A) For purposes of determining the required annual payment year under subsection (d)(1)(A) based on the tax shown on the return for the preceding taxable year, the taxpayer shall multiply the tax actually shown on the taxpayer's return for the preceding taxable year by a fraction, the numerator of which is the number of days in the short taxable year and the denominator of which is the number of days in the preceding taxable year.

B) The taxpayer shall substitute for the applicable percentage in subsection (d)(2)(I) of this Section the percentage under this subsection (f)(5)(B) that corresponds to the number of required installments determined for the short taxable year under subsection (f)(3) or (4):

<u>Number of Required Installments</u>	<u>Applicable %</u>
<u>4</u>	<u>22.5%</u>
<u>3</u>	<u>30%</u>
<u>2</u>	<u>45%</u>
<u>1</u>	<u>90%</u>

6) In the case of a short taxable year that does not begin on the first day of a month:

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- A) For purposes of determining the installment due dates under subsection (f)(3), the partial month at the beginning of the taxable year shall be ignored.
- B) The "applicable period" determined in subsection (d)(2)(D) for a particular installment due date shall include the partial month plus the number of full months otherwise specified.
- C) In determining the annualized Illinois net income in subsection (d)(2)(F) for a particular installment due date, the taxpayer shall multiply its year-to-date net income by the number of days in the applicable period and divide the result by the number of days in the short taxable year.
- 7) The provisions of this subsection (f) may be illustrated by the following examples.
- A) EXAMPLE 4
- X corporation uses a taxable year ending June 30. On January 15, 2011, X is acquired by a corporation using a calendar year, requiring X to terminate its June 30, 2011 year as of the acquisition date and then to use a taxable year beginning January 16, 2011 and ending December 31, 2011.
- For its short taxable year ending January 15, 2011, X is required to make estimated tax payments on October 15 and December 15, 2010 and February 15, 2011. The applicable percentage of the total tax for the taxable year that is due with each installment is 30%.
- If X bases its computation of its required payment on the tax due for the taxable year ending June 30, 2010, the tax due for that year is reduced by multiplying it by 199 (the number of days in the short taxable year ending January 15, 2011) and dividing the result by 365 (the number of days in the taxable year ending June 30, 2010).

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B) EXAMPLE 5

Assuming the same facts as in Example 4, for its short taxable year ending December 31, 2011, X corporation is required to make estimated tax payments on May 16, July 15 and October 17, 2011, because the period from January 16 through January 31, 2011, is disregarded in determining when an installment is due. Because the taxable year terminates before the 15th day of the 12th month of the taxable year, when the 4th installment would normally be due, the 4th installment is due on December 15, 2011. Because its taxable year ending January 15, 2011 is not a 12-month taxable year, X corporation cannot compute its required annual installment for its short taxable year ending December 31, 2011 using the tax shown on its return for the previous taxable year under subsection (d)(2)(A)(ii).

g) Exceptions. The penalty imposed under IITA Section 804 and this Section shall not apply to:

1) Persons who are not required to make payments of estimated tax under Section 100.8000(c):

A) Small Amount of Estimated Tax

i) No penalty shall be imposed under IITA Section 804 with respect to any installment of estimated tax required to be paid during a taxable year in which the amount payable as estimated tax (as defined under Section 100.8000(a)) is not more than the following amounts:

Individuals \$250 (for tax years ending before 12/31/01)

\$500 (for tax years ending on or after
12/31/01)

Corporations \$400

ii) In the case of a short taxable year, the amounts in subsection (g)(1)(A) shall be multiplied by a fraction, the

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numerator of which is the number of days in the short taxable year and the denominator of which is 365.

- B) Estates, Trusts, Partnerships, Subchapter S Corporations and Certain Other Entities
- i) No penalty shall be imposed under IITA Section 804 with respect to any installment of estimated tax required to be paid during any part of the taxable year of an organization exempt under IITA Section 205.
 - ii) No penalty shall be imposed under IITA Section 804 with respect to any installment of estimated tax required to be paid during a taxable year of a corporation (as defined under Section 100.9750(b)) in which that corporation computes a tax under subtitle A of the Internal Revenue Code (IRC), other than the tax imposed under section 11 (including any other tax treated under the IRC as imposed under IRC section 11), IRC section 1201(a), IRC section 55, IRC section 59A, IRC section 887, or IRC subchapter L.
 - iii) No penalty shall be imposed under IITA Section 804 with respect to any installment of estimated tax required to be paid during any taxable year with respect to which a corporation is exempt from federal income tax under IRC section 991.
 - iv) Any penalty otherwise imposed upon a bankruptcy estate under IITA Section 804 shall be abated to the same extent that the penalty for failure to make estimated payments of federal income tax would be abated under IRC section 6658.
- C) Farmers. See Section 100.8000 for the exemption for farmers from the requirement to make estimated tax payments.

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- D) Permanent Resident of Nursing Home. See Section 100.8000 for the exemption for permanent residents of nursing homes from the requirement to make estimated tax payments.
- 2) No Return Required for Preceding Taxable Year. No penalty shall be imposed under IITA Section 804 with respect to any installment of estimated tax required to be paid in a taxable year by a taxpayer who was not required to file an Illinois income tax return under IITA Section 502 for the preceding taxable year. (IITA Section 804(d))
- 3) No Tax Liability for Preceding Taxable Year. No penalty shall be imposed under IITA Section 804 with respect to any installment of estimated tax required to be paid in a taxable year by an individual taxpayer who had no tax liability for the preceding taxable year, if the preceding taxable year was a taxable year of 12 months. (IITA Section 804(d))
- 4) Change in Apportionment Factor. With respect to any installment of estimated tax required to be paid under this Section before December 31, 1998, no penalty shall be imposed under IITA Section 804 on any underpayment of an installment of estimated tax to the extent that underpayment is attributable solely to the taxpayer's change in apportionment from IITA Section 304(a) to IITA Section 304(h). (IITA Section 804(d))
- 5) Reasonable Cause. No penalty shall be imposed under IITA Section 804 to the extent that the taxpayer shows that any underpayment of estimated tax was due to reasonable cause as determined in accordance with 86 Ill. Adm. Code 700.400. (IITA Section 804(e) and Uniform Penalty and Interest Act Section 3-8)
- 6) Deceased Taxpayer. No penalty shall be imposed under IITA Section 804 with respect to any underpayment of estimated tax arising subsequent to the death of the taxpayer. In determining the amount of any required installment due after the death of the taxpayer, a surviving spouse shall apply the provisions of Section 100.8000(c).
- 7) Member of Armed Services. No penalty shall be imposed under IITA Section 804 to the extent the taxpayer is a member of the armed services

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serving in a combat zone who has received an extension of time to file and pay federal income taxes under IRC section 7508. (IITA Section 602(b))

- 8) Innocent Spouse. No penalty shall be imposed under IITA Section 804 in the case of an innocent spouse, to the extent that spouse is relieved of liability for the penalty pursuant to IITA Section 502(c)(4).
- h) Changes in Tax Law During a Taxable Year. If the IITA is amended during a taxable year, and the amendment does not contain specific provisions granting relief from penalties under IITA Section 804, no penalty imposed by IITA Section 804 shall apply for late payment of an installment of estimated tax due before the amendment becomes law if, on or before the due date of that installment, the taxpayer has paid the estimated tax due under the annualized income installment method in subsection (d)(2) applied using the IITA as in effect prior to the date the amendment became law.

EXAMPLE 6

P.A. 93-840 disallows certain subtractions allowed under prior law. P.A. 93-840 did not become law until July 30, 2004, but applies to tax years ending on or after December 31, 2004. A calendar-year taxpayer who, on or before June 15, 2004, had paid the estimated tax due under subsection (d)(2), computed by allowing the subtractions subsequently disallowed by P.A. 93-840, shall not be subject to penalty under IITA Section 804 with respect to the installment due on June 15, 2004.

EXAMPLE 7

The research and development credit allowed under IITA Section 201(k) was repealed by P.A. 93-29 (effective June 20, 2003) for tax years ending on and after December 31, 2003, and an identical research and development credit was enacted in IITA Section 201(k) by P.A. 93-840 (effective July 30, 2004). A calendar-year taxpayer would not be subject to penalty under IITA Section 804 with respect to the installment of estimated tax due on June 15, 2003 if, on or before June 15, 2003, the taxpayer had the estimated tax due under subsection (d)(2) computed by allowing the research and development credit. However, in computing the estimated tax due under subsection (d)(2) for the June 15, 2004 installment, the taxpayer may not claim a research and development credit.

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- i) Cross References. For estimated tax requirements of members of a combined group, see Section 100.5230.
- j) Effective Dates. The provisions of subsection (f) of this Section shall be effective for taxable years beginning on or after January 1, 2011.

(Source: Added at 34 Ill. Reg. 12891, effective August 19, 2010)

SUBPART CCBB: DEFINITIONS**Section 100.9750 Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)**

- a) In general. IITA Section 102 provides that, *except as otherwise expressly provided or clearly appearing from the context, any term used in the IITA shall have the same meaning as when used in a comparable context in the United States Internal Revenue Code of 1954 or any successor law or laws relating to federal income taxes and other provisions of the statutes of the United States relating to federal income taxes as such Code, laws and statutes are in effect for the taxable year.*
- b) Corporations. *The term "corporation" includes associations, joint stock companies, insurance companies and cooperatives. Any entity, including a limited liability company formed under the Illinois Limited Liability Company Act [805 ILCS 180], shall be treated as a corporation if it is so classified for federal income tax purposes. (IITA Section 1501(a)(4))*
 - 1) 26 USCIRC Section 7701(a)(3) defines "corporation" to include *associations, joint stock companies, and insurance companies.* This definition is identical to the definition in IITA Section 1501(a)(4), except that the IITA definition includes cooperatives. Accordingly, any entity treated as a corporation for federal income tax purposes must be treated as a corporation for all purposes of the IITA, and no entity (other than a cooperative) that is not treated as a corporation for federal income tax purposes may be treated as a corporation for purposes of the IITA. Thus, any entity electing to be taxed as a corporation under 26 CFR Treas. Reg. Section 301.7701(a) is a corporation for all purposes of the IITA, and any entity that elects not to be treated as a corporation separate and distinct from its owners is not a corporation separate and distinct from its owners.

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For example:

- A) An entity that has elected to be disregarded as an entity separate from its corporate owner [for any federal income tax purpose](#) pursuant to ~~26 CFR~~[Treas. Reg. Section](#) 301.7701-3(a) and its corporate owner are a single corporation for [the equivalent purpose](#)~~all purposes~~ of the IITA.
 - B) An entity eligible to elect treatment as a corporation under ~~26 CFR~~[Treas. Reg. Section](#) 301.7701-3(a) is deemed to have elected to be treated as a corporation if it elects to be treated as a real estate investment trust (REIT) under IITA Section 856(c)(1). (See ~~26 CFR~~[Treas. Reg. Section](#) 301.7701(c)(1)(v)(B).) Pursuant to ~~26 USC~~[IRC Section](#) 856(i), the separate existence of a qualified REIT subsidiary is ignored, and its assets, liabilities and other items are deemed to belong to the REIT that owns the subsidiary. Accordingly, a REIT and its qualified REIT subsidiaries are a single corporation for all purposes of the IITA.
- 2) An entity that, despite its uninterrupted existence, is treated as a new corporation for purposes of the Internal Revenue Code shall also be treated as a new corporation separate and distinct from its deemed predecessor, for all purposes of the IITA. For example:
- A) An entity that has elected to be disregarded as an entity separate from its corporate owner [for any federal income tax purpose](#) pursuant to ~~26 CFR~~[Treas. Reg. Section](#) 301.7701-3(a), and subsequently elects to be taxed as a corporation, is treated under ~~26 CFR~~[Treas. Reg. Section](#) 301.7701-3(g)(1)(iv) as a new corporation to which the assets of the entity were transferred by the corporate owner in exchange for the stock of the new corporation. Accordingly, prior to the date of the subsequent election, the entity and its corporate owner are a single corporation for [the equivalent purpose](#)~~all purposes~~ of the IITA, while after that election the two entities will be separate corporations.
 - B) A corporation that is treated as two separate corporations (as a corporation that has sold all of its assets and as a new corporation that has purchased all of the assets) pursuant to ~~26 USC~~[IRC](#)

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~~Section~~ 338 is similarly treated as two separate corporations, one in existence before the ~~26 USCIRC-Section~~ 338 transaction and one in existence subsequent to the transaction, for all purposes of the IITA.

- 3) Prior to January 1, 2009, an election to be disregarded under 26 CFR 301.7701-3(a) meant that the owner of the entity would be treated as the employer of the entity's employees for purposes of withholding. For wages paid on or after January 1, 2009, the election to be disregarded does not apply to the entity's duty to withhold federal income tax from employees. (See 26 CFR 301.7701-2(c)(2)(iv) and (e)(5).) Accordingly, an entity that has elected to be disregarded and its owner are treated as a single entity for purposes of computing the federal and Illinois income tax liability of the owner, but the entity will be treated as a corporation separate from its owner for purposes of federal and Illinois obligations to withhold tax from wages paid to employees on or after January 1, 2009.
- c) Subchapter S Corporations. *The term "~~subchapter~~Subchapter S corporation" means a corporation for which there is in effect an election under ~~section~~Section 1362 of the Internal Revenue Code, or for which there is a federal election to opt out of the provisions of the Subchapter S Revision Act of 1982 and have applied instead the prior federal ~~subchapter~~Subchapter S rules as in effect on July 1, 1982. (IITA Section 1501(a)(28))*
- 1) Any corporation that has elected ~~subchapter~~Subchapter S corporation status for federal income tax purposes is automatically a ~~subchapter~~Subchapter S corporation for purposes of the IITA until its status as a ~~subchapter~~Subchapter S corporation is terminated for federal income tax purposes. No separate election is required.
- 2) Under ~~26 USCIRC-Section~~ 1361(b)(3), the separate existence of a "qualified ~~subchapter~~Subchapter S subsidiary" is disregarded and the assets, liabilities and other items of the qualified ~~subchapter~~Subchapter S subsidiary are attributed to the parent ~~subchapter~~Subchapter S corporation. Accordingly, for all purposes of the IITA, a ~~subchapter~~Subchapter S corporation and its qualified ~~subchapter~~Subchapter S subsidiaries shall be treated as a single ~~subchapter~~Subchapter S corporation.
- d) Partnerships. The term "partnership" *includes a syndicate, group, pool, joint*

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venture or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of the IITA, a trust or estate or a corporation. (IITA Section 1501(a)(16))

- 1) ~~26 USCIRC Section~~ 761 provides that the term "partnership" includes a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any business, financial operation or venture is carried on, and which is not, within the meaning of this Title 26, a corporation or a trust or estate. This definition is essentially identical to the definition in (IITA Section 1501(a)(16)). Also, IITA Section 1501(a)(16) provides that *any entity, including a limited liability company formed under the Illinois Limited Liability Company Act, shall be treated as a partnership if it is so classified for federal income tax purposes.* Accordingly, every entity treated as a partnership for federal income tax purposes is a partnership for purposes of the IITA, and no entity that is not treated as a partnership for federal income tax purposes is a partnership for purposes of the IITA. For example:
 - A) An entity that elects to be treated as a partnership for federal income tax purposes under ~~26 CFR Treas. Reg. Section~~ 301.7701(a) is a partnership for ~~all~~ purposes of the IITA.
 - B) An entity that makes an election under ~~26 USCIRC Section~~ 761(a) to not be treated as a partnership is not a partnership for purposes of the IITA.
 - C) If a partnership is treated as a continuation of another partnership pursuant to ~~26 CFR Treas. Reg. Section~~ 1.708-1(b)(2), those partnerships are a single, continuing partnership for all purposes of the IITA.
- 2) As amended by Public Act 91-913, IITA Section 1501(a)(16) provides that *the term "partnership" does not include a syndicate, group, pool, joint venture or other unincorporated organization established for the sole purpose of playing the Illinois State Lottery.* Accordingly, notwithstanding any other provisions of this Section, an entity established for the sole purpose of playing the Illinois State Lottery is not a partnership for purposes of the IITA.

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- 3) Under IITA Section 1501(a)(16), any member of an entity treated as a partnership shall be treated as a partner. Accordingly, any reference in the IITA to a partner refers the owners or members of any entity treated as a partnership.
- e) Trusts. The term "trust" is not defined in the IITA. However, pursuant to IITA Section 102, any entity treated as a trust for federal income tax purposes under [26 CFR Treas. Reg. Section 301.7701-4](#) is a trust for all purposes of the IITA. An entity that has elected to be treated as part of an estate under [26 USC IRC Section 645](#) is not a trust, but is part of the estate for all purposes of the IITA. [Similarly, a trust whose assets, activities and income are treated as belonging to its grantor for federal income tax purposes under the "grantor trust" provisions of 26 USC 671 is not treated as a trust for Illinois income tax purposes.](#)

(Source: Amended at 34 Ill. Reg. 12891, effective August 19, 2010)

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- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
130.310	Amendment
130.311	New Section
- 4) Statutory Authority: 35 ILCS 120/12; 20 ILCS 2505/2505-795
- 5) Effective Date of Amendments: August 19, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 6000; April 30, 2010
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. 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 any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: This rulemaking amends Section 130.310, the Retailers' Occupation Tax provisions concerning food, soft drinks and candy. This rulemaking amends the regulation to implement Public Acts 96-34 and 96-38. This rulemaking sets forth the definition of "candy" and gives examples of products that would be considered "candy" beginning September 1, 2009, and that will no longer be

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taxed at the low 1% rate but will be taxed instead at the general merchandise rate of 6.25%. It also codifies the definition of "soft drinks" and provides examples of which products would be considered "soft drinks" effective September 1, 2009. This rulemaking also removes the rules regarding drugs, medicines and medical appliances from Section 130.310, which are put into a new Section 130.311. The previous Section 130.310 "Food, Drugs, Medicines and Medical Appliances" is labeled "Foods, Soft Drinks and Candy".

This rulemaking creates a new Section 130.311, "Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products" and implements P.A. 96-34 and P.A. 96-38 by excluding grooming and hygiene products from the definition of "nonprescription medicines and drugs" effective September 1, 2009. Effective September 1, 2009, all grooming and hygiene products are taxed at the general merchandise rate of 6.25%.

New Section 130.311 incorporates regulations on medicines, drugs and medical appliances previously contained in Section 130.310 and clarifies the tax rate for items used during cosmetic procedures. It also adds provisions regarding reporting requirements and the content of certifications provided by health professionals to their suppliers to document that items purchased by health professionals qualify for the low rate of tax.

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

Debra M. Boggess
Richard S. Wolters
Associate Counsels
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section	
130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section	
130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
130.225	Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.305	Farm Machinery and Equipment
130.310	Food, Soft Drinks and Candy Drugs, Medicines and Medical Appliances
<u>130.311</u>	<u>Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products</u>
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321	Fuel Used by Air Common Carriers in International Flights
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.331	Manufacturer's Purchase Credit
130.332	Automatic Vending Machines

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- 130.335 Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled Devices
- 130.340 Rolling Stock
- 130.341 Commercial Distribution Fee Sales Tax Exemption
- 130.345 Oil Field Exploration, Drilling and Production Equipment
- 130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
- 130.351 Aggregate Manufacturing

SUBPART D: GROSS RECEIPTS

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- 130.401 Meaning of Gross Receipts
- 130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
- 130.410 Cost of Doing Business Not Deductible
- 130.415 Transportation and Delivery Charges
- 130.420 Finance or Interest Charges – Penalties – Discounts
- 130.425 Traded-In Property
- 130.430 Deposit or Prepayment on Purchase Price
- 130.435 State and Local Taxes Other Than Retailers' Occupation Tax
- 130.440 Penalties
- 130.445 Federal Taxes
- 130.450 Installation, Alteration and Special Service Charges
- 130.455 Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section

- 130.501 Monthly Tax Returns – When Due – Contents
- 130.502 Quarterly Tax Returns
- 130.505 Returns and How to Prepare
- 130.510 Annual Tax Returns
- 130.515 First Return
- 130.520 Final Returns When Business is Discontinued
- 130.525 Who May Sign Returns
- 130.530 Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations
- 130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
- 130.540 Returns on a Transaction by Transaction Basis

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130.545	Registrants Must File a Return for Every Return Period
130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552	Alcoholic Liquor Reporting
130.555	Vending Machine Information Returns
130.560	Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section	
130.601	Preliminary Comments
130.605	Sales of Property Originating in Illinois
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130.701	General Information on Obtaining a Certificate of Registration
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130.720	Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
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130.810	Records Required to Support Deductions
130.815	Preservation and Retention of Records
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130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

- Section
130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

- Section
130.1101 Definition of Federal Area
130.1105 When Deliveries on Federal Areas Are Taxable
130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

- Section
130.1201 General Information
130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

- Section
130.1301 When Lessee of Premises Must File Return for Leased Department
130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

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- Section
130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the

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- Sale
- 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
- 130.1410 Requirements for Certificates of Resale (Repealed)
- 130.1415 Resale Number – When Required and How Obtained
- 130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

- 130.1501 Claims for Credit – Limitations – Procedure
- 130.1505 Disposition of Credit Memoranda by Holders Thereof
- 130.1510 Refunds
- 130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON
SELLING OUT OR DISCONTINUING BUSINESS

Section

- 130.1601 When Returns are Required After a Business is Discontinued
- 130.1605 When Returns Are Not Required After Discontinuation of a Business
- 130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section

- 130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section

- 130.1801 When Powers of Attorney May be Given
- 130.1805 Filing of Power of Attorney With Department
- 130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

Section

- 130.1901 Addition Agents to Plating Baths

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- 130.1905 Agricultural Producers
- 130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
- 130.1915 Auctioneers and Agents
- 130.1920 Barbers and Beauty Shop Operators
- 130.1925 Blacksmiths
- 130.1930 Chiropodists, Osteopaths and Chiropractors
- 130.1934 Community Water Supply
- 130.1935 Computer Software
- 130.1940 Construction Contractors and Real Estate Developers
- 130.1945 Co-operative Associations
- 130.1950 Dentists
- 130.1951 Enterprise Zones
- 130.1952 Sales of Building Materials to a High Impact Business
- 130.1953 Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area
- 130.1954 River Edge Redevelopment Zones
- 130.1955 Farm Chemicals
- 130.1960 Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
- 130.1965 Florists and Nurserymen
- 130.1970 Hatcheries
- 130.1971 Sellers of Pets and the Like
- 130.1975 Operators of Games of Chance and Their Suppliers
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- 130.1990 Peddlers, Hawkers and Itinerant Vendors
- 130.1995 Personalizing Tangible Personal Property
- 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
- 130.2004 Sales to Nonprofit Arts or Cultural Organizations
- 130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
- 130.2006 Sales by Teacher-Sponsored Student Organizations
- 130.2007 Exemption Identification Numbers
- 130.2008 Sales by Nonprofit Service Enterprises
- 130.2009 Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
- 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others

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130.2012	Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
130.2013	Persons in the Business of Both Renting and Selling Tangible Personal Property – Tax Liabilities, Credit
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
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130.2040	Retailers of Clothing
130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
130.2050	Sales and Gifts By Employers to Employees
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130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
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130.2076	Sales to Purchasers Performing Contracts with Governmental Bodies
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2101	Sellers of Floor Coverings
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps, Discount Coupons, Automobile Rebates and Dealer Incentives
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
130.2145	Vendors of Meals
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- 130.2160 Vendors of Tangible Personal Property Employed for Premiums, Advertising,
Prizes, Etc.
130.2165 Veterinarians
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SUBPART T: DIRECT PAYMENT PROGRAM

Section

- 130.2500 Direct Payment Program
130.2505 Qualifying Transactions, Non-transferability of Permit
130.2510 Permit Holder's Payment of Tax
130.2515 Application for Permit
130.2520 Qualification Process and Requirements
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- 130.ILLUSTRATION A Examples of Tax Exemption Card
130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration
130.ILLUSTRATION C Food Flow Chart

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective

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November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196,

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effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill. Reg. 15781, effective October 27, 2009; amended at 33 Ill. Reg. 16711, effective November 20, 2009; amended at 34 Ill. Reg. 9405, effective June 23, 2010; amended at 34 Ill. Reg. 12935, effective August 19, 2010.

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.310 Food, Soft Drinks and Candy~~Drugs, Medicines and Medical Appliances~~

- a) Food. *With respect to food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, candy and food that has been prepared for immediate consumption), the tax is imposed at the rate of 1%. Food for human consumption that is to be consumed off the premises where it is sold includes all food sold through a vending machine, except soft drinks, candy, and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine.* (Section 2-10 of the Act) Public Acts 96-34, 96-37 and 96-38 included changes to the definition of soft drinks and provided that candy is not considered "food for human consumption that is to be consumed off the premises where it is sold". For further information on the definition and taxation of soft drinks, see subsection (d)(6). For further information regarding the definition and taxation of candy, see subsection (d)(7).

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- b) The manner in which food is taxed depends upon 2 distinct factors that must both be considered in determining if food is taxed at the high rate as "food prepared for immediate consumption" or the low rate as "food prepared for consumption off the premises where sold".
- 1) The first factor is whether the retailer selling the food provides premises for consumption of food. If so, a rebuttable presumption is created that all sales of food by that retailer are considered to be prepared for immediate consumption and subject to tax at the high rate. As a result of this presumption, even bulk food could potentially be taxable at the high rate. However, this presumption is rebutted if a retailer demonstrates that:
 - A) the area for on-premises consumption is physically separated or otherwise distinguishable from the area where food not for immediate consumption is sold; and
 - B) the retailer has a separate means of recording and accounting for collection of receipts from sales of both high and low rate foods. For purposes of this subsection (b)(1)(B), the phrase "separate means of recording and accounting for collection of receipts" includes cash registers that separately identify high rate and low rate sales, separate cash registers, and any other methods by which the tax on high and low rate sales are recorded at the time of collection.
 - 2) The second factor is the nature of the food item being sold. As provided in subsection (c), some foods, such as hot foods, are always considered to be "food prepared for immediate consumption", and thus subject to the high rate of tax.
 - 3) Numerous examples applying these factors to different types of food and food retailers are provided in subsection (d)(4)(A)-(I).
- c) Definitions
- 1) "Food". Food is any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including foods such as condiments, spices, seasonings, vitamins,

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bottled water and ice.

- 2) "Food Prepared for Immediate Consumption". Food prepared for immediate consumption means food that is prepared or made ready by a retailer to be eaten without substantial delay after the final stage of preparation by the retailer.
 - A) Food prepared for immediate consumption includes, but is not limited to, the following:
 - i) all hot foods, whether sold in a restaurant, delicatessen, grocery store, discount store, concession stand, bowling alley, vending machine or any other location. At a grocery store, hot foods subject to the high rate of tax include, but are not limited to, pizza, soup, rotisserie or fried chicken and coffee; other examples of food prepared for immediate consumption include popcorn or nachos sold at a movie concession stand; hot dogs sold by a street vendor; and hot precooked meals sold to customers, such as a Thanksgiving dinner. For purposes of this Section, "hot" means any temperature that is greater than room temperature;
 - ii) sandwiches, either hot or cold, prepared by a retailer to the individual order of a customer;
 - iii) salad, olive or sushi bars offered by a retailer at which individuals prepare their own salads (hot or cold);
 - iv) all coffee, tea, cappuccino and other drinks prepared by a retailer for individual consumption, whether hot or cold, are subject to the high rate of tax;
 - v) all food sold for consumption on the premises where sold.
 - B) "Food prepared for immediate consumption" does not include:
 - i) doughnuts, cookies, bagels or other bakery items prepared by a retailer and sold either individually or in another

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- quantity selected by the customer, provided they are for consumption off the premises where sold;
- ii) whole breads, pies and cakes prepared by a retailer, even when prepared to the individual order of a customer;
 - iii) sandwiches that are prepared by a retailer and placed in a deli case or other storage unit;
 - iv) cold salads, jellos, stuffed vegetables or fruits sold by weight or by quart, pint or other quantity by a retailer;
 - v) cheese, fruit, vegetable or meat trays prepared by a retailer, either to the individual order of a customer or premade and set out for sale;
 - vi) food items sold by a retailer that are not prepared or otherwise manufactured by that retailer, such as pre-packaged snacks or chips, unless these items will be consumed on the premises where sold (e.g., in a sandwich shop). For grocers, such items include, but are not limited to, fruits, vegetables, meats, milk, canned goods and yogurt. In addition, effective September 1, 2009, all sales of "candy", as defined in subsection (d)(7), are subject to the high rate of tax.
- C) The provisions of subsection (c)(2)(B) are subject to the rebuttable presumption described in subsection (d). That is, the items listed in subsection (c)(2)(B) are taxable at the low rate only if the retailer had a separate means of recording and accounting for high and low rate sales, and the retailer provides no on-premises facilities for consumption of the food or, if the retailer does provide such facilities, they are physically separated or otherwise distinguishable from the area where food not for immediate consumption is sold.
- 3) "Premises". Premises is that area over which the retailer exercises control, whether by lease, contract, license or otherwise, and, in addition, the area in which facilities for eating are provided, including areas designated for,

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or devoted to, use in conjunction with the business engaged in by the vendor. Vendor premises include eating areas provided by employers for employees and common or shared eating areas in shopping centers or public buildings if customers of food vendors adjacent to those areas are permitted to use them for consumption of food products.

- d) Test to Determine Applicable Rate. The rate at which food is taxable is determined as follows:
- 1) If retailers provide seating or facilities for on-premises consumption of food, all food sales are presumed to be taxable at the high rate as "food prepared for immediate consumption". However, this presumption can be rebutted by evidence that:
 - A) the area for on-premises consumption is physically separated or otherwise distinguishable from the area where food not for immediate consumption is sold; and
 - B) the retailer utilizes a means of recording and accounting for collection of receipts from the sales of food prepared for immediate consumption (high rate) and the sales of food that are not prepared for immediate consumption (low rate).
 - 2) If a retailer does not provide seating or facilities for on-premises consumption of food, then the low rate of tax will be applied to all food items except for "food prepared for immediate consumption by the retailer" as provided in subsection (b) and soft drinks, candy and alcoholic beverages. However, in order for the low rate of tax to apply, retailers that sell both food prepared for immediate consumption and food for consumption off the premises where sold must utilize means of recording and accounting for collection of receipts from the sales of food prepared for immediate consumption (high rate) and the sales of food that are not prepared for immediate consumption (low rate). If these receipts are not maintained, all sales will be presumed to be at the high rate of tax.
 - 3) Illustration C is a decision tree to assist in making high rate/low rate determinations.
 - 4) Examples:

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- A) Grocery Store – On-premises Facilities for Consumption of Food. Provided that the requirements of subsection (d)(1) are met, examples of high rate items include, but are not limited to, hot foods (soup, pizza, rotisserie or fried chicken, stuffed potatoes, hot dogs); all sandwiches, either hot or cold, that are prepared to the individual order of a customer; salads prepared by customers at a salad/olive/sushi bar; and all food sold for consumption on the premises. Also included are hot precooked meals sold to customers, such as a Thanksgiving dinner; however, if precooked meals are sold in an unheated state of preparation, they are considered to be low rate. Meal packages sold by a grocer (e.g., 2 or more pieces of fried chicken with choice of two sides and dinner rolls sold at one price) that include at least 1 hot food item are taxable at the high rate, even if some foods in the package, sold alone, would be taxable at the low rate. Low rate items would include, but are not limited to, doughnuts (regardless of quantity), bagels, rolls and whole breads or bakery items prepared by the retailer; sandwiches that are premade by the retailer and set out for sale to customers; cold pizzas prepared by the retailer and set out for sale to customers; stuffed olives or peppers prepared by the retailer and set out for sale in individual sized containers; and deli items sold by the retailer to customers by size or weight (prepared salads, e.g., potato, pasta, bean or fruit salads; jello; pudding; stuffed olives).
- B) Grocery Store – No On-premises Facilities for Consumption of Food. Provided that the requirements of subsection (d)(2) are met, examples of high rate items would include, but are not limited to, hot foods (soup, pizza, rotisserie or fried chicken, hot dogs); all sandwiches, either hot or cold, that are prepared to the individual order of a customer; and salads that are made by customers at a salad/olive/sushi bar. In addition, effective September 1, 2009, all sales of "candy", as defined in subsection (d)(7), are subject to the high rate of tax. Also included are hot precooked meals sold to customers, such as a Thanksgiving dinner. If precooked meals are sold in an unheated state of preparation, however, they are considered to be low rate. Low rate items would include, but are not limited to, doughnuts (regardless of quantity), bagels, rolls and

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whole breads or bakery items prepared by the retailer; sandwiches that are premade by the retailer and set out for sale to customers; cold pizzas prepared by the retailer and set out for sale to customers; stuffed olives or peppers prepared by the retailer and set out for sale in individual sized containers; and deli items sold by the retailer to customers by size or weight.

- C) Restaurants and Cafeterias. All foods sold by a restaurant or a cafeteria are considered food prepared for immediate consumption. Such food can either be prepared to the individual order of a customer or premade and set out for selection by the customer. However, if a restaurant or cafeteria also sells whole pies, cakes or individual pastries for sale, these items are taxable at the low rate, as long as the requirements of subsection (d)(1) are met.
- D) Bakery. Provided that the requirements of either subsection (d)(1) or (d)(2) are met, the following items are taxable at the low rate: doughnuts, cookies or individual pastries, regardless of quantity, sold for consumption off the premises where sold, and whole cakes or pies, such as wedding or special occasion cakes. Food sold for consumption on the premises, such as doughnuts and coffee, are subject to the high rate of tax.
- E) Delicatessen. Provided that the requirements of either subsection (d)(1) or (d)(2) are met, meat, cheese and prepared salads sold by weight or volume are taxable at the low rate. Individual sandwiches prepared to the individual order of a customer are high rate, as well as other food sold for consumption on the premises.
- F) Ice Cream Store. Ice cream items in individual sizes, either prepared to the individual order of a customer or premade and offered for sale by a retailer, constitute "food prepared for immediate consumption" and are subject to the high rate of tax. These items include ice cream cones, cups of ice cream, sundaes, shakes and premade ice cream sandwiches, bars or cookies. However, provided that the requirements of either subsection (d)(1) or (d)(2) are met, ice cream cakes or rolls or ice cream packaged in premeasured containers, such as a pint, quart or gallon, are subject to tax at the low rate.

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- G) Food Sold at Food Courts. All hot food and food prepared to the individual order of a customer by a retailer at a food court is subject to the high rate of tax. In addition, all other food sold for consumption on the premises of a food court is subject to the high rate of tax.
- H) Convenience Stores. Provided that the requirements of either subsection (d)(1) or (d)(2) are met, prepackaged food items not prepared by a convenience store retailer are subject to the low rate of tax. These items include, but are not limited to, chips, snacks, bread products and cookies. The sale of hot food items, such as hot dogs, nachos or pretzels, are subject to the high rate of tax, as well as other food sold for consumption on the premises. In addition, effective September 1, 2009, all sales of "candy", as defined in subsection (d)(7), are subject to the high rate of tax.
- I) Coffee Shops. Provided that the requirements of either subsection (d)(1) or (d)(2) are met, coffee, latte, cappuccino and tea (prepared either hot or cold) and food sold for consumption on the premises (e.g., pastries, cookies, snacks) are subject to the high rate of tax. Bulk coffees (beans or grounds, for instance) and teas, or pastries that are not consumed on the premises, are subject to the low rate of tax.
- 5) Alcoholic Beverages. The reduced rate does not extend to alcoholic beverages. An alcoholic beverage is any beverage subject to the tax imposed under Article VIII of the Liquor Control Act of 1934 [235 ILCS 5/Art. VIII].
- 6) Soft Drinks. The reduced rate does not extend to soft drinks. Soft drinks ~~are will be~~ taxed at the State sales tax rate of 6.25%. Soft drinks are taxable at the high rate regardless of the type of establishment where they are sold, e.g., a grocery store, restaurant or vending machine.
- A) Until September 1, 2009, the term "soft drinks" means any *complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other*

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preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton, or container regardless of size. "Soft drinks" does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in Section 3(a)(2) and (4) of the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635], or drinks containing 50% or more natural fruit or vegetable juice. (Section 2-10 of the Act) Frozen concentrated fruit juice, dry powdered drink mixes and fruit juices that are reconstituted to natural strength are not soft drinks.

- B) *On and after September 1, 2009, the term "soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume. (Section 2-10 of the Act)*
- C) Natural and artificial sweeteners include, but are not limited to, corn syrup, high fructose corn syrup, invert sugar, dextrose, sucrose, fructose, lactose, saccharose, fruit juice concentrates, molasses, evaporated cane juice, rice syrup, barley malt, honey, Rebaudioside A (Reb A), erythritol, xylitol, aspartame, saccharin, acesulfame K, sucralose and sorbitol. Beverages that list in the ingredient list natural and/or artificial sweeteners including, but not limited to, those listed in this subsection (d)(6)(C), meet the definition of "soft drinks". (Note, for purposes of this Section, natural and artificial sweeteners do not include natural or artificial flavors.)
- D) Examples of soft drinks include, but are not limited to:
- i) soda pop;
 - ii) carbonated and noncarbonated water that contains natural or artificial sweeteners;
 - iii) root beer;
 - iv) sport or energy drinks;

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- v) sweetened tea or coffee (without milk or milk products; see subsection (d)(6)(E));
 - vi) non-alcoholic beer;
 - vii) fruit drinks containing 50% or less fruit juice; and
 - viii) "ready-to-use" non-alcoholic beverage mixers containing 50% or less vegetable or fruit juice by volume, e.g., ready-to-use margarita mixes.
- E) Examples of products that are not considered soft drinks include, but are not limited to:
- i) beverage powders or dry mixes;
 - ii) concentrates, e.g., frozen concentrate lemonade;
 - iii) ground or whole bean coffee and loose leaf tea or tea bags;
 - iv) carbonated and noncarbonated water that does not contain natural or artificial sweeteners;
 - v) carbonated and noncarbonated water that does not contain natural or artificial sweeteners but does contain natural or artificial flavor;
 - vi) vegetable or fruit juices containing greater than 50% vegetable or fruit juice, even if these beverages contain natural or artificial sweeteners;
 - vii) any drinks that contain milk or milk products, soy, rice or similar milk substitutes; and
 - viii) brewed unsweetened black coffee or tea. (Note, even though brewed unsweetened black coffee and tea are not considered soft drinks, hot coffee or hot tea, regardless of whether they contain natural or artificial sweeteners or milk

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or milk products, are subject to tax at the 6.25% rate because they are considered to be "food prepared for immediate consumption". (See subsection (c)(2)(A)(iv).)

- 7) Candy. On and after September 1, 2009, the reduced rate does not extend to "candy". Candy ~~is~~will be taxed at the ~~State~~state sales tax rate of 6.25%.

A) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation that contains flour or requires refrigeration. (Section 2-10 of the Act) To meet the definition of candy, the item must be analyzed by using four factors, as explained in subsections (d)(7)(B) through (E).

B) Flour: Products whose ingredient list contain the word "flour", regardless of the type of flour (e.g., wheat, rice) are not candy. A product does not contain flour unless the product label specifically lists flour as an ingredient. Ingredients such as soy or whey that may be used in place of, or as a substitute for, flour are not considered to be flour for purposes of determining if the item qualifies as candy unless they are specifically labeled as flour in the ingredient list.

i) Items that are not considered candy because they list flour as one of the ingredients on the label include, but are not limited to, certain licorice, certain candy bars, cookies and chocolate covered pretzels.

ii) Snack mixes that contain both candy and non-candy items, such as trail mix that contains products with flour or bags of individually wrapped candy bars in which some candy bars contain flour and others do not, are not candy if the ingredient list on the bag lists flour as an ingredient of any of the items.

C) Refrigeration: Items that require refrigeration are not considered to be candy. For example, popsicles and ice cream bars are not candy. Items that otherwise qualify as candy and do not require

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refrigeration are candy even if they are sold refrigerated or frozen, e.g., a candy bar that has been frozen. Merely suggesting that the product be refrigerated (e.g., to ensure product quality, please keep this package stored in a cool place, at or below 65°F) is insufficient to meet the refrigeration requirement.

D) Sweeteners: Candy is limited to products that contain sugar, honey or other natural or artificial sweeteners. Examples of natural or artificial sweeteners include, but are not limited to, corn syrup, high fructose corn syrup, invert sugar, dextrose, sucrose, fructose, lactose, saccharose, fruit juice concentrates, molasses, evaporated cane juice, rice syrup, barley malt, honey, Rebaudioside A (Reb A), erythritol, xylitol, aspartame, saccharin, acesulfame K, sucralose, sorbitol.

E) Bars, drops or pieces: Items must be in the form of bars, drops or pieces to be considered candy.

i) Examples of items that are not in the form of bars, drops or pieces and are not candy include, but are not limited to, jars of honey, syrups, peanut butter, preserves or jams, cans of fruit in syrup, cans or tubes of cake frosting and cereals.

ii) Examples of items that are in the form of bars, drops or pieces and are candy include, but are not limited to, sweetened cooking or baking bars or chips, sweetened coconut flakes, honey glazed peanuts, baking sprinkles, caramel-coated popcorn (does not include un-popped popcorn), artificially flavored candy mints, caramel or candied apples and almond bark.

F) Examples of items that are considered candy (provided that they meet all the requirements of subsections (d)(7)(B) through (D)) include, but are not limited to:

i) chocolate bars, including sweet or semi-sweet bars or bits;

ii) chocolate molded items (e.g., bunny, snowman);

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- iii) chocolate covered or dipped strawberries, chocolate or carob covered raisins or nuts;
 - iv) chocolate covered potato chips;
 - v) chocolate covered bacon;
 - vi) caramel-coated popcorn (does not include un-popped popcorn), caramel apples, caramel corn or rice cakes;
 - vii) almond bark, peanut brittle;
 - viii) marshmallows;
 - ix) breath mints;
 - x) chewing gum;
 - xi) fruit roll-ups;
 - xii) glazed dried apricots;
 - xiii) trail mixes that contain candy ingredients, e.g., sweetened nuts;
 - xiv) granola bars;
 - xv) any type of nut that is sweetened with any natural or artificial sweetener, e.g., if the ingredient list contains any natural or artificial sweetener.
- G) Examples of items that are not considered candy because they do not meet the requirements of subsections (d)(7)(B) through (D) include, but are not limited to (note, if some of the items listed below, such as popcorn, are covered or dipped in chocolate, caramel or other candy coating, they may be considered candy):
- i) cakes, pies, cookies, pastry;

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- ii) ice cream, ice cream bars, frozen yogurt, popsicles, hot fudge ice cream topping;
 - iii) pretzels;
 - iv) corn chips, potato chips, popcorn and beef jerky;
 - v) chocolate milk, strawberry milk, fruit juice, soft drinks;
 - vi) powdered hot chocolate cocoa mix and other drink mixes;
 - vii) food coloring;
 - viii) unsweetened chocolate;
 - ix) cereals; and
 - x) licorice and candy bars that contain flour as an ingredient.
- e) ~~Prescription and non-prescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing utensils, syringes and needles used by diabetics. With respect to prescription and non-prescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing utensils, syringes and needles used by diabetics, for human use, the tax is imposed at the rate of 1%.~~
- 1) ~~A medicine or drug is any pill, powder, potion, salve or other preparation for human use that purports on the label to have medicinal qualities. Medicines prescribed by veterinarians for animals are subject to the high rate of tax. A written claim on the label that a product is intended to cure or treat disease, illness, injury or pain, or to mitigate the symptoms of a disease, illness, injury or pain, constitutes a medicinal claim.~~
- A) ~~Examples of medicinal claims that will qualify the product for the low rate of tax include, but are not limited to:~~
- i) ~~"medicated";~~

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- ii) ~~"heals (a medical condition)";~~
 - iii) ~~"cures (a medical condition)";~~
 - iv) ~~"for relief (of a medical condition)";~~
 - v) ~~"fights infection";~~
 - vi) ~~"stops pain";~~
 - vii) ~~"relief from poison ivy or poison oak";~~
 - viii) ~~"relieves itching, cracking, burning";~~
 - ix) ~~"a soaking aid for sprains and bruises";~~
 - x) ~~"relieves muscular aches and pains";~~
 - xi) ~~"cures athlete's foot";~~
 - xii) ~~"relieves skin irritation, chafing, heat rash and diaper rash";~~
 - xiii) ~~"relief from the pain of sunburn";~~
 - xiv) ~~"soothes pain".~~
- B) ~~The use of the terms "antiseptic", "antibacterial" or "kills germs" may or may not constitute a medicinal claim.~~
- i) ~~The use of these terms in conjunction with a claim that the product kills germs in general does not constitute a medicinal claim.~~
 - ii) ~~However, a claim that a product is for use as an antiseptic to kill germs to prevent infection in cuts, scrapes, abrasions and burns does constitute a medicinal claim.~~
- C) ~~Examples of claims that do not constitute medicinal claims include, but are not limited to:~~

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- i) ~~"cools";~~
 - ii) ~~"absorbs wetness that can breed fungus";~~
 - iii) ~~"deodorant, or destroys odors";~~
 - iv) ~~"moisturizes";~~
 - v) ~~"freshens breath";~~
 - vi) ~~"antiperspirant";~~
 - vii) ~~"sunscreen";~~
 - viii) ~~"prevents";~~
 - ix) ~~"protects".~~
- D) ~~All lip balms qualify for the reduced rate of tax because the word "balm" is defined as a healing ointment or a preparation that relieves pain.~~
- 2) ~~A medical appliance is an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the human body. These items may be prescribed by licensed health care professionals for use by a patient, purchased by health care professionals for the use of patients, or purchased directly by individuals. Purchases of medical appliances by lessors that will be leased to others for human use also qualify for the exemption. Included in the exemption as medical appliances are such items as artificial limbs, dental prostheses and orthodontic braces, crutches and orthopedic braces, wheelchairs, heart pacemakers, and dialysis machines (including the dialyzer). Corrective medical appliances such as hearing aids, eyeglasses and contact lenses qualify for exemption. Diagnostic equipment shall not be deemed to be a medical appliance, except as provided in Section 130.310(d). Other medical tools, devices and equipment such as x-ray machines, laboratory equipment, and surgical instruments that may be used in the treatment of patients but that do not directly substitute for a malfunctioning part of the~~

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~~human body do not qualify as exempt medical appliances. Sometimes a kit of items is sold so the purchaser can use the kit items to perform treatment upon himself or herself. The kit will contain paraphernalia and sometimes medicines. An example is a kit sold for the removal of ear wax. Because the paraphernalia hardware is for treatment, it generally does not qualify as a medical appliance. However, the Department will consider the selling price of the entire kit to be taxable at the reduced rate when the value of the medicines in the kit is more than half of the total selling price of the kit.~~

- 3) ~~Supplies, such as non-sterile cotton swabs, disposable diapers, toilet paper, tissues, towelettes, and cosmetics such as lipsticks, perfume and hair tonics do not qualify for the reduced rate. Sterile dressings, bandages and gauze do qualify for the reduced rate. Diapers for incontinent adults, as well as undergarments for incontinent adults, qualify for the low rate of tax.~~
- d) ~~*Insulin, urine testing materials, syringes, and needles used in treating diabetes in human beings qualify for the reduced rate of tax. (Section 2-10 of the Act)*~~
- e) ~~Modifications Made to a Motor Vehicle for the Purpose of Rendering it Usable by a Disabled Person~~
- 1) ~~Effective August 17, 1995, modifications made to a motor vehicle, as defined in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5/1-146], for the purpose of rendering it usable by a disabled person, qualify for the reduced rate of tax (Section 2-10 of the Act). The low rate applies to modifications that enable a disabled person to drive a vehicle, or that assist in the transportation of disabled persons. Examples of such modifications include, but are not limited to, special steering, braking, shifting, or acceleration equipment, or equipment that modifies the vehicle for accessibility, such as a chair lift.~~
- 2) ~~For purposes of this regulation, the term "disabled person" has the same meaning as a "person with disabilities" in Section 1-159.1 of the Illinois Vehicle Code [625 ILCS 5/1-159.1].~~
- e) Reporting

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- 1) The retailer must keep an actual record of all sales and must report tax at the applicable rates, based on sales as reflected in the retailer's records. Books and records must be maintained in sufficient detail so that all receipts reported with respect to food, ~~drugs, medicines and medical appliances~~ can be supported. ~~The determination of the percentage of sales of food items sold in individual-sized servings referred to in subsections (b)(2)(B) and (b)(3), will be made by comparing the dollar amounts of the gross receipts of the two categories of foods. The determination shall be based upon a period that will generally reflect the true character of overall sales rather than isolated or seasonal variations.~~
- 2) A retailer who finds it difficult to maintain detailed records of receipts from sales of food, ~~drugs, medicines and medical appliances~~ at the reduced rate, as well as detailed records of receipts from all other sales of tangible personal property at the full rate, may request the use of a formula. The request must be made to the Department in writing, must state the reasons that a formula method is necessary, and must outline the proposed formula in detail. Included in the request must be a description of how the method can be audited by the Department. Upon ~~a~~ finding ~~findings~~ that the formula can be audited and will produce results that will reasonably approximate the actual taxable receipts in each category, the Department may issue its approval for use of the formula. If approval is granted, the Department reserves the right to withdraw approval or require a change in procedure at any time.

(Source: Amended at 34 Ill. Reg. 12935, effective August 19, 2010)

Section 130.311 Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products

- a) General. With respect to prescription and non-prescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person and insulin, urine testing utensils, syringes and needles used by diabetics, for human use, the tax is imposed at the rate of 1%. Grooming and hygiene products do not qualify for the 1% rate, regardless of whether the products make medicinal claims. Grooming and hygiene products are taxed at the general merchandise rate of 6.25%.

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- b) Medicines and Drugs. Except for grooming and hygiene products described in subsection (c), a medicine or drug is any pill, powder, potion, salve or other preparation for human use that purports on the label to have medicinal qualities. Medicines prescribed by veterinarians for animals are subject to the high rate of tax. A written claim on the label that a product is intended to cure or treat disease, illness, injury or pain or to mitigate the symptoms of such disease, illness, injury or pain constitutes a medicinal claim.
- 1) Examples of medicinal claims that will qualify the product for the low rate of tax include, but are not limited to:
- A) "medicated";
 - B) "heals (a medical condition)";
 - C) "cures (a medical condition)";
 - D) "for relief (of a medical condition)";
 - E) "fights infection";
 - F) "stops pain";
 - G) "relief from poison ivy or poison oak";
 - H) "relieves itching, cracking, burning";
 - I) "a soaking aid for sprains and bruises";
 - J) "relieves muscular aches and pains";
 - K) "cures athlete's foot";
 - L) "relieves skin irritation, chafing, heat rash and diaper rash";
 - M) "relief from the pain of sunburn";
 - N) "soothes pain".

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- 2) The use of the terms "antiseptic", "antibacterial" or "kills germs" may or may not constitute a medicinal claim.
- A) The use of these terms in conjunction with a claim that the product kills germs in general does not constitute a medicinal claim.
- B) However, a claim that a product is for use as an antiseptic to kill germs to prevent infection in cuts, scrapes, abrasions and burns does constitute a medicinal claim.
- 3) Examples of claims that do not constitute medicinal claims include, but are not limited to:
- A) "cools";
- B) "absorbs wetness that can breed fungus";
- C) "deodorant" or "destroys odors";
- D) "moisturizes";
- E) "freshens breath";
- F) "antiperspirant";
- G) "sunscreen";
- H) "prevents";
- I) "protects".
- c) Grooming and Hygiene Products. Beginning September 1, 2009, "nonprescription medicines and drugs" does not include grooming and hygiene products. "Grooming and hygiene products" includes, but is not limited to, soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and sun screens, unless those products are available by prescription only, regardless of whether the products meet the definition of "over-the-counter drugs". "Over-the-counter drug" means a drug for human use that contains a label that identifies the product as a drug as required by 21 CFR

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201.66. The "over-the-counter drug" label includes a "Drug Facts" panel or a statement of the "active ingredients" with a list of those ingredients contained in the compound, substance or preparation. [35 ILCS 120/2-10]

- 1) As a result, on or after September 1, 2009:
 - A) nonprescription medicines and drugs that are grooming and hygiene products do not qualify for the 1% rate of tax for medicines and drugs under subsection (b). Grooming and hygiene products do not qualify for the 1% rate, regardless of whether the products make medicinal claims or meet the definition of over-the-counter drugs. Grooming and hygiene products are taxed at the general merchandise rate of 6.25%.
 - B) products available only with a prescription are not "grooming and hygiene products".
- 2) Examples of products that are grooming and hygiene products include, but are not limited to:
 - A) all shampoos, hair conditioners and hair care products;
 - B) shaving creams or lotions;
 - C) deodorants;
 - D) moisturizers;
 - E) breath spray;
 - F) all condoms, with and without spermicide;
 - G) baby diapers and adult diapers, pantliners and pads;
 - H) baby powder;
 - I) contact lens solutions;
 - J) hand sanitizers;

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K) acne products;

L) skin creams, lotions, ointments and conditioners;

M) foot powders;

N) foot wear insoles that are intended to eliminate odor;

O) feminine hygiene products; and

P) lip balms.

3) The following products are not grooming and hygiene products and may qualify for the 1% rate if they meet the requirements of subsection (b):

A) hydrocortisone creams or ointments;

B) anti-itch creams or ointments;

C) vaginal creams or ointments;

D) nasal sprays;

E) eye drops;

F) topical pain relievers;

G) ice/heat creams;

H) rubbing alcohol;

I) denture creams or adhesives; and

J) styptic pencils.

4) Nonprescription medicines and drugs and products that are not grooming and hygiene products do not qualify for the 1% rate of tax unless they meet the requirements of subsection (b) of this Section.

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- 5) Products that are taken orally and ingested, such as vitamins, supplements and weight gain or weight loss products, are not grooming and hygiene products.
- d) Medical Appliances: A medical appliance is an item that is used to directly substitute for a malfunctioning part of the human body.
 - 1) For purposes of this Section, an item that becomes part of the human body by substituting for any part of the body that is lost or diminished because of congenital defects, trauma, infection, tumors or disease is considered a medical appliance. Examples of medical appliances that will qualify the product for the low rate of tax include, but are not limited to:
 - A) breast implants that restore breasts after loss due to cancer;
 - B) heart pacemakers;
 - C) artificial limbs;
 - D) dental prosthetics;
 - E) crutches and orthopedic braces;
 - F) dialysis machines (including the dialyzer);
 - G) wheelchairs;
 - H) artificial limbs; and
 - I) mastectomy forms and bras.
 - 2) Corrective medical appliances such as hearing aids, eyeglasses, contact lens and orthodontic braces qualify as medical appliances subject to the low rate of tax.
 - 3) Sterile band-aids, dressings, bandages and gauze qualify for the low rate because they serve as a substitute for skin.

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- 4) Items transferred incident to cosmetic procedures are not considered medical appliances. For purposes of this Section, a cosmetic procedure means any procedure performed on an individual that is directed at improving the individual's appearance and that does not prevent or treat illness or disease, promote the proper function of the body or substitute for any part of the body that is lost or diminished because of congenital defects, trauma, infection, tumors or disease. Cosmetic procedures include, but are not limited to, elective breast, pectoral or buttock augmentation.
 - 5) Diagnostic equipment shall not be deemed to be a medical appliance, except as provided in Section 130.310(d). Other medical tools, devices and equipment such as x-ray machines, laboratory equipment and surgical instruments that may be used in the treatment of patients but that do not directly substitute for a malfunctioning part of the human body do not qualify as medical appliances. Sometimes a kit of items is sold where the purchaser will use the kit items to perform treatment upon himself or herself. The kit will contain paraphernalia and sometimes medicines. An example is a kit sold for the removal of ear wax. Because the paraphernalia hardware is for treatment, it generally does not qualify as a medical appliance. However, the Department will consider the selling price of the entire kit to be taxable at the reduced rate when the value of the medicines in the kit is more than half of the total selling price of the kit.
 - 6) Supplies, such as cotton swabs, disposable diapers, toilet paper, tissues and towelettes and cosmetics, such as lipsticks, perfume and hair tonics, do not qualify for the reduced rate.
 - 7) Medical appliances may be prescribed by licensed health care professionals for use by a patient, purchased by health care professionals for the use of patients or purchased directly by individuals. Purchases of medical appliances by lessors that will be leased to others for human use also qualify for the reduced rate of tax.
- e) Insulin, urine testing materials, syringes and needles used in treating diabetes in human beings qualify for the reduced rate of tax. (Section 2-10 of the Act)

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f) Modifications Made to a Motor Vehicle for the Purpose of Rendering It Usable by a Disabled Person

- 1) Effective August 17, 1995, modifications made to a motor vehicle, as defined in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5/1-146], for the purpose of rendering it usable by a disabled person, qualify for the reduced rate of tax (Section 2-10 of the Act). The low rate applies to modifications that enable a disabled person to drive a vehicle or that assist in the transportation of disabled persons. Examples of such modifications include, but are not limited to, special steering, braking, shifting or acceleration equipment or equipment that modifies the vehicle for accessibility, such as a chair lift.
- 2) For purposes of this subsection (f), the term "disabled person" has the same meaning as a "person with disabilities" in Section 1-159.1 of the Illinois Vehicle Code [625 ILCS 5/1-159.1].

g) Reporting

- 1) The retailer must keep an actual record of all sales and must report tax at the applicable rates, based on sales as reflected in the retailer's records. Books and records must be maintained in sufficient detail so that all receipts reported with respect to drugs, medicines and medical appliances can be supported.
- 2) Suppliers that sell items to health professionals must collect tax based on the actual use of the items. Health professionals that purchase items that may or may not qualify for the low rate, depending upon the ultimate use of the items by the health professionals, may provide their suppliers with certificates that identify the percentage of items being purchased that qualify for the low rate, e.g., that are purchased to be used to replace a malfunctioning part of the body. (For example, cosmetic versus reconstructive procedures.)
 - A) The certificate should contain the following information:
 - i) The seller's name and address;
 - ii) the purchaser's name and address;

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- iii) a description of the medical appliances being purchased;
 - iv) the percentage of the medical appliances being purchased that qualify for the low rate;
 - v) the purchaser's signature or the signature of an authorized employee or agent of the purchaser and date of signing; and
 - vi) if the purchaser is registered with the Department, the purchaser's Registration Number or Resale Number.
- B) A supplier that obtains a certificate from a health professional that complies with subsection (g)(2)(A) will not be liable for additional Retailers' Occupation Tax in the event the actual percentage of items purchased by the health professional that qualify for the low rate is less than the percentage claimed in the certificate if it remitted Retailers Occupation Tax to the Department based on the information contained in the certificate received from the health professional.

(Source: Added at 34 Ill. Reg. 12935, effective August 19, 2010)

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- 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 Action:</u>
660.5	Amendment
660.10	Amendment
660.15	Amendment
660.25	Amendment
660.30	Amendment
- 4) Statutory Authority: 35 ILCS 143/10-45
- 5) Effective Date of Amendments: August 19, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 34 Ill. Reg. 6038; April 30, 2010
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. 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 any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The Tobacco Products Tax Act of 1995 imposes a tax on persons engaged in the business as a distributor of tobacco products as defined in

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the Act at the rate of 18% of the wholesale price of tobacco products sold or otherwise disposed of to retailers or consumers located within the State. "Distributor" generally means a manufacturer or wholesaler who sells, exchanges or distributes tobacco products to retailers or consumers in this State. In addition, any retailer who receives tobacco products on which the tax has not been paid or will not be paid by another distributor is also statutorily defined as a "distributor." For example, a retailer qualifies as a distributor if it imports into this State tobacco products purchased from out-of-state, unlicensed distributors or wholesalers. Distributors are required by law to obtain licenses from the Department of Revenue, file returns, pay the tax, and maintain books and records.

The Department continues to find that retailers who receive tobacco products on which the tax has not been paid or will not be paid by another distributor are not obtaining licenses from the Department, filing returns and paying the tax as required by law. A number of Sections to Part 660 have been amended to better explain when retailers are required to obtain distributor's licenses from the Department, file returns and pay the tax and to clarify that surcharges added by manufacturers and distributors are considered part of the wholesale price subject to tax. To assist retailers in determining whether the tax has been paid, the amendments require distributors to place their license numbers on invoices. The invoice must also state whether tax has been paid in full or whether any part of the sale is exempt from tax. Whenever any sales invoice issued by a supplier to a retailer for tobacco products sold to the retailer does not contain the distributor's license number or a statement that the tax has been paid, a prima facie presumption arises that the tax imposed by the Act has not been paid. The amendments also clarify how retailers and distributors are to document exemptions from tax.

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

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

217/782-2844

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 660
TOBACCO PRODUCTS TAX ACT OF 1995

Section

660.5660.05	Nature and Rate of Tobacco Products Tax
660.10	General Definitions
660.15	Licenses
660.20	Returns
660.25	Books and Records
660.30	Exempt Sales
660.35	Claims for Credit

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.

Section ~~660.5660.05~~ Nature and Rate of Tobacco Products Tax

- a) The 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.
- 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. (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 660.15, 660.20 and 660.30.)

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- d) The Tobacco Products Tax is paid on the wholesale price. The wholesale price is the established list price for which a manufacturer sells tobacco products to a distributor, or for which 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 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), 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 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 34 Ill. Reg. 12972, effective August 19, 2010)

Section 660.10 General Definitions

"Act" means the Tobacco Products Tax Act of 1995.

"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

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products to retailers or consumers in this State.

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)
~~Such retailers may include the following:~~

~~A retailer who purchases tobacco products for delivery outside of Illinois. Such retailer may elect to register with the Department thereby enabling him or her to provide his or her distributors with a blanket Certificate of Resale. See Section 660.30(f) (Exempt Sales). The retailer must then report and pay tax on those tobacco products he or she sells in Illinois. If the retailer is able to calculate the percentage of tobacco products that he or she will sell to consumers, such retailer may pay his or her supplier for those taxable sales.~~

~~A retailer who purchases from an out-of-State distributor, which has no nexus with Illinois and is therefore not registered with the Department. This retailer must therefore register with the Department and remit tax on sales to Illinois consumers.~~

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. (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.

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"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. (Section 10-5 of the Act)

"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. (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. (Section 10-5 of the Act)

"Tobacco products" means any cigars; cheroots; stogies; 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 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. (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. (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.

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"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.

(Source: Amended at 34 Ill. Reg. 12972, effective August 19, 2010)

Section 660.15 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 forms furnished and 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. 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), 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) 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) 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 by any distributor or manufacturer not otherwise subject to the tax imposed under ~~the~~this 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 in such a way that their sales

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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 ~~thosesueh~~ wholesalers are able to provide distributors with Certificates of Resale when purchasing the tobacco products that will be resold. ~~ThoseSueh~~ wholesalers need not file returns with the Department.

(Source: Amended at 34 Ill. Reg. 12972, effective August 19, 2010)

Section 660.25 Books and Records

- a) Every distributor of tobacco products who is required to procure a license under the Act, including retailers who are required to procure a 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.
 - 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

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NOTICE OF ADOPTED AMENDMENTS

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 shall contain the distributor's Tobacco Products License number.
- e) Every sales invoice issued by a licensed distributor shall state whether:
 - 1) the tax imposed by the Act has been 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
 - 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.

(Source: Amended at 34 Ill. Reg. 12972, effective August 19, 2010)

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Section 660.30 Exempt Sales

- a) Sales of tobacco products by distributors or wholesalers who will not sell the product to a retailer or consumer are exempt from the tax imposed by this Act. For example, sales by a distributor to another distributor as sales for resale are exempt from the tax imposed by 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 taxation by this State.* (Section 10-10 of the Act) Sales of tobacco products delivered by a distributor to persons located outside of Illinois are exempt from the tax imposed by this Act.
- c) Sales of tobacco products to retailers who will deliver the tobacco products outside of Illinois are exempt.
- d) The tax imposed shall not apply to sales or other disposition of tobacco products to the United States Government or any entity of the United States government~~thereof~~. 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~~this~~ Act.
- e) The tax imposed 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 for delivery outside of Illinois are exempt under subsection (c)~~above~~. However, when the~~such a~~ retailer

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may deliver tobacco products outside of Illinois but may deliver some within Illinois and ~~when~~where 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~~such tobacco products 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~~this 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 in which way he or she will dispose of the tobacco products. Consequently, 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)~~sale other than a sale at retail or is purchasing for delivery outside of Illinois or is assuming responsibility for reporting and remitting tax as provided for under subsection (f).

(Source: Amended at 34 Ill. Reg. 12972, effective August 19, 2010)

SECRETARY OF STATE

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Office of Secretary of State Ethics Commission Complaint Policies and Procedures
- 2) Code Citation: 2 Ill. Adm. Code 568
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
568.100	Repeal
568.110	Repeal
568.120	Repeal
568.130	Repeal
568.135	Repeal
568.140	Repeal
568.150	Repeal
568.160	Repeal
568.170	Repeal
568.180	Repeal
568.190	Repeal
568.200	Repeal
568.210	Repeal
568.220	Repeal
568.230	Repeal
568.240	Repeal
568.250	Repeal
568.260	Repeal
568.270	Repeal
568.280	Repeal
568.290	Repeal
- 4) Statutory Authority Implementing and authorized by the State Gift Ban Act [5 ILCS 425]
- 5) Effective Date of Repealer: August 18, 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

SECRETARY OF STATE

NOTICE OF ADOPTED REPEALER

- 9) Notice of Proposal Published in the Illinois Register: April 2, 2010; 34 Ill. Reg. 4662
- 10) Has JCAR issued a Statement of Objection to this repealer? No
- 11) Differences between proposal and final version: No changes made between proposal and adoption.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR.
- 13) Will this repealer replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Repealer: This rulemaking repeals provisions that created the Office of Secretary of State Ethics Commission and set forth procedures regarding the operations of that commission. With the enactment of the State Officials and Employees Ethics Act, the commission created by these rules became obsolete.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Secretary of State
Stephen Roth, Director of Personnel Department
196 Howlett Building
Springfield, IL 62756

217/785-1750
- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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- 1) Heading of the Part: Conditions of Employment
- 2) Code Citation: 80 Ill. Adm. Code 303
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
303.120	Amendment
303.125	Amendment
303.250	Amendment
303.270	Amendment
- 4) Statutory Authority: Authorized by the Personnel Code [20 ILCS 415/8c(2), 415/8e, and 415/9] and the Civil Administrative Code of Illinois [20 ILCS 405/405-10]
- 5) Effective Date of Amendments: August 20, 2010
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment is not to expire prior to the end of the 150-day period.
- 7) Date filed with the Index Department: August 20, 2010
- 8) A copy of the emergency rulemaking, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: In the Emergency Budget Act of Fiscal Year 2011 (Public Act 96-958), the General Assembly found and declared that the State of Illinois is confronted with an unprecedented fiscal crisis. An emergency therefore exists constituting a threat to the public interest, safety, or welfare, as required by 5 ILCS 100/5-45. A furlough program for non-bargaining-unit State employees has been implemented as one measure addressing this crisis. The rules filed herewith are necessary to mitigate immediate operational impact and the immediate adverse impact on the pension credits of some affected employees.
- 10) A Complete Description of the Subjects and Issues Involved: In Section 303.120, the changes to subsection (c) permit employees subject to a non-bargaining unit furlough program to utilize vacation and personal days as furlough days to remain in pay status. They further clarify that while an agency may not mandate that an employee take a furlough day on a holiday, an employee may elect to take a furlough day on a holiday. The changes to Section 303.120(d) address how employees electing to utilize vacation or

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personal days to remain in pay status during furlough shall record that time on their timesheets.

In Section 303.125, the change permits employees to utilize personal leave to remain in pay status during furlough and specifies that such leave may only be taken in one-half or full day increments and in full compliance with furlough program requirements.

In Section 303.250, the non-substantive changes are intended to make the rules easier to understand. The first sentence of subsection (c) is being moved to Section 303.270 as it is consistent with the subject matter of that Section. The second sentence of subsection (c) is being deleted as redundant to a portion of Section 303.270. The remaining subsections are re-lettered accordingly.

In Section 303.270, the changes include the assignment of letters to the subsections for ease of reading and reference. Subsection (a) remains unchanged. Subsection (b) provides that vacation time, that would otherwise have expired for employees subject to non-bargaining unit furlough programs, will be extended for an additional 12 months. The first sentence of subsection (c) has been moved to this Section from Section 303.250 for ease of understanding. The second paragraph within subsection (c) permits employees to utilize vacation time to remain in pay status during furlough and specifies that such time may only be taken in one-half or full day increments and in full compliance with furlough program requirements.

- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objective: These amendments affect only the State employees subject to Administrative Order #1 (2010) and do not set out any guidelines that affect local or other jurisdictions in the State.
- 13) Information and questions regarding these amendments shall be directed to:

Mr. Jeff Shuck
CMS Deputy General Counsel - Bureau of Personnel
720 Stratton Office Building, Floor 7
Springfield, Illinois 62706

217/782-5778

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- 14) Does this amendment require the review of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25]? No

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

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 303
CONDITIONS OF EMPLOYMENT

SUBPART A: GRIEVANCE PROCEDURE

- Section
- 303.10 Definition of a Grievance
- 303.20 Procedure
- 303.30 Grievance Committee
- 303.45 Representation

SUBPART B: LEAVE OF ABSENCE

- Section
- 303.90 Sick Leave
- 303.100 Accumulation of Sick Leave
- 303.102 Payment in Lieu of Sick Leave
- 303.105 Reinstatement of Sick Leave
- 303.110 Advancement of Sick Leave
- 303.112 Sick Leave Bank
- 303.115 Veterans Hospital Leave
- 303.120 Furlough Program
- | EMERGENCY
- 303.125 Leave for Personal Business
- | EMERGENCY
- 303.130 Maternity/Paternity and Adoption Leave
- 303.131 Leave in the Event of a Stillborn Child
- | 303.135 ~~On-The-Job Injury~~ ~~On-The-Job Injury~~ – Industrial Disease
- 303.140 Leaves of Absence Without Pay
- 303.142 Leave to Attend Union Conventions
- 303.145 Disability Leave
- 303.148 Family Responsibility Leave
- 303.149 Organ Donor Leave
- 303.150 Employee Rights After Leave

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303.153	Failure to Return
303.155	Leave to Take Exempt Position
303.160	Military and Peace Corps Leave
303.170	Military Reserve Training and Emergency Call-Up
303.171	Leave for Military Physical Examinations
303.175	Disaster Service Leave With Pay
303.176	Disaster Service Leave With Pay – Terrorist Attack
303.180	Attendance in Court
303.190	Authorized Holidays
303.200	Holiday Observance
303.215	Payment for Holidays
303.220	Holiday During Vacation
303.225	Eligibility for Holiday Pay
303.250	Vacation Eligibility

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303.260	Prorated Vacation for Part-Time Employees
303.270	Vacation Schedule and Loss of Earned Vacation

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303.290	Payment in Lieu of Vacation
303.295	Vacation Benefits on Death of Employee

SUBPART C: WORK HOURS AND SCHEDULES

Section	
303.300	Work Schedules
303.310	Emergency Shut-Down
303.320	Overtime
303.330	Overtime Payable Upon Death
303.340	Attendance Records
303.350	Notification of Absence
303.355	Review of Attendance Records

SUBPART D: UNDATED OR INCOMPLETE FORMS

Section	
303.360	Undated Forms
303.370	Incomplete Forms

SUBPART E: EMPLOYEE SEPARATIONS

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Section

303.380 Reason for Separation
303.385 Repayment of Benefit Time

SUBPART F: TUITION REIMBURSEMENT

Section

303.390 Tuition Reimbursement

AUTHORITY: Implementing and authorized by the Personnel Code [20 ILCS 415] and the Organ Donor Leave Act [5 ILCS 327].

SOURCE: Filed May 29, 1975; amended at 3 Ill. Reg. 22, p. 78, effective June 1, 1979; amended at 3 Ill. Reg. 26, p. 199, effective July 1, 1979; emergency amendment at 3 Ill. Reg. 48, p. 188, effective January 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 11, p. 70, effective March 1, 1980; amended at 4 Ill. Reg. 15, p. 216, effective March 31, 1980; amended at 4 Ill. Reg. 22, p. 227, effective June 1, 1980; amended at 5 Ill. Reg. 8029, effective August 1, 1981; codified at 7 Ill. Reg. 13209; emergency amendment at 8 Ill. Reg. 329, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7788, effective May 23, 1984; amended at 14 Ill. Reg. 3433, effective February 27, 1990; emergency amendment at 15 Ill. Reg. 5076, effective March 20, 1991, for a maximum of 150 days; emergency expired August 17, 1991; amended at 15 Ill. Reg. 5214, effective April 2, 1991; amended at 15 Ill. Reg. 14067, effective September 12, 1991; amended at 16 Ill. Reg. 8368, effective May 21, 1992; amended at 17 Ill. Reg. 5587, effective March 29, 1993; amended at 19 Ill. Reg. 8130, effective June 7, 1995; amended at 19 Ill. Reg. 11775, effective August 7, 1995; emergency amendment at 21 Ill. Reg. 11291, effective July 22, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 15454, effective November 24, 1997; amended at 23 Ill. Reg. 13815, effective November 4, 1999; emergency amendment at 24 Ill. Reg. 16694, effective October 27, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 4847, effective March 19, 2001; emergency amendment at 25 Ill. Reg. 12429, effective September 14, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1138, effective January 18, 2002; amended at 27 Ill. Reg. 9008, effective May 23, 2003; emergency amendment at 28 Ill. Reg. 9677, effective July 1, 2004, for a maximum of 150 days; emergency expired November 27, 2004; emergency amendment at 28 Ill. Reg. 13795, effective October 1, 2004, for a maximum of 150 days; emergency expired February 27, 2005; amended at 28 Ill. Reg. 16308, effective December 3, 2004; amended at 30 Ill. Reg. 329, effective December 30, 2005; amended at 30 Ill. Reg. 13857, effective August 2, 2006; emergency amendment at 32 Ill. Reg. 19944, effective December 9, 2008, for a maximum of 150 days; amended at 33 Ill. Reg. 6503, effective April 23, 2009; emergency amendment at 33 Ill. Reg. 12032, effective

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August 7, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 16801, effective November 24, 2009; emergency amendment at 34 Ill. Reg. 12985, effective August 20, 2010, for a maximum of 150 days.

SUBPART B: LEAVE OF ABSENCE

Section 303.120 Furlough Program**EMERGENCY**

a) Definition

- 1) Furlough is a timekeeping status in which an employee is placed for a temporary period of leave without duties or pay because of conditions that require an agency to curtail its operations; a furlough program may be either voluntary or involuntary at the discretion of the agency head. Furlough is a tool to continue State services with minimal disruption and retain valuable employees at reduced cost. The employee's employment status shall not change because of the furlough. Furlough shall not change the employee's continuous or creditable service dates for the purpose of annual evaluations, retirement or longevity, the employee's health or life insurance coverage or the employee's accrual of vacation, sick or personal time. Employees on furlough shall not be at work or on standby or on-call duty and shall not perform State work during furlough time. Furlough shall not be used when permanent or temporary layoff or emergency shut-down is appropriate. Furlough shall not be used as a substitute for permanent part-time employment. Furlough shall not be a means or form of discipline. Employees on paid military leave or other unpaid leave shall not be scheduled for furlough during the leave and shall be scheduled upon return to work if the furlough program remains in effect.

"Employee" includes less than full-time, full-time, intermittent, per diem, temporary, emergency and provisional employees.

- 2) Employees excluded, if any, from the furlough program shall be identified as "furlough-exempt". A uniform, narrow definition of "furlough-exempt" shall be applied throughout the furlough program by the agency head. Furlough-exempt employees may include employees:

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- A) in 24/7 facilities, to ensure adequate service delivery and staff coverage, and who would have to be replaced at a higher cost than the costs saved through furlough;
 - B) who perform critical functions of the agency, or protect the safety and health of employees, clients or patients of the agency or the public;
 - C) who are paid 100% by federal funds; and
 - D) who are in revenue-generating positions that generate more money than the costs that would be saved by furlough.
- b) Program Approval – An agency head, with prior approval from the Office of the Governor and the Director of Central Management Services, may institute a furlough program. The agency shall provide advanced notification to affected employees as soon as practicable. An agency head shall indicate whether the furlough is for the entire agency or a designated division or program, the initial effective date of the program, the number of days that employees shall be on furlough and the end date of the furlough program. Agencies shall track which employees have taken furlough and the cost savings to the State.
- c) Furlough Time – Furlough time shall be scheduled in a manner that is consistent with the operating needs of the agency. Furlough may be taken in full or one-half day increments only and may be nonconsecutive. Employees on schedules with shortened workweeks shall take furlough time on a prorated basis. Sick time, ~~vacation time, personal time~~, accumulated holiday time, Earned Equivalent Time (EET), and compensatory time shall not be used to remain in pay status while on furlough. Accrued vacation time and accrued personal time may be used by employees subject to a non-bargaining unit furlough program to remain in pay status while on furlough. Taking a furlough day before or after a holiday shall not result in loss of pay for the holiday. Furlough time shall not count toward overtime. Conflicts regarding scheduling furlough time shall be resolved based first on the operational needs of the agency and second by continuous service date. All furlough time shall be pre-approved. Previously charged unpaid time (unexcused absence, unauthorized absence, excused absence or suspension time) shall not be used to meet an employee's furlough obligation. Employees subject to a non-bargaining unit furlough program may elect to take a furlough day on a

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holiday; however, an agency shall not mandate that an employee take a furlough day on a holiday.

- d) Time Sheets – Furloughs shall be indicated by a daily entry of FD (Furlough Day) on an employee's time sheet. In the event an employee elects to utilize a vacation or personal day in the place of a non-bargaining unit furlough day, the employee's time sheet shall indicate an entry of FV (Furlough, Vacation) or FP (Furlough, Personal).
- e) Furlough Time Value – The value of a furlough day is worth exactly the same amount of money regardless of the number of days in the pay period and is computed by dividing the annualized rate of pay by the total number of days in a work year as filed with the Department of Central Management Services. Regularly recurring items, such as longevity pay, shift differential, bilingual pay, and other premium pay items that are paid each month, are included in determining the regular monthly rate. Agencies shall not use temporary or interim assignment pay to determine the value for employees on temporary or interim assignment. The value of the deducted day will be subtracted from the semi-monthly rate. Employees taking furlough on a day when their scheduled number of work hours varies from the employing agency's normal work schedule on that day are only required to furlough the number of hours in that employing agency's normal schedule. For example, an employee who is scheduled to work 10 hours on a furlough day in an agency with a normal work schedule of 7.5 hours will furlough 7.5 hours and either work the remaining 2.5 hours or utilize benefit time (vacation, personal, accumulated holiday, EET or compensatory time) for the remaining 2.5 hours that day. The value of such furloughed hours is determined by computing the annualized hourly rate (i.e., annual salary divided by the hours in a regular annual work schedule, 1957.5, for example), multiplying the rate by the number of furlough hours taken and deducting that amount from the annual salary.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 12985, effective August 20, 2010, for a maximum of 150 days)

Section 303.125 Leave for Personal Business**EMERGENCY**

- a) All employees, excepting those in emergency, per diem or temporary status shall be permitted 3 personal days off each calendar year with pay. Beginning with

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calendar year 1995, in the event an employee does not use sick leave in any calendar year, the employee shall be awarded 1 additional personal day on January 1 of the next calendar year. Beginning with July 1, 1997, a part-time employee who works at least half-time shall be awarded pro-rated additional personal leave on January 1 when the employee has not used sick leave during the previous calendar year. A calendar year for purposes of this provision is the period beginning January 1 and ending December 31 of each year. Such personal days may be used for such occurrences as observance of religious holidays, Christmas shopping, absence due to severe weather conditions, or for other similar personal reasons, but shall not be used to extend a holiday or annual leave except as permitted in advance by the operating agency through prior written approval. Employees entitled to receive such leave who enter service during the year shall be given credit for such leave at the rate of ½ day for each 2 months service for the calendar year in which hired. Such personal leave may not be used in increments of less than ½ hour at a time. Except for those emergency situations which preclude the making of prior arrangements, such days off shall be scheduled sufficiently in advance to be consistent with operating needs of the employer. Supervisors may, however, grant employee requests to use personal leave in increments of ¼ hour, after a minimum use of ½ hour.

- b) Personal leave shall not accumulate from calendar year to calendar year; nor shall any employee be entitled to payment for unused personal leave upon separation from the service except as provided in Section 8c(2) of the Personnel Code. The accrued leave amount paid under this Section of the Personnel Code shall be certified in writing to the employee by the employing agency. This certification may be held by the employee or forwarded to the Retirement System.

- c) Employees subject to a non-bargaining unit furlough program may substitute accrued personal leave for furlough time in order to remain in paid status. Utilization of accrued personal leave for furlough must be in one-half day or full day increments and must be in accordance with furlough program requirements.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 12985, effective August 20, 2010, for a maximum of 150 days)

Section 303.250 Vacation Eligibility**EMERGENCY**

- a) Employees, except emergency and temporary employees, shall earn vacation

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time. No employee on leave of absence may earn vacation except when the leave was for the purpose of accepting a temporary working assignment in another class.

- b) Eligible employee shall earn vacation time in accordance with the following schedule:
- 1) From the date of hire until the completion of 5 years of continuous service: 10 workdays per year of employment.
 - 2) From the completion of 5 years of continuous service until the completion of 9 years of continuous service: 15 workdays per year of employment.
 - 3) From the completion of 9 years of continuous service until the completion of 14 years of continuous service: 17 workdays per year of employment.
 - 4) From the completion of 14 years of continuous service until the completion of 19 years of continuous service: 20 workdays per year of employment.
 - 5) From the completion of 19 years of continuous service until the completion of 25 years of continuous service: 22 workdays per year of employment.
 - 6) From the completion of 25 years of continuous service: 25 workdays per year of employment.
- e) ~~Vacation time may be taken in increments of not less than ¼ hour after a minimum use of ½ hour any time after it is earned. Vacation time shall not be accumulated for more than 24 months after the end of the calendar year in which it is earned.~~
- cd) Vacation time shall be earned in workdays and computed in hours. After an employee's earned vacation time has been so computed, if there remains a fractional balance of ½ hour or less, the employee shall be deemed to have earned vacation time of ½ hour in lieu of the fractional balance; if there remains a fractional balance of more than ½ hour, the employee shall be deemed to have earned a full hour of vacation time in lieu of a fractional balance.

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- de) Computation of vacation time of State employees who have interrupted continuous State service shall be determined as though all previous State service that qualified for earning of vacation benefits is continuous with present service. This subsection (de) applies to vacation time earned on or after October 1, 1972.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 12985, effective August 20, 2010, for a maximum of 150 days)

Section 303.270 Vacation Schedule and Loss of Earned Vacation**EMERGENCY**

- a) In establishing vacation schedules, the agency shall consider both the employee's preference and the operating needs of the agency. In any event, upon request, vacation time must be scheduled so that it may be taken not later than 24 months after the expiration of the calendar year in which such vacation time was earned. If an employee does not request and take accrued vacation within such 24 month period, vacation earned during such calendar year shall be lost.
- b) In any calendar year in which an employee is subject to one or more non-bargaining unit furlough programs and completes full participation as verified by the employing agency in all such programs to which the employee was subject, vacation time that would have been lost will instead be permitted to accumulate for an additional 12 months.
- c) Vacation time may be taken in increments of not less than ¼ hour after a minimum use of ½ hour any time after it is earned. Employees subject to a non-bargaining unit furlough program may substitute accrued vacation time for furlough time in order to remain in paid status. Utilization of accrued vacation time for furlough must be in one-half day or full day increments and must be in accordance with furlough program requirements.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 12985, effective August 20, 2010, for a maximum of 150 days)

STATE BOARD OF EDUCATION

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- 1) Heading of the Part: Technology Immersion Pilot Project
- 2) Code Citation: 23 Ill. Adm. Code 365
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
365.10	Amendment
365.20	Amendment
365.30	Amendment
365.40	Amendment
365.50	Amendment
365.60	Amendment
- 4) Statutory Authority: 105 ILCS 65
- 5) Effective Date of Amendments: August 17, 2010
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: This rulemaking will be in force until replaced by regular rulemaking or until the end of the 150-day period, whichever occurs sooner.
- 7) Date Filed with the Index Department: August 17, 2010
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The proposed amendments are being presented as emergency rules, since the public interest is best served by providing FY 2011 funding to qualifying programs close to the start of the 2010-11 school year. This will enable the establishment of State-funded low-cost laptop programs as soon as possible, thereby ensuring that students and teachers in low-achieving and low-income schools benefit from the technology for the majority of the school year. Without emergency rules, the soonest the agency would be able to issue an RFP would be early 2011. Allowing for a 30-day response time for applicants to submit proposals, it is unlikely that grants would be awarded before spring of that year, which may cause a delay of at least a year for program implementation.
- 10) A Complete Description of the Subjects and Issues Involved: The Children's Low-cost Laptop Program [105 ILCS 65] is a two-year pilot initiative designed to enable qualifying school districts to take advantage of decreases in the cost of technology to establish

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opportunities to introduce computing skills to students at the elementary grade levels (i.e., grades 3 through 8). The program focuses on schools that serve a substantial percentage of low-income students, are low-achieving, and have limited access to technological resources. The program is similar in scope to the Technology Immersion Pilot Program, which was first funded in 2006 and automatically "sunssets" August 31, 2010.

The emergency amendments to Part 365 recognize the differences between the two programs. As noted above, the program has been expanded to include grades 3 through 5, which previously did not participate. Rather than receiving laptop computers from the State, as was the case with the predecessor program, school districts receiving a Children's Low-cost Laptop Program grant will purchase the equipment directly. Further, the use of the technology under the new program will respond to the district's already existing technology plan. Under the technology immersion program, districts were required to establish a committee to plan for the use of the laptop computers, in conjunction with strategies outlined in existing technology plans.

The rules also were amended, as per the Act, to more specifically target grants to ensure geographic distribution on a statewide basis (see Section 365.60(b)). Other changes are being proposed to incorporate procedures that are now standard to competitive grant programs.

- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 13) Information and questions regarding these emergency amendments shall be directed to:

Marica Cullen, Division Administrator
Curriculum and Instruction
Illinois State Board of Education
100 North First Street, C-215
Springfield, Illinois 62777

217/524-9651

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

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER j: TEXTBOOKS AND EQUIPMENT

PART 365

CHILDREN'S LOW-COST LAPTOP PROGRAM
TECHNOLOGY IMMERSION PILOT PROJECT

Section

365.10 Purpose and Applicability

EMERGENCY

365.20 Eligible Applicants

EMERGENCY

365.30 Program Specifications

EMERGENCY

365.40 Application Procedure

EMERGENCY

365.50 Criteria for the Review of Initial Proposals

EMERGENCY

365.60 Allocation of Funds

EMERGENCY

AUTHORITY: Implementing and authorized by the Children's Low-cost Laptop Act [105 ILCS 65].

SOURCE: Emergency rules adopted at 30 Ill. Reg. 11807, effective June 26, 2006, for a maximum of 150 days; adopted at 30 Ill. Reg. 17488, effective October 23, 2006; emergency amendment at 34 Ill. Reg. 12997, effective August 17, 2010, for a maximum of 150 days.

Section 365.10 Purpose and ApplicabilityEMERGENCY

This Part establishes the proposal application procedure and criteria for selection by the State Superintendent Board of Education of eligible schools ~~the entities~~ that will receive grant funds under the Children's Low-cost Laptop Act [105 ILCS 65] ~~technology immersion pilot program established pursuant to Section 2-3.135 of the School Code [105 ILCS 5/2-3.135]~~. ~~This Part also establishes the requirements that will apply to the distribution and use of the laptop computers and other resources furnished as part of this program.~~

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(Source: Amended by emergency rulemaking at 34 Ill. Reg. 12997, effective August 17, 2010, for a maximum of 150 days)

Section 365.20 Eligible Applicants**EMERGENCY**

- a) Eligible applicants shall be school districts with one or more schools serving any of grades 3 through 8 that~~in which either:~~
- 1) have 40 percent or more of their students eligible to receive free or reduced-price meals under the National School Lunch Program (42 USC 1751 et seq.);
 - 2) ~~one or more schools~~ are in Academic Early Warning or Academic Watch status under Section 2-3.25d of the School Code [105 ILCS 5/2-3.25d]; ~~and~~ or
 - 3) ~~2) have~~ a significant percentage of the students with limited or no access to laptop computers for use in improving their educational opportunities~~served have identified needs that make the use of technological devices more necessary or effective in their education than is the case for the student population as a whole.~~
- b) For purposes of this Part, any public school operated by an agency of the State of Illinois shall be treated as a "school district".
- c) Public university laboratory schools approved by the State Board of Education pursuant to Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)] and charter schools shall be eligible to apply on the same basis as school districts; see 105 ILCS 5/2-3.109a and 27A-11.5, respectively.
- d) Eligibility shall be limited to entities having State-approved technology integration plans.
- e) An applicant chosen for funding shall not subsequently lose eligibility due solely to improvement in the status of the schools served relative to Section 2-3.25d of the School Code.

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(Source: Amended by emergency rulemaking at 34 Ill. Reg. 12997, effective August 17, 2010, for a maximum of 150 days)

Section 365.30 Program Specifications**EMERGENCY**

- ~~a)~~ Each project funded under this program shall be based on a plan developed by a technology immersion committee as provided in Section 2-3.135 of the School Code for the purpose of addressing one or more of the problems specified in that Section.
- ~~a)~~^{b)} Recipients under this program shall receive a major portion of the resources necessary to implement a schoolwide or classroom-based program that uses educational software and computer skills training to improve academic achievement and the progress measures listed in Section 25(a) of the Act. Funding under this program must be in accordance with the purposes set forth in Section 15(b) of the Act. ~~their approved plans by means of comprehensive, technology-based learning programs. Funding under this program will be used to:~~
- ~~1)~~ provide training for teachers and administrators in participating schools on the effective integration of personal laptop computers into a comprehensive, technology-based learning program;
 - ~~2)~~ furnish personal laptop computers for all teachers and students in the classrooms designated for participation and for selected administrators in the schools where those classrooms are located;
 - ~~3)~~ support the use of the laptop computers through the purchase of related hardware, software, and other technologies and through the provision of maintenance, repair, and warranty services relevant to those resources.
- ~~b)~~^{e)} Recipients under this program may be required to upgrade their electrical or other capacity or to make other in-kind contributions as a condition of participation.
- ~~c)~~^{d)} Each recipient under this program shall be required to develop a policy providing for:
- 1) students' safety when using the Internet; and

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- 2) students' use of, responsibility for, and return of equipment and materials loaned under this program.

~~d)e~~ Each recipient under this program shall provide ~~State-furnished~~ laptop computers to administrators only to the extent that these individuals have a demonstrable role in supporting the work of the teachers whose classrooms are served or in conducting or supporting efforts aimed at implementing the strategies outlined in the recipient's State-approved technology integration~~alleviating the problems identified in the recipient's~~ plan.

~~e)f~~ Each recipient shall compile the information necessary for purposes of the annual progress report required by Section 25 of the Act 2-3-135~~(f) of the School Code~~.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 12997, effective August 17, 2010, for a maximum of 150 days)

Section 365.40 Application Procedure**EMERGENCY**

- a) When State funding is available for this program, the State Superintendent of Education shall issue a Request for Proposals (RFP) in order to solicit ~~proposals~~applications from eligible entities. ~~As used in this Part, a "proposal" or "application" means an academic improvement plan developed in accordance with Section 2-3.135(e) of the School Code, accompanied by the additional materials applicants will be required to submit in response to the RFP, as described in this Section. For purposes of this Part an "academic improvement plan" means the plan of work for the specific project for which State funding is sought.~~
- b) The RFP shall describe the format that applicants will be required to follow and the information they will be required to submit, including at least:
- 1) a description of the project and its intended outcomes;
 - 2) identification of the specific schools, or classrooms in a school, to be served;
 - 3) a description of the~~their~~ building infrastructure, including technological and electrical capacity, of each participating school;

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- 4) the number of students and the grade levels involved, ~~the grades and classrooms chosen;~~ and
- 5) the rationale for these choices.
- c) The RFP shall require the completion of a budget summary and payment schedule as well as a budget breakdown, i.e., a detailed explanation of each line item of expenditure indicate the amount or expected amount of the appropriation for the program and shall describe the integrated group of resources to be provided to each recipient, the other types of expenditures that will be defrayed with program funds, and the basis for allocating resources. The RFP shall identify any restrictions or areas of high priority that have been established for a particular program year.
- d) The RFP shall identify the data that recipients will be required to collect and report regarding the activities conducted with program funds and the results of those activities, as well as the timelines for reporting. The data shall at least include those elements required under Section 25 of the Act.
- e) The RFP shall include such certifications and assurances and program-specific terms of the grant as the State Superintendent may require, to be signed by each applicant that is a party to the proposal and submitted with the proposal.
- f) The RFP shall specify the deadline for submission of proposals, which shall provide potential applicants with at least 30 days to respond.
- g) Separate proposals~~applications~~ shall be required for renewal of grant funding. Each proposal~~application~~ for renewal shall include at least a description of activities during the year just concluded, demonstrating that the project has been implemented in conformance with the approved grant agreement and that the recipient continues to exhibit need for assistance for this purpose.
- h) Applicants may be requested to clarify various aspects of their proposals. The contents of the approved proposal shall be incorporated into a grant agreement to be signed by the State Superintendent of Education or designee and the school district superintendent or, in the case of a non-school district applicant, the official authorized to sign the agreement and legally bind the applicant to its provisions. Incomplete proposals shall not be considered.

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(Source: Amended by emergency rulemaking at 34 Ill. Reg. 12997, effective August 17, 2010, for a maximum of 150 days)

Section 365.50 Criteria for the Review of Initial Proposals**EMERGENCY**

- a) Initial applications shall be evaluated in accordance with the following criteria:
- 1) Quality of the Plan (50 points)
 - A) ~~The proposal identifies schools to be served that are experiencing teacher shortages in particular curricular areas, limited access to Advanced Placement courses, low performance on the State assessment administered pursuant to Section 2-3.64 of the School Code, or high rates of dropping out.~~ B) The proposal indicates how the prevalence of personal laptop computers and other technological resources can be used to mitigate the problems identified.
 - ~~B)C)~~ The proposal discusses specific strategies that will be used by teachers and administrators, respectively, to improve the schools' and students' outcomes with respect to the specific problems noted and provides a plan for aligning these strategies to the State-approved technology integration plan.
 - ~~C)D)~~ The proposal demonstrates that the teachers and administrators responsible for the classrooms to be served are amenable to the kinds of changes in their work that will occur if a greater reliance on technology is made possible.
 - ~~D)E)~~ The proposal links the plan for the use of personal computing technology to other school improvement initiatives relevant to the schools to be served.
 - 2) Need (30 points)
 - A) The proposal demonstrates that the schools to be served currently have inadequate access to technological resources that can be used directly by students and teachers.

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- B) The proposal discusses other initiatives and strategies that have not been as effective as hoped in improving students' performance over time.
- 3) Evaluation Plan (20 points)
The proposal identifies how and by whom each of the data elements implicit in the reporting requirement of Section ~~25 of the Act 2-3.135(f) of the School Code~~ will be collected and how each of the applicable comparisons will be made.
- b) Proposals shall be grouped according to the geographic areas delineated in Section ~~20 of the Act 2-3.135(d) of the School Code~~, and each proposal shall be ranked only in comparison to proposals from other eligible entities within its respective group.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 12997, effective August 17, 2010, for a maximum of 150 days)

Section 365.60 Allocation of Funds**EMERGENCY**

- a) The State Superintendent of Education shall approve initial ~~proposals~~ applications and make final determinations regarding the resources to be provided based upon the total funds appropriated for this initiative ~~and~~; the amounts necessary to fund the top-ranked proposals, ~~and the need to distribute the benefits of integrated technology on a statewide basis.~~
- b) It is the intention of the State Board of Education to approve proposals ~~applications~~ in such a way as to ensure that at least one-third of the participating students are located in the City of Chicago; at least one-third are located in the area that makes up DuPage, Kane, Lake, McHenry, Will and that portion of Cook County located outside of the City of Chicago; and at least one-third are located in the remainder of the State. (Section 20 of the Act) ~~to serve at least 9 schools, with at least 3 from the school district located in the City of Chicago and at least one from each of the other school districts selected. (Section 2-3.135(d) of the School Code)~~

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- c) It is the intention of the State Board of Education to approve projects under this Part for a ~~two-year~~~~three-year~~ period. Support in the second ~~year~~~~and third years~~ shall be contingent upon the availability of funds for the program and evidence presented in renewal proposals that the projects have been implemented in accordance with the approved grant agreements and that the recipients continue to need additional State resources in order to maintain comprehensive technology-based learning programs.
- d) A district that has received ~~two~~~~three~~ years' support under this Part may subsequently apply as a new applicant.

(Source: Amended by emergency rulemaking at 34 Ill. Reg. 12997, effective August 17, 2010, for a maximum of 150 days)

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS TO MEET THE
RECOMMENDATION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: State Universities Civil Service System
- 2) Code Citation: 80 Ill. Adm. Code 250
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
250.110	Withdrawal
250.120	Withdrawal
- 4) Date Notice of Proposed Amendments Published in the Register: December 4, 2009; 33 Ill. Reg. 16669
- 5) Date JCAR Statement of Recommendation Published in Register: April 30, 2010; 34 Ill. Reg. 6232
- 6) Summary of Action Taken by the Agency: In response to the Joint Committee on Administrative Rules' recommendation, the agency by this notice withdraws the proposed rulemaking above in its entirety.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Birth Center Demonstration Program Code
- 2) Code Citation: 77 Ill. Adm. Code 265
- 3) The Notice of Proposed Rules being corrected appeared at 34 Ill. Reg. 12012, dated August 20, 2010.
- 4) The information being corrected is as follows: The Public Act named in No. 5 of the Notice page for proposed rules that appeared at 34 Illinois Register 12012 was incorrect. The correct name for the Public Act is Public Act 95-445.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notice was received by the Joint Committee on Administrative Rules during the period of August 17, 2010 through August 23, 2010 and has been scheduled for review by the Committee at its September 14, 2010 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
9/30/10	<u>Illinois Housing Development Authority</u> , Illinois Affordable Housing Tax Credit Program (47 Ill. Adm. Code 355)	6/18/10 34 Ill. Reg. 8029	9/14/10
9/30/10	<u>State Board of Education</u> , Certification (23 Ill. Adm. Code 25)	6/4/10 34 Ill. Reg. 7624	9/14/10
10/1/10	<u>Department of Natural Resources</u> , Late-Winter Deer Hunting Season (17 Ill. Adm. Code 680)	6/25/10 34 Ill. Reg. 8230	9/14/10
10/1/10	<u>Department of Natural Resources</u> , Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting (17 Ill. Adm. Code 530)	6/25/10 34 Ill. Reg. 8141	9/14/10
10/1/10	<u>Department of Natural Resources</u> , Duck, Goose and Coot Hunting (17 Ill. Adm. Code 590)	6/25/10 34 Ill. Reg. 8169	9/14/10
10/2/10	<u>Office of the State Fire Marshal</u> , Pyrotechnic Distributor and Operator Licensing Rules (41 Ill. Adm. Code 230)	6/25/10 34 Ill. Reg. 8236	9/14/10
10/2/10	<u>Office of the State Fire Marshal</u> , Pyrotechnic and Consumer Display Permitting Rules (41 Ill. Adm. Code 235)	6/25/10 34 Ill. Reg. 8274	9/14/10

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

10/3/10	<u>Environmental Protection Agency</u> , Alternate Fuels Program (35 Ill. Adm. Code 275)	4/16/10 34 Ill. Reg. 5492	9/14/10
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