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May 3, 2019 Volume 43, Issue 18

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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 2019

<b>Issue#</b>	<b>Rules Due Date</b>	<b>Date of Issue</b>
1	December 26, 2018	January 4, 2019
2	December 31, 2018	January 11, 2019
3	January 7, 2019	January 18, 2019
4	January 14, 2019	January 25, 2019
5	January 22, 2019	February 1, 2019
6	January 28, 2019	February 8, 2019
7	February 4, 2019	February 15, 2019
8	February 11, 2019	February 22, 2019
9	February 19, 2019	March 1, 2019
10	February 25, 2019	March 8, 2019
11	March 4, 2019	March 15, 2019
12	March 11, 2019	March 22, 2019
13	March 18, 2019	March 29, 2019
14	March 25, 2019	April 5, 2019
15	April 1, 2019	April 12, 2019
16	April 8, 2019	April 19, 2019
17	April 15, 2019	April 26, 2019
18	April 22, 2019	May 3, 2019
19	April 29, 2019	May 10, 2019
20	May 6, 2019	May 17, 2019
21	May 13, 2019	May 24, 2019

22	May 20, 2019	May 31, 2019
23	May 28, 2019	June 7, 2019
24	June 3, 2019	June 14, 2019
25	June 10, 2019	June 21, 2019
26	June 17, 2019	June 28, 2019
27	June 24, 2019	July 5, 2019
28	July 1, 2019	July 12, 2019
29	July 8, 2019	July 19, 2019
30	July 15, 2019	July 26, 2019
31	July 22, 2019	August 2, 2019
32	July 29, 2019	August 9, 2019
33	August 5, 2019	August 16, 2019
34	August 12, 2019	August 23, 2019
35	August 19, 2019	August 30, 2019
36	August 26, 2019	September 6, 2019
37	September 3, 2019	September 13, 2019
38	September 9, 2019	September 20, 2019
39	September 16, 2019	September 27, 2019
40	September 23, 2019	October 4, 2019
41	September 30, 2019	October 11, 2019
42	October 7, 2019	October 18, 2019
43	October 15, 2019	October 25, 2019
44	October 21, 2019	November 1, 2019
45	October 28, 2019	November 8, 2019
46	November 4, 2019	November 15, 2019
47	November 12, 2019	November 22, 2019
48	November 18, 2019	December 2, 2019
49	November 25, 2019	December 6, 2019
50	December 2, 2019	December 13, 2019
51	December 9, 2019	December 20, 2019
52	December 16, 2019	December 27, 2019

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Travel
- 2) Code Citation: 80 Ill. Adm. Code 2800
- 3) Section Number: 2800.240                      Proposed Action:  
Amendment
- 4) Statutory Authority: Implementing and authorized by the State Finance Act [30 ILCS 105].
- 5) A Complete Description of the Subjects and Issues Involved: The amendment updates the travel policies to align with the Electronic Commerce Security Act [5 ILCS 175].
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: It does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:

Ennedy Rivera  
Deputy General Counsel  
Illinois Department of Central Management Services  
100 W. Randolph Street, Ste. 4-500  
Chicago IL 60601

312/814-2322

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 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) Small Business Impact Analysis: There is no adverse impact to small business.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized in a regulatory agenda because it was not anticipated.

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE I: GENERAL TRAVEL CONTROL  
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES/  
GOVERNOR'S TRAVEL CONTROL BOARD

PART 2800  
TRAVEL

SUBPART A: GENERAL

- Section  
2800.100 Definitions  
2800.110 Application and Interpretation

SUBPART B: TRAVEL CONTROL SYSTEM

- Section  
2800.200 Travel Control System  
2800.210 Travel Coordinator  
2800.220 Travel Authority  
2800.230 Government Charge Cards (Repealed)  
2800.235 Expenses at Headquarters or Residence  
2800.240 Preparation and Submission of Travel Vouchers  
2800.250 Approval and Submission of Travel Vouchers  
2800.260 Items Directly Billed  
2800.270 Conference Registration Fees

SUBPART C: TRANSPORTATION EXPENSES

- Section  
2800.300 Incidental Expenses for Private and State Owned Automobiles

SUBPART D: LODGING

- Section  
2800.400 Conference Lodging  
2800.410 Employee Owned or Controlled Housing

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

## SUBPART E: PER DIEM MEALS

Section  
2800.500 Conference Meals

## SUBPART F: MISCELLANEOUS RULES

Section  
2800.600 Lack of Receipts  
2800.650 Headquarter Designation for Agency Heads

## SUBPART G: EXCEPTIONS TO THE RULES

Section  
2800.700 Special Exceptions-Requested in Advance  
2800.710 Ex Post Facto Exceptions

2800.APPENDIX A Reimbursement Schedule

**AUTHORITY:** Authorized by Sections 12-1 and 12-2 of the State Finance Act [30 ILCS 105/12-1 and 12-2] and by Section 710 of the Travel Regulation Council Rules (80 Ill. Adm. Code 3000.710).

**SOURCE:** Amended March 11, 1976; amended at 2 Ill. Reg. 30, p. 215, effective August 1, 1978; new rules adopted at 4 Ill. Reg. 28, p. 155, effective July 1, 1980; old rules repealed at 4 Ill. Reg. 30, p. 1224, July 1, 1980; amended at 5 Ill. Reg. 150, effective January 1, 1981; amended at 6 Ill. Reg. 6682, effective July 1, 1982; amended at 7 Ill. Reg. 9205, effective August 1, 1983; amended at 8 Ill. Reg. 127, 130, effective January 1, 1984; amended at 8 Ill. Reg. 14243, effective August 1, 1984; codified at 8 Ill. Reg. 19350; amended at 10 Ill. Reg. 18014, effective October 6, 1986; Part repealed, new Part adopted at 12 Ill. Reg. 738, effective January 15, 1988; emergency amendment at 15 Ill. Reg. 13196, effective September 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17981, effective November 27, 1991; amended at 16 Ill. Reg. 4831, effective March 12, 1992; amended at 16 Ill. Reg. 13823, effective September 1, 1992; amended at 19 Ill. Reg. 36, effective January 1, 1995; amended at 19 Ill. Reg. 7858, effective July 1, 1995; amended at 20 Ill. Reg. 7379, effective May 13, 1996; emergency amendment at 22 Ill. Reg. 12082, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20036, effective November 6, 1998; emergency amendment at 24 Ill. Reg. 867, effective January 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 7655, effective May 9, 2000; amended at 26 Ill. Reg. 14979, effective October 8, 2002; emergency amendment

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

at 27 Ill. Reg. 10476, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 17061, effective October 23, 2003; amended at 38 Ill. Reg. 11767, effective May 23, 2014; amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: TRAVEL CONTROL SYSTEM

**Section 2800.240 Preparation and Submission of Travel Vouchers**

All claims for the reimbursement of travel expenses shall be submitted on authorized reimbursement forms (Form C-10) and shall be itemized in accordance with this Part.

- a) The purpose of the travel shall be indicated on the travel vouchers.
- b) When applicable, the travel voucher shall show, in the space provided, the dates and times of travel, the points of departure and destination, the mode of transportation, the cost of the transportation secured, lodging, meals, per diem and other expenses.
- c) If meals or per diem are not claimed, times of arrival and departure are not required.
- d) When a privately owned vehicle is used, the travel voucher shall show, at minimum, commuting mileage (if applicable), the dates, points of travel and mileage. If the distance traveled between any given points is greater than the usual route between these points shown on a road map, the reason for the greater distance shall be explained and detailed separately.
- e) Travel vouchers shall be supported by receipts in all instances for railroad and airplane transportation, lodging, taxis, and all other items in excess, individually, of \$10.00 except for meals.
- f) The travel expense voucher shall be prepared in ink, ~~or~~ typewritten or in electronic form. The ~~All copies of the~~ voucher shall be signed ~~in ink~~ by the individual who has incurred the expense and his/her supervisor. Signatures include those made in ink as well as any symbol executed or adopted. In addition, signatures are any security procedure employed or adopted, using electronic means or otherwise, by or on behalf of a person with intent to authenticate a record.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Derivative Instruments
- 2) Code Citation: 50 Ill. Adm. Code 806
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
806.30	Amendment
806.40	Amendment
- 4) Statutory Authority: Implementing Article VIII and authorized by Sections 126.8 and 401 of the Illinois Insurance Code [215 ILCS 5/Art. VIII and 401].
- 5) A Complete Description of the Subjects and Issues Involved: Section 806.40 currently incorporates by reference a 2000 edition of the "Purposes and Procedures Manual of the Securities Valuation Office" published by the National Association of Insurance Commissioners. That publication has been superseded by the "Purposes and Procedures Manual of the NAIC Investment Analysis Office". The incorporation by reference is being revised to reflect the current publication. Housekeeping changes are also being made in Sections 806.30 and 806.40.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Robert Planthold

or

Susan Anders

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

Assistant General Counsel  
Illinois Department of Insurance  
122 S. Michigan Ave., Fl. 19  
Chicago IL 60603-6137

Rules Coordinator  
Illinois Department of Insurance  
320 W. Washington St., Fl. 4  
Springfield IL 62767-0002

312/814-5445

217/558-0957

- 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) Small Business Impact Analysis: The Department determined that the rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because the Department did not determine that the amendments were warranted until January 2019.

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

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER j: INVESTMENTS OF DOMESTIC COMPANIESPART 806  
DERIVATIVE INSTRUMENTS

Section	
806.10	Purpose
806.20	Applicability
806.30	Definitions
806.40	Guidelines and Internal Control Procedures
806.50	Documentation Requirements
806.60	Trading Requirements

AUTHORITY: Implementing Article VIII and authorized by Sections 126.8 and 401 of the Illinois Insurance Code [215 ILCS 5].

SOURCE: Adopted at 22 Ill. Reg. 15300, effective August 10, 1998; amended at 25 Ill. Reg. 4578, effective March 15, 2001; amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 806.30 Definitions**

Unless the context requires otherwise, terms used in this Part have the meaning ascribed in Section 126.2 of the Code.

~~Business Entity includes a sole proprietorship, corporation, limited liability company, association, partnership, joint stock company, joint venture, mutual fund, trust, joint tenancy or other similar form of business organization, whether organized for profit or not for profit. [215 ILCS 5/126.2(H)] (see P.A. 90-418, effective August 15, 1997).~~

"Code" means the Illinois Insurance Code [215 ILCS 5].

~~Counterparty Exposure Amount means:~~

~~The amount of credit risk attributable to a derivative instrument entered into with a business entity other than through a qualified exchange or qualified foreign exchange, or cleared through a qualified clearinghouse~~

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

~~("over the counter derivative instrument"). The amount of credit risk equals:~~

~~The market value of the over the counter derivative instrument if the liquidation of the derivative instrument would result in a final cash payment to the insurer; or~~

~~Zero if the liquidation of the derivative instrument would not result in a final cash payment to the insurer.~~

~~If over the counter derivative instruments are entered into under a written master agreement which provides for netting of payments owed by the respective parties, and the domicile of the counterparty is either within the United States or, if not within the United States, within a foreign jurisdiction listed in the Purposes and Procedures of the Securities Valuation Office as eligible for netting, the net amount of credit risk shall be the greater of zero or the net sum of:~~

~~The market value of the over the counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment to the insurer; and~~

~~The market value of the over the counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment by the insurer to the business entity.~~

~~For open transactions, market value shall be determined at the end of the most recent quarter of the insurer's fiscal year and shall be reduced by the market value of acceptable collateral held by the insurer or placed in escrow by one or both parties. [215 ILCS 5/126.2(S)] (see P.A. 90-418, effective August 15, 1997).~~

"Director" means the Director of the Illinois Department of Insurance.

"Department" means the Illinois Department of Insurance.

Derivative Instrument means:

~~An agreement, option, instrument or a series or combination thereof:~~

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

~~To make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or to make a cash settlement in lieu thereof; or~~

~~That has a price, performance, value or cash flow based primarily upon the actual or expected price, level, performance, value or cash flow of one or more underlying interests.~~

~~Derivative instruments include options, warrants used in a hedging transaction and not attached to another financial instrument, caps, floors, collars, swaps, forwards, futures and any other agreements, options or instruments substantially similar thereto or any series or combination thereof and any agreements, options or instruments permitted pursuant to this Part. Derivative instruments shall not include an investment authorized by Sections 126.11 through 126.17, 126.19 and 126.24 through 126.30 of the Illinois Insurance Code. [215 ILCS 5/126.2(V)] (see P.A. 90-418, effective August 15, 1997).~~

~~Derivative Transaction means a transaction involving the use of one or more derivative instruments. [215 ILCS 5/126.2(W)] (see P.A. 90-418, effective August 15, 1997).~~

~~Qualified Clearinghouse means a clearinghouse for, and subject to the rules of, a qualified exchange or a qualified foreign exchange, which provides clearing services, including acting as a counterparty to each of the parties to a transaction such that the parties no longer have credit risk as to each other. [215 ILCS 5/126.2(OOO)] (see P.A. 90-418, effective August 15, 1997).~~

~~Qualified Exchange means:~~

~~A securities exchange registered as a national securities exchange, or a securities market regulated under the Securities Exchange Act of 1934 (15 USC 78 et seq.), as amended;~~

~~A board of trade or commodities exchange designated as a contract market by the Commodity Futures Trading Commission or any successor thereof;~~

~~Private Offerings, Resales and Trading through Automated Linkages~~

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

~~(PORTAL);~~

~~A designated offshore securities market as defined in Securities Exchange Commission Regulation S, 17 C.F.R. Part 230, as amended; or~~

~~A qualified foreign exchange. [215 ILCS 5/126.2(PPP)] (see P.A. 90-418, effective August 15, 1997).~~

~~Qualified Foreign Exchange means a foreign exchange, board of trade or contract market located outside the United States, its territories or possessions:~~

~~That has received regulatory comparability relief under Commodity Futures Trading Commission (CFTC) Rule 30.10 (as set forth in Appendix C to Part 30 of the CFTC's Regulations, 17 C.F.R. Part 30);~~

~~That is, or its members are, subject to the jurisdiction of a foreign futures authority that has received regulatory comparability relief under CFTC Rule 30.10 (as set forth in Appendix C to Part 30 of the CFTC's Regulations, 17 C.F.R. Part 30) as to futures transactions in the jurisdiction where the exchange, board of trade or contract market is located; or~~

~~Upon which foreign stock index futures contracts are listed that are the subject of no action relief issued by the CFTC's Office of General Counsel, provided that an exchange, board of trade or contract market that qualifies as a "qualified foreign exchange" only under this definition shall only be a "qualified foreign exchange" as to foreign stock index futures contracts that are the subject of no action relief. [215 ILCS 5/126.2(QQQ)] (see P.A. 90-418, effective August 15, 1997).~~

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 806.40 Guidelines and Internal Control Procedures**

- a) Before engaging in a derivative transaction, an insurer shall establish written guidelines that shall be used for effecting and maintaining the transactions. The guidelines shall:
  - 1) Address investment or, if applicable, underwriting objectives, and risk

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

constraints, such as credit risk limits;

- 2) Address permissible transactions and the relationship of those transactions to its operations, such as a precise identification of the risks being hedged by a derivative transaction; and
  - 3) Require compliance with internal control procedures.
- b) An insurer shall have a system for determining whether a derivative instrument used for hedging has been effective. In so doing, a company should set specific criteria at the inception of the hedge as to what will be considered "effective" in measuring the hedge and then apply those criteria in the ongoing assessment based on actual hedge results.
- c) An insurer shall have a credit risk management system for over-the-counter derivative transactions that measures credit risk exposure using the counterparty exposure amount.
- d) An insurer's board of directors shall, in accordance with Section 126.4 of the [Illinois Insurance Code \[215 ILCS 5/126.4\]](#):
- 1) Approve the guidelines required by subsection (a) ~~of this Section~~ and the systems required by subsections (b) and (c) ~~of this Section~~; and
  - 2) Determine whether the insurer has adequate professional personnel, technical expertise and systems to implement investment practices involving derivatives.
- e) An insurer may ~~use~~ derivatives for replication transactions as permitted pursuant to Sections 126.18 and 126.31 of the [Illinois Insurance Code \[215 ILCS 5/126.18 and 126.31\]](#). An insurer engaging in replication transactions shall:
- 1) Comply with the following requirements:
    - A) The disclosure and annual and quarterly statement reporting of ~~such~~ replication transactions;
    - B) The inclusion of ~~the~~ transaction in the insurer's Risk Based Capital Report (as required by Section 35A-10 of the ~~Illinois~~

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

~~Insurance Code [215 ILCS 5/35A-10]~~; and

- C) If applicable, the calculation and reporting of the asset valuation reserve for ~~thesueh~~ transaction;
- 2) Comply with the filing requirements for Replication Synthetic Asset Transactions (RSATs) contained in the "Purposes and Procedures Manual of the ~~NAIC Investment Analysis Securities Valuation Office~~" ~~of the~~ (National Association of Insurance Commissioners, One New York Plaza, Ste. 4210, New York, NY 10004) (Volume 18 -Issue 199-2, December 31, 2018~~July 2000~~, no ~~later subsequent dates or~~ editions ~~or amendments~~);
- 3) File with the Director ~~of Insurance~~ a duplicate copy of all RSAT filings made with the NAIC Securities Valuation Office. ~~After of the National Association of Insurance Commissioners;~~ after June 1, 2002, the Director may waive this duplicate filing requirement;
- 4) Have a system for determining whether a replication transaction has been effective in replicating the intended investment position; and
- 5) Include all replicated investment positions in calculating compliance with the limitations on investments contained in Article VIII of the ~~Illinois Insurance Code [215 ILCS 5/Art. VIII]~~; provided, that no replicated investment position shall be held pursuant to the additional investment authority contained in Sections 126.20 and 126.32 of the ~~Illinois Insurance Code [215 ILCS 5/126.20 and 126.32]~~.

AGENCY NOTE: For purposes of determining whether internal control procedures ~~complyare in compliance~~ with this Part, the Department may consider, but is not limited to, the following items: that only board authorized individuals can effect derivative instrument transactions; that there is a separation of administrative functions from trading functions; that periodic reporting to a/the chief investment officer of open positions occurs; and that periodic assessing of effectiveness of hedging transaction ~~isbe~~ conducted by a designated person.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Advertising and Sales Promotion of Life Insurance and Annuities
- 2) Code Citation: 50 Ill. Adm. Code 909
- 3) Section Number: 909.20                      Proposed Action: Amendment
- 4) Statutory Authority: Implementing Sections 149, 151, 236, 237, 426 and Article XXXI and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/149, 151, 236, 237, 401, 426 and Article XXXI].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking will update a reference in the regulation to Actuarial Standard of Practice (ASOP) 24 to cite the date of the most current version of the ASOP, which is December 2016.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Kathryn Williams, Assistant General Counsel  
Department of Insurance  
320 West Washington, 4th Floor  
Springfield IL 62767-0001

Susan Anders, Rules Coordinator  
Department of Insurance  
320 West Washington, 4th Floor  
Springfield IL 62767-0001

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENT

217/557-1416

217/558-0957

- 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) Small Business Impact Analysis: The Department determined that the rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2019

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

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENT

TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER I: PROVISIONS APPLICABLE TO ALL COMPANIESPART 909  
ADVERTISING AND SALES PROMOTION OF  
LIFE INSURANCE AND ANNUITIES

Section	
909.10	Authority
909.20	Definitions
909.30	Applicability
909.40	Form and Content of Advertisements
909.50	Disclosure Requirements
909.60	Identity of Insurer
909.70	Jurisdictional Licensing and Status of Insurer
909.80	Statements about an Insurer
909.85	Advertising and Marketing of Annuities and Variable Life Contracts
909.90	Advertising Records and Certificate
909.100	Noncompliance
909.110	Conflict with Other Rules
909.120	Severability Provision

AUTHORITY: Implementing Sections 149, 151, 236, 237, 426 and Article XXXI and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5].

SOURCE: Filed April 26, 1976, effective May 7, 1976; codified at 7 Ill. Reg. 3460; amended at 14 Ill. Reg. 13584, effective August 14, 1990; amended at 15 Ill. Reg. 15665, effective October 18, 1991; amended at 22 Ill. Reg. 3027, effective June 1, 1998; amended at 22 Ill. Reg. 16468, effective September 1, 1998; amended at 26 Ill. Reg. 16500, effective October 28, 2002; amended at 28 Ill. Reg. 4591, effective March 1, 2004; transferred from the Department of Insurance to the Department of Financial and Professional Regulation pursuant to Executive Order 2004-6 on July 1, 2004; amended at 31 Ill. Reg. 12732, effective January 1, 2008; recodified from the Department of Financial and Professional Regulation to the Department of Insurance pursuant to Executive Order 2009-04 at 39 Ill. Reg. 4164; amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 909.20 Definitions**

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENT

For the purpose of this Part:

"Advertisement" ~~doesshall~~ not include:

Communications or materials used within an insurer's own organization and not intended for dissemination to the public;

Communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate or retain a policy;

A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged, provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

"Advertisement" means material designed to create public interest in life insurance or annuities or in an insurer, or to induce the public to purchase, increase, modify, reinstate or retain a policy including:

Printed and published material, audio-visual material and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio and television scripts, billboards and similar displays;

Descriptive literature and sales aids of all kinds issued by an insurer or agent, including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters;

Material used for the recruitment, training, and education of an insurer's sales personnel, agents, solicitors and brokers ~~that~~which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate or retain a policy;

Prepared sales talks, presentations, and material for use by sales personnel, agents, solicitors and brokers.

"Code" means the Illinois Insurance Code [215 ILCS 5].

"Currently Payable Scale" means a scale of non-guaranteed elements in effect for

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENT

a policy form as of the preparation date of the illustration, or declared to become effective within the next 95 days ~~after~~ the preparation date.

"Department" means the Department of Insurance.

"Director" means the Director of the Illinois Department of Insurance.

"Disciplined Current Scale" means a scale of non-guaranteed elements constituting a limit on illustrations currently being illustrated by an insurer that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer. ~~The standards established by the Actuarial Standards Board (ASB) (1720 I Street, N.W., 7<sup>th</sup> Floor, Washington, D.C. 20006) (Actuarial Standard of Practice No. 24, Compliance with the NAIC Life Insurance Illustrations Model Regulation as of December 1995, no subsequent dates or editions) may be relied upon if the standards:~~

~~Are consistent with all provisions of this Part;~~

~~Limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;~~

~~Do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date; and~~

~~Do not permit assumed expenses to be less than minimum assumed expenses.~~

"Illustrated Scale" means a scale of non-guaranteed elements, currently being illustrated for policies other than variable life insurance, individual and group annuity contracts, credit life insurance, or life insurance policies and certificates with guaranteed death benefits of \$10,000 or less, or illustrated death benefits less than \$15,000, that is not more favorable to the policy owner than the lesser of:

The disciplined current scale; or

The currently payable scale.

*Insurance Producer means a person required to be licensed under the laws of this*

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~~*State to sell, solicit, or negotiate insurance [215 ILCS 5/500-10].*~~

"Insurer" ~~includes~~ ~~shall include~~ any organization or person ~~that~~ ~~which~~ issues life insurance or annuities to residents of this State.

"Non-guaranteed Elements" means premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at issue.

"Policy" ~~includes~~ ~~shall include~~ any policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement ~~that~~ ~~which~~ provides for life insurance or annuity benefits.

"Preneed Funeral Contract" or "Prearrangement" ~~means~~ ~~shall mean~~ an arrangement by or for an individual before the individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Individual and Group Life Insurance Policy Illustrations
- 2) Code Citation: 50 Ill. Adm. Code 1406
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1406.30	Amendment
1406.100	Amendment
- 4) Statutory Authority: Implementing Sections 224 and 230.1 of the Illinois Insurance Code [215 ILCS 5/224 and 230.1] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].
- 5) A Complete Description of the Subjects and Issues Involved: The Part is being amended to update references to Actuarial Standard of Practice (ASOP) 24 to cite the date of the most current version of the ASOP, which is December, 2016.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Kathryn Williams, Assistant General Counsel  
Department of Insurance  
320 West Washington, 4th Floor  
Springfield IL 62767-0001

Susan Anders, Rules Coordinator  
Department of Insurance  
320 West Washington, 4th Floor  
Springfield IL 62767-0001

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217/557-1416

217/558-0957

- 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) Small Business Impact Analysis: The Department determined that the rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2019

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

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## NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER s: LEGAL RESERVE LIFE INSURANCEPART 1406  
INDIVIDUAL AND GROUP LIFE INSURANCE POLICY ILLUSTRATIONS

Section	
1406.10	Purpose
1406.20	Applicability and Scope
1406.30	Definitions
1406.40	Policies to Be Illustrated
1406.50	Standards for Basic Illustrations
1406.60	Standards for Supplemental Illustrations
1406.70	General Rules and Prohibitions
1406.80	Delivery of Illustrations and Record Retention
1406.90	Annual Report – Notice to Policyowners
1406.100	Annual Certifications
1406.110	Penalties

**AUTHORITY:** Implementing Sections 224 and 230.1 of the Illinois Insurance Code [215 ILCS 5] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5].

**SOURCE:** Adopted at 22 Ill. Reg. 3038, effective June 1, 1998; amended at 22 Ill. Reg. 20121, effective November 9, 1998; amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1406.30 Definitions**

"Actuarial Standards Board" or "ASB" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

"Contract Premium" means the gross premium that is required to be paid under a fixed premium policy, including the premium for a rider for which benefits are shown in the illustration.

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"Currently Payable Scale" means a scale of non-guaranteed elements in effect for a policy form as of the preparation date of the illustration, or declared to become effective within the next 95 days ~~after~~ the preparation date.

"Director" means the Director of the Illinois Department of Insurance.

"Disciplined Current Scale" means a scale of non-guaranteed elements constituting a limit on illustrations currently being illustrated by an insurer that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer. ~~The standards established by the Actuarial Standards Board (ASB) (1720 I Street, N.W., 7th Floor, Washington, D.C. 20006) (Actuarial Standard of Practice No. 24, Compliance with the NAIC Life Insurance Illustrations Model Regulation as of December 1995, no subsequent dates or editions) may be relied upon if they:~~

~~Are consistent with all provisions of this Part;~~

~~Limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;~~

~~Do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date; and~~

~~Do not permit assumed expenses to be less than minimum assumed expenses.~~

"Generic Name" means a short title descriptive of the policy being illustrated, such as "Whole Life", "Term Life" or "Flexible Premium Adjustable Life".

"Guaranteed Elements" and "Non-guaranteed Elements" mean:

"Guaranteed Elements" means the premiums, benefits, values, credits or charges under a policy of individual or group life insurance that are guaranteed and determined at the time of issuance.

"Non-guaranteed Elements" means the premiums, benefits, values, credits or charges under a policy of individual or group life insurance that are not guaranteed or not determined at the time of issuance.

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## NOTICE OF PROPOSED AMENDMENTS

"Illustrated Scale" means a scale of non-guaranteed elements currently being illustrated that is not more favorable to the policy owner than the lesser of:

The disciplined current scale; or

The currently payable scale.

"Illustration" means a presentation or depiction that includes non-guaranteed elements of a policy of individual or group life insurance over a period of years and that is one of the 3 types defined below:

"Basic Illustration" means a ledger or proposal used in the sale of an individual or group life insurance policy that shows both guaranteed and non-guaranteed elements.

"Supplemental Illustration" means an illustration furnished in addition to a basic illustration that meets the applicable requirements of this Part, and that may be presented in a format differing from the basic illustration, but may only depict a scale of non-guaranteed elements that is permitted in a basic illustration.

"In Force Illustration" means an illustration furnished at any time after the policy that it depicts has been in force for one year or more.

"Illustration Actuary" means an actuary meeting the requirements of Section 1406.100 who certifies that illustrations are based on the standard of practice promulgated by the Actuarial Standards Board.

"Lapse-supported Illustration" means an illustration of a policy form for individual or group life insurance failing the test of self-supporting as defined in this Section, under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first 5 years and 100% policy persistency thereafter.

"Minimum Assumed Expenses" means the minimum expenses that may be used in the calculation of the disciplined current scale for a policy form.

The insurer may choose to designate each year the method of determining

## DEPARTMENT OF INSURANCE

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assumed expenses for all policy forms from the following:

Fully allocated expenses;

Marginal expenses; and

A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the National Association of Insurance Commissioners ([NAIC](#)) or by the Director.

Marginal expenses may be used only if greater than a generally recognized expense table. If no generally recognized expense table is approved, fully allocated expenses must be used.

"Non-term Group Life" means a group policy or individual policies of life insurance issued to members of a group ~~when~~[where](#):

Every plan of coverage was selected by the employer or other group representative;

Some portion of the premium is paid by the group or through payroll deduction; and

Group underwriting or simplified underwriting is used.

"Policyowner" means the owner named in the policy or the certificateholder in the case of a group policy.

"Premium Outlay" means the amount of premium assumed to be paid by the policyowner or other premium payer out-of-pocket.

"Self-supporting Illustration" means an illustration of a policy form, either individual or group, for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated points in time on or after the fifteenth policy anniversary or the twentieth policy anniversary for last survivor policies (or upon policy expiration if sooner), the accumulated value of all policy cash flows equals or exceeds the total policyowner value available. For this purpose, policyowner value will include

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## NOTICE OF PROPOSED AMENDMENTS

cash surrender values and any other illustrated benefit amounts available at the policyowner's election.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1406.100 Annual Certifications**

- a) The Board of Directors of each insurer shall appoint one or more illustration actuaries.
- b) The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the Actuarial Standard of Practice No. 24, Compliance with the NAIC Life Insurance Illustrations Model Regulation promulgated by the Actuarial Standards Board (ASB), as of December 2016 (no subsequent dates or editions), 1850 M Street NW, Suite 300, Washington DC 20006; website <http://www.actuarialstandardsboard.org/>(1720 I Street, N.W., 7th Floor, Washington, DC 20006), and that the illustrated scales used in insurer-authorized illustrations meet the requirements of this Part.
- c) The illustration actuary shall:
  - 1) Be a member of the American Academy of Actuaries;
  - 2) Be familiar with the standard of practice regarding life insurance policy illustrations;
  - 3) Not have been found by the Director, following appropriate notice and hearing, to have:
    - A) Violated any provision of, or any obligation imposed by, the insurance law or other law in the course of his or her dealings as an illustration actuary;
    - B) Been found guilty of fraudulent or dishonest practices;
    - C) Demonstrated his or her incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or
    - D) Resigned or been removed as an illustration actuary within the past

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5 years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards;

- 4) Not fail to notify the Director of any action taken by a commissioner of another state similar to that identified under subsection (c)(3) ~~of this Section~~;
  - 5) Disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous 5 years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If non-guaranteed elements illustrated for new policies are not consistent with those illustrated for similar in force policies, this must be disclosed in the annual certification. If non-guaranteed elements illustrated for both new and in force policies are not consistent with the non-guaranteed elements actually being paid, charged or credited to the same or similar forms, this must be disclosed in the annual certification; and
  - 6) Disclose, in the annual certification, the method, of the following, used to allocate overhead expenses for all illustrations:
    - A) Fully allocated expenses;
    - B) Marginal expenses; or
    - C) A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the NAIC National Association of Insurance Commissioners or by the Director.
- d) The illustration actuary shall:
- 1) File a certification with the insurer's Board of Directors and the Director:
    - A) Annually for all policy forms for which illustrations are used; and
    - B) Before a new policy form is illustrated.

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- 2) If an error in a previous certification is discovered, the illustration actuary shall notify the insurer's Board of Directors and the Director promptly.
- e) If an illustration actuary is unable to certify the scale for any policy form illustration the insurer intends to use, the actuary shall notify the Board of Directors of the insurer promptly of his or her inability to certify.
- f) An annual certification shall be filed with the Director by the insurer by no later than December 31 of each year for the 12 months immediately preceding the certification date ~~itself. For the initial 1998 filing, the insurer shall provide a certification for the calendar months which follow the effective date of this Part. The insurer shall submit the actuarial certification as required by subsection (d) of this Section to the Life, Accident/Health Compliance Unit of the Illinois Department of Insurance.~~ A responsible officer of the insurer, other than the illustration actuary, shall certify:
- 1) That the illustration formats meet the requirements of this Part and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary; and
  - 2) That the insurer has provided its insurance producers with information about the expense allocation method used by the insurer in its illustrations and disclosed as required by subsection (c)(6) ~~of this Section.~~
- g) If an insurer changes the illustration actuary responsible for all or a portion of the insurer's policy forms, the insurer shall notify the Director of that fact promptly and disclose the reason for the change.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Health Maintenance Organization
- 2) Code Citation: 50 Ill. Adm. Code 4521
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
4521.30	Amendment
4521.80	Repealed
- 4) Statutory Authority: Implementing and authorized by Sections 4-6.1, 4-17, 5-2 and 5-7 of the Health Maintenance Organization Act [215 ILCS 125/4-6.1, 4-17, 5-2 and 5-7]; 42 USC 300gg-22; and 45 CFR 150.101(b)(2) and 150.201.
- 5) A Complete Description of the Subjects and Issues Involved: Section 4521.30 currently incorporates by reference a 1994 edition of the "Valuation of Securities Manual" published by the National Association of Insurance Commissioners to value securities for which valuations are not otherwise defined by statute or rule. That publication has been superseded by the "Purposes and Procedures Manual of the NAIC Investment Analysis Office". The incorporation by reference is being revised to reflect the current publication. A reference to the American Institute of Real Estate Appraisers also is revised to the Appraisal Institute to reflect the organization's current name after a merger.  
  
Section 4521.80 currently requires HMOs to comply with financial reporting requirements as set forth in Section 2-7 of the HMO Act, which has been repealed. Instead, the HMO Act now incorporates by reference the same financial reporting requirements that apply to insurance companies under 215 ILCS 5/136. That statute provides at least as much detailed instruction as Section 4521.80. As such, Section 4521.80 has become both out of date and redundant, and it will be repealed.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:
- |                                  |    |                                  |
|----------------------------------|----|----------------------------------|
| Robert Planthold                 | or | Susan Anders                     |
| Assistant General Counsel        |    | Rules Coordinator                |
| Illinois Department of Insurance |    | Illinois Department of Insurance |
| 122 S. Michigan Ave., Fl. 19     |    | 320 W. Washington St., Fl. 4     |
| Chicago IL 60603-6137            |    | Springfield IL 62767-0002        |
| 312/814-5445                     |    | 217/558-0957                     |
- 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) Small Business Impact Analysis: The Department determined that the rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2019

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

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TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER ww: HEALTH CARE SERVICE PLANSPART 4521  
HEALTH MAINTENANCE ORGANIZATION

Section	
4521.10	Scope
4521.20	Definitions
4521.30	Valuation of Investments
4521.40	Grievance Procedure
4521.50	Contracts, Administrative Arrangements and Material Modifications
4521.60	Rates
4521.70	Subordinated Indebtedness
4521.80	Financial Reporting ( <a href="#">Repealed</a> )
4521.90	Conflict of Interest and Required Disclosure
4521.100	Solicitation
4521.110	Requirements for Group Contracts, Evidences of Coverage and Individual Contracts
4521.111	Cancellation
4521.112	Form Filing Requirements
4521.113	Point of Service Plan Requirements
4521.120	Internal Security Standards and Fidelity Bonds
4521.130	Basic Health Care Services
4521.131	Basic Outpatient Preventive and Primary Health Care Services for Children
4521.132	Required Coverage for Reconstructive Surgery Following Mastectomies
4521.140	General Provisions
4521.141	HMO Producer Licensing Requirements
4521.142	Limited Insurance Representative Requirements – Public Aid and Medicare Enrollers
4521.150	Severability

AUTHORITY: Implementing and authorized by Sections 4-6.1, 4-17, 5-2 and 5-7 of the Health Maintenance Organization Act [215 ILCS 125]; 42 USC 300gg-22; and 45 CFR 150.101(b)(2) and 150.201.

SOURCE: Filed June 16, 1976, effective July 1, 1976; codified at 7 Ill. Reg. 3016; amended at 15 Ill. Reg. 199, effective December 28, 1990; amended at 20 Ill. Reg. 10639, effective July 25,

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1996; recodified at 21 Ill. Reg. 1729; emergency amendment at 21 Ill. Reg. 15262, effective November 18, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 6671, effective March 31, 1998; amended at 23 Ill. Reg. 5690, effective May 3, 1999; emergency amendment at 26 Ill. Reg. 5146, effective March 25, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13088, effective August 19, 2002; transferred from the Department of Insurance to the Department of Financial and Professional Regulation pursuant to Executive Order 2004-6 on July 1, 2004; amended at 28 Ill. Reg. 14412, effective October 19, 2004; amended at 30 Ill. Reg. 4732, effective March 2, 2006; transferred from the Department of Financial and Professional Regulation to the Department of Insurance pursuant to Executive Order 2009-4 on June 1, 2009; amended at 37 Ill. Reg. 14032, effective August 26, 2013; amended at 38 Ill. Reg. 2272, effective January 2, 2014; amended at 38 Ill. Reg. 23437, effective November 25, 2014; amended at 39 Ill. Reg. 6505, effective April 24, 2015; recodified from 50 Ill. Adm. Code 5421 to 50 Ill. Adm. Code 4521 at 41 Ill. Reg. 4985; amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 4521.30 Valuation of Investments**

- a) The "[Purposes and Procedures Manual of the NAIC Investment Analysis Office](#)~~Valuations of Securities Manual~~", as of December 31, [2018 \(National Association of Insurance Commissioners, One New York Plaza, Ste. 4210, New York NY 10004\)](#)~~1994~~ (no later editions or amendments), ~~as published by the National Association of Insurance Commissioners (NAIC)~~, shall be used for valuing securities for which valuations are not otherwise defined by statute or rule. The Director shall disallow any procedure prescribed by that manual if the Director deems it necessary to ascertain the condition and affairs of the company. In making this determination, the Director shall consider such factors as:
- 1) the nature of the investment (stocks or bonds);
  - 2) the financial condition of the issuing company;
  - 3) the applicability of other standardized accounting procedures; and
  - 4) other factors affecting the accuracy of the valuation.
- b) The following procedure shall be required for the listed investment:
- 1) Real Estate  
Written appraisals for real estate investments shall be submitted to the

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Department for review 15 days following the end of the month in which the real estate was acquired. Real estate investments requiring approval under Section 3-1(h)(16)(iii) of the Act ~~[215 ILCS 125/3-1(h)(16)(iii)]~~ shall have an appraisal. The appraisal shall be reviewed to insure that the appraisal was performed by a member of the ~~Appraisal~~American Institute ~~of Real Estate Appraisers~~ in the customary manner and that the appraisal supports the valuation amount expressed by the company in its annual statement.

- 2) Valuation of Investments Otherwise Defined
- A company that has an investment that cannot be valued in accordance with the procedures outlined in subsection (b)(1) must file a request for valuation with the Department within 15 days following the end of the month in which the investment is acquired. This request shall include, at a minimum, the following information:
- A) A description of the investment;
  - B) Date of acquisition;
  - C) Name of vendor;
  - D) Cost of investment to company;
  - E) Par value, if relevant;
  - F) Rate and/or amount of interest, dividend or other compensation earned or accrued;
  - G) Any other significant terms of the investment.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 4521.80 Financial Reporting (Repealed)**

~~Every entity possessing a Certificate of Authority to transact the business of an HMO shall report the financial condition and results of its HMO operations in a form, adopted for the reporting requirements of Section 2-7 of the Act [215 ILCS 125/2-7], that shall conform substantially to the form of report adopted by the National Association of Insurance Commissioners, as revised,~~

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~~with such modifications and additions to the form as the Director may deem desirable and necessary to ascertain the condition, affairs, and performance of the HMO.~~

(Source: Repealed at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: General Rules
- 2) Code Citation: 35 Ill. Adm. Code 101
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
101.100	Amendment
101.106	Amendment
101.108	Amendment
101.110	Amendment
101.112	Amendment
101.114	Amendment
101.200	Amendment
101.202	Amendment
101.300	Amendment
101.302	Amendment
101.304	Amendment
101.306	Amendment
101.308	Amendment
101.400	Amendment
101.402	Amendment
101.404	Amendment
101.406	Amendment
101.500	Amendment
101.502	Amendment
101.504	Amendment
101.508	Amendment
101.510	Amendment
101.512	Amendment
101.514	Amendment
101.516	Amendment
101.518	Amendment
101.520	Amendment
101.522	Amendment
101.602	Amendment
101.604	Amendment
101.606	Amendment
101.608	Amendment
101.610	Amendment
101.612	Amendment

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

101.616	Amendment
101.618	Amendment
101.620	Amendment
101.622	Amendment
101.624	Amendment
101.626	Amendment
101.627	New Section
101.628	Amendment
101.630	Amendment
101.700	Amendment
101.800	Amendment
101.902	Amendment
101.904	Amendment
101.906	Amendment
101.908	Amendment
101.1000	Amendment
101.1010	Amendment
101.1020	Amendment
101.1030	Amendment
101.1060	Amendment
101.1070	Amendment
101.APPENDIX I	Amendment

- 4) Statutory Authority: Implementing and authorized by Section 26 of the Illinois Environmental Protection Act [415 ILCS 5/26] and Section 10-75 of the Illinois Administrative Procedure Act [5 ILCS 100/10-75].
  
- 5) A Complete Description of the Subjects and Issues Involved: On April 11, 2019, the Board issued an opinion and order proposing first-notice amendments to Part 101 of its procedural rules [35 Ill. Adm. Code 101]. Part 101 contains the Board's general rules of procedure, which apply to all types of Board proceedings. The proposed amendments cover four subjects. First, a person offering an exhibit at an adjudicatory or time-limited water quality standard (TLWQS) hearing must e-file the exhibit after hearing, unless the hearing officer determines that it is not practicable for the person to do so. Second, under PA 100-880 (eff. Jan. 1, 2019), the Board will e-mail serve its final adjudicatory orders on parties consenting to e-mail service, except for final enforcement orders. Third, the Board specifies Part 101's applicability to TLWQS proceedings, which do not fall within either of the traditional types of Board proceedings – rulemakings and adjudicatory cases.

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Fourth, the Board clarifies, updates, and streamlines Part 101 consistent with the Board's regulatory review initiative.

The Board's first-notice opinion and order in this rulemaking (Proposed Amendments to General Procedural Rules [35 Ill. Adm. Code 101], docket R19-19) may be viewed and downloaded on the Board's website ([pcb.illinois.gov](http://pcb.illinois.gov)).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The Board expects that this rulemaking will not create or enlarge 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: The Board will accept written public comment on the proposed amendments for a period of 45 days after the date of their *Illinois Register* publication. Each public comment must identify the docket number of this rulemaking, R19-19, and be e-filed through the Clerk's Office On-Line (COOL) on the Board's website ([pcb.illinois.gov](http://pcb.illinois.gov)). If e-filing your public comment through COOL is not practicable, the Clerk may grant you permission to file your public comment by another means. Questions about e-filing and COOL may be directed to the Clerk's Office at 312/814-3620 or [PCB.Clerks@Illinois.Gov](mailto:PCB.Clerks@Illinois.Gov).
- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business, small municipality, or not-for-profit corporation that practices before the Board.

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- B) Reporting, bookkeeping or other procedures required for compliance: None beyond those required to comply with the current procedural rules.
- C) Types of professional skills necessary for compliance: None beyond those required to comply with the current procedural rules.
- 14) Small Business Impact Analysis: The Board expects that this rulemaking will not have an adverse impact on small business.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because it was prompted by PA 100-880, which did not become effective until January 1, 2019.

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

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE A: GENERAL PROVISIONS  
CHAPTER I: POLLUTION CONTROL BOARD

PART 101  
GENERAL RULES

SUBPART A: GENERAL PROVISIONS

Section	
101.100	Applicability
101.102	Severability
101.104	Repeals
101.106	Board Authority
101.108	Board Proceedings
101.110	Public Participation
101.111	Informal Recordings of Board Meetings
101.112	Bias and Conflict of Interest
101.114	Ex Parte Communications

SUBPART B: DEFINITIONS

Section	
101.200	Definitions <del>Contained</del> in the Act
101.202	Definitions for Board's Procedural Rules

SUBPART C: COMPUTATION OF TIME, FILING, SERVICE  
OF DOCUMENTS, AND STATUTORY DECISION DEADLINES

Section	
101.300	Computation of Time
101.302	Filing of Documents
101.304	Service of Documents
101.306	Incorporation of Documents from Another Proceeding
101.308	Statutory Decision Deadlines and Waiver of Deadlines

SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION

Section

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- 101.400 Appearances, Withdrawals, and Substitutions of Attorneys in Adjudicatory Proceedings
- 101.402 Intervention of Parties
- 101.403 Joinder of Parties
- 101.404 Agency as a Party in Interest
- 101.406 Consolidation of Claims
- 101.408 Severance of Claims

## SUBPART E: MOTIONS

## Section

- 101.500 Filing of Motions and Responses
- 101.502 Motions Directed to the Hearing Officer
- 101.504 Contents of Motions and Responses
- 101.506 Motions Attacking the Sufficiency of the Petition, Complaint, or Other Pleading
- 101.508 Motions to Board Preliminary to Hearing
- 101.510 Motions to Cancel Hearing
- 101.512 Motions for Expedited Review
- 101.514 Motions to Stay Proceedings
- 101.516 Motions for Summary Judgment
- 101.518 Motions for Interlocutory Appeal from Hearing Officer Orders
- 101.520 Motions for Reconsideration
- 101.522 Motions for Extension of Time

## SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

## Section

- 101.600 Hearings
- 101.602 Notice of Board Hearings
- 101.604 Formal Board Transcript
- 101.606 Informal Recordings of the Proceedings
- 101.608 Default
- 101.610 Duties and Authority of the Hearing Officer
- 101.612 Schedule to Complete the Record
- 101.614 Production of Information
- 101.616 Discovery
- 101.618 Admissions
- 101.620 Interrogatories
- 101.622 Subpoenas and Depositions

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101.624	Examination of Adverse, Hostile, or Unwilling Witnesses
101.626	Information Produced at Hearing
<a href="#">101.627</a>	<a href="#">Electronic Filing of Hearing Exhibits After Adjudicatory or TLWQS Hearing</a>
101.628	Statements from Participants
101.630	Official Notice <a href="#">and Evidence Evaluation</a>
101.632	Viewing of Premises

## SUBPART G: ORAL ARGUMENT

Section	
101.700	Oral Argument

## SUBPART H: SANCTIONS

Section	
101.800	Sanctions for Failure to Comply with Procedural Rules, Board Orders, or Hearing Officer Orders
101.802	Abuse of Discovery Procedures

## SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

Section	
101.902	Motions for Reconsideration
101.904	Relief from Final Opinions and Orders
101.906	Judicial Review of Board Orders
101.908	Interlocutory Appeal

## SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

Section	
101.1000	Electronic Filing and E-Mail Service
101.1010	Electronic Filing Authorization and Signatures
101.1020	Filing Electronic Documents
101.1030	Form of Electronic Documents for Filing
101.1040	Filing Fees
101.1050	Documents Required in Paper or Excluded from Electronic Filing
101.1060	E-Mail Service
101.1070	Consenting to Receipt of E-Mail Service

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- 101.APPENDIX A Captions
- 101.ILLUSTRATION A Enforcement Case
  - 101.ILLUSTRATION B Citizen's Enforcement Case
  - 101.ILLUSTRATION C Variance
  - 101.ILLUSTRATION D Adjusted Standard Petition
  - 101.ILLUSTRATION E Joint Petition for an Adjusted Standard
  - 101.ILLUSTRATION F Permit Appeal
  - 101.ILLUSTRATION G Underground Storage Tank Appeal
  - 101.ILLUSTRATION H Pollution Control Facility Siting Appeal
  - 101.ILLUSTRATION I Administrative Citation
  - 101.ILLUSTRATION J Administrative Citation Under Section 23.1 of the Public Water Supply Operations Act
  - 101.ILLUSTRATION K General Rulemaking
  - 101.ILLUSTRATION L Site-specific Rulemaking
- 101.APPENDIX B Appearance Form
- 101.APPENDIX C Withdrawal of Appearance Form
- 101.APPENDIX D Notice of Filing
- 101.APPENDIX E Affidavit or Certificate of Service
- 101.ILLUSTRATION A Service by Non-Attorney
  - 101.ILLUSTRATION B Service by Attorney
- 101.APPENDIX F Notice of Withdrawal (Repealed)
- 101.APPENDIX G Comparison of Former and Current Rules (Repealed)
- 101.APPENDIX H Affidavit or Certificate of E-Mail Service
- 101.ILLUSTRATION A E-Mail Service by Non-Attorney
  - 101.ILLUSTRATION B E-Mail Service by Attorney
- 101.APPENDIX I Consent to Receipt of E-Mail Service

AUTHORITY: Implementing Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7 of the Environmental Protection Act (Act) [415 ILCS 5] and authorized by Sections 26 and 27 of the Act [415 ILCS 5] and Section 25-101 of the Electronic Commerce Security Act [5 ILCS 175].

SOURCE: Filed with Secretary of State January 1, 1978; codified 6 Ill. Reg. 8357; Part repealed, new Part adopted in R88-5A at 13 Ill. Reg. 12055, effective July 10, 1989; amended in R90-24 at 15 Ill. Reg. 18677, effective December 12, 1991; amended in R92-7 at 16 Ill. Reg. 18078, effective November 17, 1992; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 446, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8743, effective June 8, 2005; amended in R06-9 at 29 Ill. Reg. 19666, effective November 21, 2005; amended in R07-17 at 31 Ill. Reg. 16110, effective November 21, 2007; amended in R10-22 at 34 Ill. Reg. 19566,

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effective December 3, 2010; amended in R12-22 at 36 Ill. Reg. 9211, effective June 7, 2012; amended in R13-9 at 37 Ill. Reg. 1655, effective January 28, 2013; amended in R14-21 at 39 Ill. Reg. 2276, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12848, effective September 8, 2015; amended in R16-17 at 40 Ill. Reg. 7912, effective May 20, 2016; amended in R17-18 at 41 Ill. Reg. 9930, effective July 5, 2017; amended in R19-19 at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 101.100 Applicability**

- a) This Part sets forth the rules generally applicable to proceedings before the Illinois Pollution Control Board (Board), and should be read in conjunction with procedural rules for the Board's specific proceedings, found at 35 Ill. Adm. Code 102 through 130, and the Board's Administrative Rules, found at 2 Ill. Adm. Code 2175. ~~If in the event of a conflict between~~ the rules of this Part and those found in subsequent Parts conflict, the more specific requirement applies.
- b) Except when the Board's procedural rules provide otherwise, the ~~provisions of the~~ Code of Civil Procedure [735 ILCS 5] and the Supreme Court Rules [Ill. S. Ct. Rules] do not apply to proceedings before the Board. However, the Board may look to the Code of Civil Procedure and the Supreme Court Rules for guidance when the Board's procedural rules are silent.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.106 Board Authority**

- a) The Board has the authority to *determine, define and implement the environmental control standards applicable in the State of Illinois and may adopt rules and regulations in accordance with Title VII of the Act.* [415 ILCS 5/5(b)]
- b) The Board has the *authority to conduct proceedings upon complaints charging violations of the Act, any rule or regulation adopted under the Act, any permit or term or condition of a permit, or any Board order; upon administrative citations; upon petitions for variances, ~~or~~ adjusted standards, or time-limited water quality standards; upon petitions for review of the Agency's final determinations on permit applications in accordance with Title X of the Act; upon petitions to remove seals under Section 34 of the Act; and upon other petitions for review of*

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*final determination which are made pursuant to the Act or Board rules and which involve a subject which the Board is authorized to regulate. The Board may also conduct other proceedings as may be provided by the Act or any other statute or rule. [415 ILCS 5/5(d)]*

- c) In addition to subsections (a) and (b), the Board has the authority to act as otherwise provided by law.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.108 Board Proceedings**

- a) Board proceedings can generally be divided into ~~two~~ categories: ~~rulemakings~~~~rulemaking proceedings~~ and adjudicatory proceedings. However, a time-limited water quality standard proceeding (35 Ill. Adm. Code 104.Subtitle E) is a non-adjudicatory proceeding that is not subject to the procedural requirements for rulemakings. (See 415 ILCS 5/38.5(a), (1).)
- b) The following are examples of Board ~~rulemakings~~~~rulemaking proceedings~~: Identical-in-Substance, Clean Air Act/Fast Track, Federally Required Rulemaking, General Rulemaking, and Site-Specific Rulemaking. Procedural rules for these types of proceedings can be found at 35 Ill. Adm. Code 102.
- c) The following are examples of Board adjudicatory proceedings: Enforcement Proceedings (35 Ill. Adm. Code 103), Variance Petitions (35 Ill. Adm. Code 104), Adjusted Standard Petitions (35 Ill. Adm. Code 104), Permit Appeals (35 Ill. Adm. Code 105), Leaking Underground Storage Tank Appeals (35 Ill. Adm. Code 105), Pollution Control Facility Siting Appeals (35 Ill. Adm. Code 107), and Administrative Citations (35 Ill. Adm. Code 108).
- d) Board decisions will be made at meetings open to the public. Except as provided in subsection (e), 3 members of the Board ~~form~~~~constitute~~ a quorum, and 3 affirmative votes are required to adopt a Board decision.
- e) At a hearing under Section 34(d) of the Act to determine whether a seal should be removed, *at least one Board member*~~Member~~ *shall be present, and those Board members*~~Members~~ *present may render a final decision without regard to the requirements of Section 5(a) of the Act. [415 ILCS 5/34(d)]*

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(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.110 Public Participation**

- a) General. The Board encourages public participation in all ~~of~~ its proceedings. The extent to which the law allows for the participation varies, depending on the type of Board proceeding involved, the party status of the person or persons seeking to participate, and the rules governing that type of proceeding. Public participation ~~in particular proceedings~~ may be more specifically delineated by Board or hearing officer order consistent with ~~the provisions of~~ applicable law and the Board's procedural rules. (See Sections 101.114 and 101.628.)
- b) Party/Non-Party Status. The issue of who ~~is~~ constitutes a proper party in each type of adjudicatory proceeding before the Board is addressed in the rules. A person who wishes to participate in a Board adjudicatory proceeding and ~~who~~ is not a party will be ~~considered~~ deemed a participant and will have only those rights specifically provided in these rules. A person who wishes to participate in a Board regulatory ~~or time-limited water quality standard~~ proceeding will be ~~considered~~ deemed a participant and will have only those rights specifically provided in ~~this Part~~ these rules.
- c) Amicus Curiae Briefs. Amicus curiae briefs may be filed in any adjudicatory proceeding by any interested person, ~~if the Board grants~~ provided permission ~~is granted by the Board~~. Response briefs ~~will~~ may be allowed ~~only with Board~~ by permission ~~of the Board, but not as of right~~. The briefs must consist of argument only and ~~must~~ may not raise facts that are not in evidence in the relevant proceeding. Amicus curiae briefs, and any responses, will be considered by the Board only as time allows. The briefs will not delay ~~the Board's~~ decision-making ~~of the Board~~. (See also Section 101.302(k).)
- d) Public Remarks at a Board Meeting. During the ~~time~~ period designated for public remarks, any person physically present, once recognized by the Chairman, may make public remarks to the Board concerning a proceeding listed on that meeting's agenda.
- 1) Sign-In Sheet. Beginning at least 15 minutes before the scheduled start of each Board meeting, a public remarks sign-in sheet will be available to the public at the meeting. Anyone who wishes to make public remarks at the meeting must provide the following information on the sign-in sheet:

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- A) Full name;
  - B) Any person he or she is representing; and
  - C) The docket number of the proceeding on which he or she would like to make public remarks.
- 2) Time Limits. A ~~time~~ period of up to 30 minutes at the beginning of each Board meeting, as designated on the meeting agenda, is reserved for public remarks. The Chairman may extend ~~the duration of~~ the public remarks portion of the meeting as necessary to accommodate persons who signed in under subsection (d)(1). A person's public remarks on a ~~given~~ proceeding must not exceed 5~~five~~ minutes in length, but this ~~time~~ period may be extended with the Chairman's permission.
- 3) Nature of Public Remarks. Public remarks are not made under oath or affirmation and are not subject to cross-examination. Public remarks that are relevant to the proceeding for which they are made may be considered by the Board, but factual statements made during public remarks ~~are~~ do not constitute evidence in the proceeding. The public remarks portion of a Board meeting is not a hearing and cannot be used to offer documentary or other physical evidence to the Board. The Chairman may direct persons to ~~stop~~ cease public remarks that are irrelevant, repetitious, or disruptive. Persons engaging in disorderly conduct may be asked by the Chairman to leave the meeting.
- 4) Transcription. The Board will arrange for public remarks to be transcribed. Transcripts of public remarks will be made a part of the record of the proceeding to which the remarks correspond. (See 5 ILCS 120/2.06(g).)

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.112 Bias and Conflict of Interest**

- a) No Board ~~member~~ Member or Board employee may represent any other person in any Board proceeding.

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- b) No former Board ~~member~~Member or Board employee may represent any other person in any Board proceeding in which he or she participated personally and substantially as a Board ~~member~~Member or Board employee, unless the Board and, as applicable, all parties ~~in the adjudicatory proceeding, all~~ or proponents ~~in the rulemaking, or all petitioners in the time-limited water quality standard~~ proceeding consent in writing after disclosure of the participation. For ~~purposes of~~ subsections (a) and (b), representation includes consulting on legal or technical matters, and Board employee means a person the Board employs on a full-time, part-time, contract, or intern basis.
- c) The Board, on its own motion or the motion of any party, may disqualify a hearing officer for bias or conflict of interest as provided by Section 10-30(b) of the IAPA [5 ILCS 100/10-30(b)].
- d) In ~~compliance~~accordance with Section 128 of the federal Clean Air Act, at least a majority of Board members must represent the public interest and must not derive any significant portion of their income from persons subject to permits or enforcement orders under the Clean Air Act or Illinois Environment Protection Act. Any potential conflicts of interests by Board members must be adequately disclosed.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.114 Ex Parte Communications**

- a) For ~~the purposes of~~ this Section, "interested person or party" *means a person or entity whose rights, privileges, or interests are the subject of or are directly affected by a regulatory, quasi-adjudicatory, investment, or licensing matter.* [5 ILCS 430/5-50(d)] For this definition, a time-limited water quality standard proceeding is considered a regulatory matter.
- b) For ~~the purposes of~~ this Section, "Executive Ethics Commission" means the commission created by the State Officials and Employees Ethics Act [5 ILCS 430].
- c) Adjudicatory, and Regulatory, and Time-Limited Water Quality Standard Proceedings. Board ~~members~~Members and Board employees must not engage in an ex parte communication designed to influence their action regarding with respect to an adjudicatory, ~~a~~ or regulatory, or a time-limited water quality

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standard proceeding pending before or under consideration by the Board. (See definition of "ex parte communication" in Section 101.202.) Whenever practicable, an interested person or party or his or her official representative or attorney should make all communications ~~regarding with respect to~~ an adjudicatory, ~~or~~ regulatory, or time-limited water quality standard proceeding pending before or under consideration by the Board in writing and address them to the Clerk rather than to individual Board ~~members~~Members or Board employees. (See Sections 101.110 and 101.628.)

- d) Nothing in this Section precludes Board ~~members~~Members or Board employees from receiving informal complaints about individual pollution sources, or forbids the administrative contacts as would be appropriate for judges and other judicial officers. Information about a pollution source included in the record of a regulatory or time-limited water quality standard proceeding is not an ex parte communication ~~regarding with respect to~~ any adjudicatory proceeding concerning the pollution source.
- e) When the Clerk on behalf of the Board, a Board member, or a Board employee receives an ex parte communication from an interested person or party or his or her official representative or attorney, the recipient, in consultation with the Board's ethics officer or his or her designee, ~~will~~must promptly memorialize the communication and make it part of the record of the proceeding. To make an oral ex parte communication part of the record, the substance of the oral communication, along with the identity of each person involved in the communication, will be either ~~stated set forth~~ in a memorandum and placed in the record or announced on the record at a public hearing.
- f) When the Clerk on behalf of the Board, a Board member, or a Board employee receives an ex parte communication, other than an ex parte communication received from an interested person or party or his or her official representative or attorney, that communication ~~will~~must be promptly reported to the Board's ethics officer or his or her designee *by the recipient of the communication and by any other employee of the Board who responds to the communication.*
  - 1) *The ethics officer* or his or her designee, in consultation with the recipient of the ex parte communication, ~~will~~must ensure *that the ex parte communication is promptly made part of the record of the proceeding.* [5 ILCS 430/5-50(c)]

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- 2) *The ethics officer or his or her designee, in consultation with the recipient of the ex parte communication, ~~will~~must promptly file the ex parte communication with the Executive Ethics Commission, including:*
- A) *All written communications;*
  - B) *All written responses to the communications;*
  - C) *A memorandum prepared by the ethics officer stating the nature and substance of all oral communications;*
  - D) *The identity and job title of the person to whom each communication was made;*
  - E) *All responses made;*
  - F) *The identity and job title of the person making each response;*
  - G) *The identity of each person from whom the written or oral ex parte communication was received;*
  - H) *The individual or entity represented by that person;*
  - I) *Any action the person requested or recommended; and*
  - J) *Any other pertinent information.*
- 3) *The disclosure shall also contain the date of any ex parte communication.*  
[5 ILCS 430/5-50(c)]

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: DEFINITIONS

**Section 101.200 Definitions ~~Contained~~ in the Act**

Unless otherwise provided in 35 Ill. Adm. Code 101 ~~through~~ –130, or unless a different meaning of a word or term is clear from the context, the definitions of the Act apply to the Board's procedural rules, found in 35 Ill. Adm. Code 101 through 130.

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(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.202 Definitions for Board's Procedural Rules**

Unless otherwise provided in 35 Ill. Adm. Code 101-130, or unless a different meaning of a word or term is clear from the context, the following definitions also apply to the Board's procedural rules, found in 35 Ill. Adm. Code 101 through 130:

"Act" means the Environmental Protection Act [415 ILCS 5].

"Adjudicatory proceeding" means an action of a quasi-judicial nature brought before the Board under authority granted to the Board by Section 5(d) of the Act or as otherwise provided by law. Adjudicatory proceedings include enforcement, variance, permit appeal, pollution control facility siting appeal, Underground Storage Tank (UST) Fund determination, water well set back exception, adjusted standard, and administrative citation proceedings. Adjudicatory proceedings do not include regulatory, quasi-legislative, ~~or~~ informational, or time-limited water quality standard proceedings.

"Adjusted standard" or "AS" means an alternative standard granted by the Board in an adjudicatory proceeding under Section 28.1 of the Act and 35 Ill. Adm. Code 104.Subpart D. The adjusted standard applies instead of the rule or regulation of general applicability.

"Administrative citation" or "AC" means a citation issued by the Agency or by a unit of local government acting as the Agency's delegate. (See 35 Ill. Adm. Code 108.)

"Administrative citation review" or "administrative citation appeal" means a petition for review of an administrative citation. (See 35 Ill. Adm. Code 108.)

"Affidavit" means a sworn, signed statement witnessed by a notary public.

"Agency" means the Illinois Environmental Protection Agency as established by Section 4 of the Act.

"Agency recommendation" means the document filed by the Agency under Section 28.1(d)(3), Sections 37(a), or 38.5(g) and 28.1(d)(3) of the Act in which

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the Agency provides its recommended disposition of a petition for ~~variance or~~ an adjusted standard, a variance, or a time-limited water quality standard, respectively. This includes a recommendation to deny, or a recommendation to grant with or without conditions. (See 35 Ill. Adm. Code 104.218, ~~and~~ 104.416, and 104.550.)

"Amicus curiae brief" means a brief filed in a proceeding by any interested person who is not a party. (See Sections 101.110 and 101.628.)

"Applicant" means any person who submits, or has submitted, an application for a permit or for local siting approval under any of the authorities to issue permits or granting of siting approval identified in Sections 39, 39.1, and 39.5 of the Act.

"Article" means *any object, material, device or substance, or whole or partial copy thereof, including any writing, record, document, recording, drawing, sample, specimen, prototype, model, photograph, culture, microorganism, blueprint or map.* [415 ILCS 5/7.1]

"Attorney General" means the Attorney General of the State of Illinois or his or her representatives ~~thereof~~.

"Authorized representative" means any person who is authorized to act on behalf of another person.

"Board" means the Illinois Pollution Control Board as created in Section 5 of the Act or, if applicable, its designee.

"Board decision" means an opinion or an order voted in favor of by at least 3~~three~~ members of the Board at an open Board meeting except in a proceeding to remove a seal under Section 34(d) of the Act.

"Board designee" means an employee of the Board who has been given authority by the Board to carry out a function for the Board (e.g., the Clerk, Assistant Clerk of the Board, or hearing officer).

"Board meeting" means an open meeting held by the Board under Section 5(a) of the Act in which the Board makes its decisions and determinations.

"Board's procedural rules" means the Board's regulations ~~set forth~~ at 35 Ill. Adm.

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Code 101 through 130.

"Brief" means a written statement that ~~summarizes~~~~contains a summary of~~ the facts of a proceeding, states the pertinent laws, and ~~argues an argument of~~ how the laws apply~~law applies~~ to the facts supporting a position.

"CAAPP" means the Clean Air Act Permit Program, as adopted in Section 39.5 of the Act.

"Certificate of acceptance" means a certification, executed by a successful petitioner in a variance proceeding, in which the petitioner agrees to be bound by all terms and conditions that the Board has affixed to the grant of variance.

"Chairman" means the Chairman of the Board designated by the Governor under Section 5(a) of the Act.

"Citizen's enforcement proceeding" means an enforcement action brought before the Board under Section 31(d) of the Act by any person who is not authorized to bring the action on behalf of the People of the State of Illinois.

"Clean Air Act" or "CAA" *means the federal Clean Air Act, as now and hereafter amended (42 USC 7401 et seq.).* [415 ILCS 5/39.5]

"Clean Water Act" means the federal Clean Water Act (33 USC 1251 et seq.).

"Clerk" means the Clerk of the Board.

"Clerk's Office On-Line" or "COOL" means the Board's web-based file management system that allows electronic filing of and access to electronic documents in the records of the Board's adjudicatory, ~~and~~ regulatory, and time-limited water quality standard proceedings. COOL is located on the Board's website at [pcb.illinois.gov](http://pcb.illinois.gov)~~http://www.ipcb.state.il.us/COOL/external/~~.

"Complaint" means the initial filing that begins an enforcement proceeding under Section 31 of the Act and 35 Ill. Adm. Code 103.

"Compliance plan" means a detailed description of a program designed to achieve compliance with the Act and Board regulations.

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"Copy" means *any facsimile, replica, photograph or other reproduction of an article, and any note, drawing or sketch made of or from an article.* [415 ILCS 5/7.1]

"Counter-complaint" means a pleading that a respondent files ~~stating~~setting forth a claim against a complainant in an enforcement proceeding. (See 35 Ill. Adm. Code 103.206.)

"Cross-complaint" means a pleading that a party files ~~stating~~setting forth a claim against a co-party in an enforcement proceeding. (See 35 Ill. Adm. Code 103.206.)

"Cross-media impacts" means impacts that concern multiple environmental areas, such as air, land, ~~and~~and/or water.

"Decision date" means the date of the Board meeting immediately preceding the decision deadline.

"Decision deadline" means the last day of any decision period, as established by law, within which the Board ~~must decide~~is required to render a decision in an adjudicatory proceeding. (See Subpart C. See also Sections 38(a), 40, and 40.1 of the Act that establish 120-day decision deadlines for variances, permit appeals, and review of pollution control facility siting decisions respectively.)

"Decision period" means the ~~timeframe~~period of time established by the Act within which the Board ~~must~~is required to make a ~~final~~Board decision in ~~specified~~deertain adjudicatory proceedings. (See Subpart C. See also Sections 38(a), 40, and 40.1 of the Act, ~~which that~~ establish 120-day decision deadlines for variances, permit appeals, and review of pollution control facility siting decisions, respectively.)

"Deinked stock" *means paper that has been processed to remove inks, clays, coatings, binders and other contaminants.* [415 ILCS 20/2.1]

"Delegated unit" means the unit of local government to which the Agency has delegated its administrative citation or other function under Section 4(r) of the Act.

"Digital signature" means *a type of electronic signature created by transforming*

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*an electronic document using a message digest function and encrypting the resulting transformation with an asymmetric cryptosystem using the signer's private key such that any person having the initial untransformed electronic document, the encrypted transformation, and the signer's corresponding public key can accurately determine whether the transformation was created using the private key that corresponds to the signer's public key and whether the initial electronic document has been altered since the transformation was made. A digital signature is a security device. [5 ILCS 175/5-105]*

"Discovery" means a pre-hearing process that can be used to obtain facts and information about the adjudicatory proceeding ~~in order~~ to prepare for hearing. The discovery tools include depositions upon oral and written questions, written interrogatories, production of documents or things, and requests for admission.

"DNR" means the Illinois Department of Natural Resources.

"DOA" means the Illinois Department of Agriculture.

"Duplicative" means the matter is identical or substantially similar to one brought before the Board or another forum.

"Electronic" includes *electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.* [5 ILCS 175/5-105]

"Electronic document" means any notice, information, or filing generated, communicated, received or stored by electronic means to use in an information system or to transmit from one information system to another. (See 5 ILCS 175/5-105.)

"Electronic signature" means *a signature in electronic form attached to or logically associated with an electronic document.* [5 ILCS 175/5-105]

"Environmental Management System Agreement" or "EMSA" means the agreement between the Agency and a sponsor, entered into under Section 52.3 of the Act and 35 Ill. Adm. Code 187, that describes the innovative environmental measures to be implemented, schedules to attain goals, and mechanisms for accountability.

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"Enforcement proceeding" means an adjudicatory proceeding brought upon a complaint filed under Section 31 of the Act by the Attorney General, State's Attorney, or other persons, in which the complaint alleges violation of the Act, any rule or regulation adopted under the Act, any permit or term or condition of a permit, or any Board order.

"EPRR Act" means the Electronic Products Recycling and Reuse Act [415 ILCS 150].

"Ex parte communication" means *any written or oral communication by any person that imparts or requests material information or makes a material argument regarding potential action concerning regulatory, quasi-adjudicatory, investment, or licensing matters pending before or under consideration by the Board. For this definition, a time-limited water quality standard proceeding is considered a regulatory matter. "Ex parte communication" does not include the following:*

*statements by a person publicly made in a public forum, including pleadings, transcripts, public comments, and public remarks made part of the proceeding's record;*

*statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter; and*

*statements made by a State employee of the Board to Board members or other employees of the Board. [5 ILCS 430/5-50(b)] For ~~purposes of~~ this definition, "Board employee" means a person the Board employs on a full-time, part-time, contract or intern basis. (See Section 101.114.)*

"Fast-Track rulemaking" means a Clean Air Act rulemaking conducted under Section 28.5 of the Act.

"Federally required rule" means *a rule that is needed to meet the requirements of the federal Clean Water Act, Safe Drinking Water Act, Clean Air Act (including required submission of a State Implementation Plan), or Resource Conservation and Recovery Act, other than a rule required to be adopted under subsection (c) of Section 13, Section 13.3, Section 17.5, subsection (a) or (d) of Section 22.4, or subsection (a) of Section 22.40. [415 ILCS 5/28.2]*

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"Filing" means the act of delivering a document or article into the custody of the Clerk with the intention of incorporating that document or article into the record of a proceeding before the Board. The Clerk's Office is located at 100 West Randolph Street, Suite 11-500, Chicago IL 60601. Electronic filing is done through COOL on the Board's website.

"Final order" means an order of the Board that terminates the proceeding leaving nothing further to litigate or decide and that is subject to judicial review. (See Subpart I.)

"Frivolous" means a request for relief that the Board does not have the authority to grant, or a complaint that fails to state a cause of action upon which the Board can grant relief.

"Hearing" means a public proceeding conducted by a hearing officer ~~when~~where the parties and other interested persons, as provided for by law and the Board's procedural rules, present evidence and argument regarding their positions.

"Hearing officer" means a person licensed to practice law in the State of Illinois who presides over hearings and otherwise carries out record development responsibilities as directed by the Board.

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

"Identical-in-substance rules" or "identical-in-substance regulations" means *State regulations which require the same actions with respect to protection of the environment, by the same group of affected persons, as would federal regulations if USEPA administered the subject program in Illinois.* [415 ILCS 5/7.2]

"Initial filing" means the filing that initiates a Board proceeding and opens a docket. For instance, the initial filing in an enforcement proceeding is the complaint; in a permit appeal it is a petition for review; and in a regulatory proceeding it is the proposal.

"Innovative environmental measures" means any procedures, practices, technologies or systems that pertain to environmental management and are expected to improve environmental performance when applied. (See 35 Ill. Adm. Code 106.Subpart G.)

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"Inquiry hearing" means a hearing conducted by the Board ~~to seek for the purpose of seeking~~ input and comment from the public regarding the need for a rulemaking ~~on proceeding in~~ a specific ~~subject area~~.

"Interlocutory appeal" means an appeal of a Board decision to the appellate court that is not dispositive of all the contested issues in the proceeding. (See Section 101.908.) An interlocutory appeal may also be the appeal of a hearing officer ruling to the Board. (See Section 101.518.)

"Intervenor" means a person, not originally a party to an adjudicatory proceeding, who voluntarily participates as a party in the proceeding with the permission of the Board. (See Section 101.402.)

"Intervention" means the procedure by which a person, not originally a party to an adjudicatory proceeding, voluntarily comes into the proceeding as a party with the permission of the Board. (See Section 101.402.)

"JCAR" means the Illinois General Assembly's Joint Committee on Administrative Rules established by the IAPA (see 5 ILCS 100/5-90).

"Joinder" means the procedure by which the Board adds a person, not originally a party to an adjudicatory proceeding, as a party to the proceeding. (See Section 101.403 and 35 Ill. Adm. Code 103.206.)

"Misnomer" means a mistake in ~~the name of a, giving an incorrect name in a complaint or other document with respect to any~~ properly included party.

"Motion" means a request made to the Board or the hearing officer for ~~the purposes of~~ obtaining a ruling or order directing or allowing some act to be done in favor of the movant. (See definition of "movant" in this Section.)

"Movant" means the person who files a motion.

"New pollution control facility" means *a pollution control facility initially permitted for development or construction after July 1, 1981; or the area of expansion beyond the boundary of a currently permitted pollution control facility; or a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste.* [415

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ILCS 5/3.330(b)]

"Non-disclosable information" means *information which constitutes a trade secret; information privileged against introduction in judicial proceedings; internal communications of the several agencies; information concerning secret manufacturing processes or confidential data submitted by any person under the Act.* [415 ILCS 5/7(a)]

"Notice list" means the list of persons in a regulatory [or time-limited water quality standard](#) proceeding who will receive all Board opinions and orders and all hearing officer orders. Persons on a notice list generally do not receive copies of motions, public comments, or testimony. (See definition of "service list" in this Section. See also 35 Ill. Adm. Code 102.422 [and 104.520\(b\)\(4\).](#))

"Notice to reinstate" means a document filed that ~~restarts~~[recommences](#) the decision period after a decision deadline waiver has been filed. The notice will give the Board a full decision period in which to make a decision. (See Section 101.308.)

"Oral argument" means a formal verbal statement of advocacy on a proceeding's legal questions made at a Board meeting with the Board's permission. (See Section 101.700.)

"OSFM" means Office of the State Fire Marshal.

"OSFM appeal" means an appeal of an OSFM final decision concerning eligibility and deductibility made under Title XVI of the Act.

"Participant" means any person, not including the Board or its staff, who takes part in an adjudicatory proceeding ~~but who~~ is not a party, or ~~a person~~ who takes part in a regulatory or other quasi-legislative proceeding [or a time-limited water quality standard proceeding](#) before the Board. A person becomes a participant in any of several ways, including filing a comment, being added to the [proceeding's](#) notice list ~~of a particular proceeding~~, testifying at hearing, or making public remarks at a Board meeting. [The participants in a time-limited water quality standard proceeding include the petitioner and the Agency and are further described at 35 Ill. Adm. Code 104.520\(b\).](#)

"Participant in a CAAPP Comment Process" means a person who takes part in a

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Clean Air Act Permit Program (CAAPP) permit hearing before the Agency or comments on a draft CAAPP permit.

"Party" means the person by or against whom an adjudicatory proceeding is brought or who is granted party status by the Board through intervention or joinder.

"Party in interest" means the Agency when asked to conduct an investigation under Section 30 of the Act during an ongoing proceeding. (See Section 101.404.)

"Peremptory rulemaking" means *any rulemaking that is required as a result of federal law, federal rules and regulations, or an order of a court, under conditions that preclude compliance with the general rulemaking requirements of Section 5-40 of the IAPA and that preclude the exercise by the Board as to the content of the rule it is required to adopt.* [5 ILCS 100/5-50]

"Permit appeal" means an adjudicatory proceeding brought before the Board under Title X of the Act.

"Person" means *any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.* [415 ILCS 5/3.315]

"Petition" means the initial filing in an adjudicatory proceeding (other than an enforcement proceeding) ~~or a time-limited water quality standard proceeding, including permit appeals, OSFM appeals, UST appeals, appeals of pollution control facility siting decisions, variances and adjusted standards.~~

"Pilot project" means an innovative environmental project that covers one or more designated facilities, designed and implemented in the form of an EMSA. (See Section 52.3 of the Act.)

"Pollution control facility" is defined at Section 3.330(a) of the Act for ~~purposes of~~ this Part and 35 Ill. Adm. Code 107.

"Pollution control facility siting appeal" means an appeal of a decision made by a unit of local government filed with the Board under Section 40.1 of the Act.

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"Postconsumer material" means *paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after the waste has been passed through its end usage as a consumer item, including used corrugated boxes, old newspapers, mixed waste paper, tabulating cards, and used cordage.* Additionally, it includes *all paper, paperboard, and other fibrous wastes that are diverted or separated from the municipal solid waste stream.* [415 ILCS 20/3(f)(2)(i) and (ii)] (See also definition of "recycled paper" in this Section.)

"Prehearing conference" means a meeting held in an adjudicatory case or a time-limited water quality standard proceeding to determine the status of the proceedings. A prehearing conference may also be a meeting held in a regulatory proceeding prior to the hearing, the purposes of which *shall be to maximize understanding of the intent and application of the proposal, if possible, and to attempt to identify and limit the issues of disagreement among participants to promote efficient use of time at hearing.* [415 ILCS 5/27(d)] (See 35 Ill. Adm. Code 102.404 and 102.406.)

"Proceeding" means an action conducted before the Board under authority granted ~~by~~under Section 5 of the Act or as otherwise provided by law. Board proceedings are generally of ~~two~~ types: quasi-legislative (rulemaking and inquiry proceedings) and quasi-judicial (adjudicatory proceedings). A time-limited water quality standard proceeding is neither adjudicatory nor subject to rulemaking procedural requirements. (See 415 ILCS 5/38.5(a), (l).)

"Proponent" means any person, not including the Board or its staff, who submits a regulatory proposal to the Board for the adoption, amendment, or repeal of a regulation.

"Provisional variance" means a ~~short-term~~ variance sought by an applicant and issued by the Agency under Section 35(b) of the Act. (See 35 Ill. Adm. Code 104.Subpart C.)

"Public comment" means information submitted to the Board during a pending proceeding either by oral statement made at hearing or written statement filed with the Board.

"Public remarks" mean an oral statement that is publicly made at a Board meeting and directed to the Board concerning a proceeding listed on that meeting's agenda.

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(See Section 101.110(d).)

"PWSO Act" means the Public Water Supply Operations Act [415 ILCS 45].

"Qualitative description" means a narrative description pertaining to attributes and characteristics.

"Quantitative description" means a numerically based description pertaining to attributes and characteristics.

"RCRA variance" means a variance from a RCRA rule or a RCRA permit required under Section 21(f) of the Act.

"Record" means the official collection, as kept by the Clerk, of all documents and exhibits including pleadings, transcripts, and orders filed during ~~the course of~~ a proceeding.

"Recycled paper" means paper ~~that which~~ contains at least 50% recovered paper material. The recovered paper material must contain at least 45% deinked stock or postconsumer material. (See also "postconsumer material" in this Section.)

"Regulatory hearing" or "proceeding" means a hearing or proceeding held under Title VII of the Act or other applicable law ~~regarding with respect to~~ regulations.

"Regulatory relief mechanisms" means variances, provisional variances, ~~and~~ adjusted standards, ~~and time-limited water quality standards~~. (See 35 Ill. Adm. Code 104.)

"Representing" means, for ~~purposes of~~ Part 130, *describing, depicting, containing, constituting, reflecting or recording*. [415 ILCS 5/7.1]

"Requester" means, for ~~purposes of~~ Part 130, the person seeking from the agency the material claimed or determined to be a trade secret (see 415 ILCS 5/7.1).

"Resource Conservation and Recovery Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.).

"Responsible Operator in Charge" means an individual who is designated as a

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Responsible Operator in Charge of a community water supply under Section 1 of the PWSO Act.

"Rulemaking" or "rulemaking proceeding" means a proceeding brought under Title VII of the Act or other applicable law to adopt, amend, or repeal~~for the purpose of adoption, amendment, or repeal~~ of a regulation.

"Sanction" means a penalty or other mechanism used by the Board to provide incentives for compliance with the Board's procedural rules, Board orders or hearing officer orders. (See also Subpart H.)

"SDWA" means the federal Safe Drinking Water Act (42 USC 300f et seq.).

"Service" means delivery of a document upon a person. (See Sections 101.300(c) and 101.304.)

"Service list" means the list of persons designated by the hearing officer or Clerk in a regulatory,~~or~~ adjudicatory, or time-limited water quality standard proceeding upon whom parties or participants must serve motions, prefiled questions,~~and~~ prefiled testimony, and any other documents that the parties or participants file with the Clerk unless the hearing officer otherwise directs. (See definition of "notice list" in this Section. See also 35 Ill. Adm. Code 102.422.)

"Severance" means the separation of a proceeding into ~~two~~ or more independent proceedings, each of which terminates in a separate, final judgment.

"Site-specific rule or regulation" means a proposed or adopted regulation, not of general applicability, that applies only to a specific facility, geographic site, or activity. (See 35 Ill. Adm. Code 102.208.)

"Sponsor" means the proponent of a pilot project that enters into an EMSA with the Agency.

"State enforcement proceeding" means an enforcement proceeding, other than a citizen's enforcement proceeding, that is brought under Section 31 of the Act.

"Stay" means a temporary suspension of the regular progress of a proceeding under an order of the Board or by operation of law. (See Section 101.514.)

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"Subpoena" means a command to appear at a ~~specified~~certain time and place to ~~testify on give testimony upon~~ a ~~specified~~certain matter.

"Subpoena duces tecum" means a document that compels the production of specific documents and other items at a specified time and place.

"Summary judgment" means the disposition of an adjudicatory proceeding without hearing when the record, including pleadings, depositions and admissions on file, together with any affidavits, shows that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law. (See Section 101.516.)

"Third-party complaint" means a pleading that a respondent files ~~stating~~setting forth a claim against a person who is not already a party to the enforcement proceeding. (See 35 Ill. Adm. Code 103.206.)

"Time-Limited Water Quality Standard" or "TLWQS" means a time-limited designated use and criterion for a specific pollutant or water quality parameter that reflects the highest attainable condition during the term of that relief. (See 35 Ill. Adm. Code 104.Subtitle E.)

"Trade secret" means *the whole or any portion or phase of any scientific or technical information, design, process (including a manufacturing process), procedure, formula or improvement, or business plan which is secret in that it has not been published or disseminated or otherwise become a matter of general public knowledge, and which has competitive value. A trade secret is presumed to be secret when the owner thereof takes reasonable measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.* [415 ILCS 5/3.490]

"Transcript" means the official recorded testimony from a hearing or public remarks from a Board meeting.

"USEPA" means the United States Environmental Protection Agency.

"Underground storage tank appeal" or "UST appeal" means an appeal of an Agency final decision made under Title XVI of the Act.

"UST" means underground storage tank.

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"Variance" means a temporary exemption from any specified regulation, requirement, or order of the Board granted to a petitioner by the Board under Title IX of the Act *upon presentation of adequate proof that compliance with the rule or regulation, requirement or order of the Board would impose an arbitrary or unreasonable hardship.* [415 ILCS 5/35(a)]

"Waiver" means the intentional relinquishing of a known right, usually ~~regarding with respect to~~ a hearing before the Board or entry of a Board decision within the decision period. (See also Section 101.308.)

"Website" means the Board's computer-based informational and filing service accessed on the Internet at [pcb.illinois.gov](http://www.ipeb.state.il.us)~~http://www.ipeb.state.il.us.~~

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART C: COMPUTATION OF TIME, FILING, SERVICE  
OF DOCUMENTS, AND STATUTORY DECISION DEADLINES

**Section 101.300 Computation of Time**

- a) Computation of Time. Computation of any period ~~of time~~ prescribed in the Act, other applicable law, or this Subpart will begin with the first calendar day following the day on which the act, event, or development occurs and will run until the close of business on the last day, or the next business day if the last day is a Saturday, Sunday, or national or State legal holiday.
- b) Date of Filing. Documents will be considered filed with the Clerk only if they are filed in compliance with Section 101.302 and any other filing requirements specified elsewhere in the Board's procedural rules (see 35 Ill. Adm. Code 101 through 130). Subpart J ~~states sets forth~~ when electronic documents submitted to COOL will be considered filed.
  - 1) If a document is submitted to the Clerk for filing in person, by U.S. Mail, by e-mail or facsimile under Section 101.302(d), or by third-party commercial carrier, the document is considered filed on the date it is received by the Clerk, except as provided in subsection (b)(2). However, a document received by the Clerk after 4:30 p.m. is considered filed on the next business day. The Clerk will mark the filing date on each filed document.

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- 2) ~~If Notwithstanding subsection (b)(1), if~~ the Clerk receives a document by U.S. Mail or third-party commercial carrier after a filing deadline date, the document will be ~~considered deemed~~ filed on:
    - A) The date on which the document was provided to the U.S. Postal Service; or
    - B) The date on which the document was provided to the third-party commercial carrier for delivery to the Clerk within three business days.
  - 3) For ~~purposes of~~ subsection (b)(2), documentation of when the document being filed was provided to the U.S. Postal Service or the third-party commercial carrier consists of the affidavit or certificate required by Section 101.304(d)(2)(A) or (d)(4) and must accompany the document being filed. In addition, for delivery by a third-party commercial carrier, the affidavit or certificate must contain the filing party's representation that the charge for delivery to the Clerk within three business days was prepaid.
  - 4) For ~~purposes of~~ Board decision deadlines, the decision period does not begin until the date marked by the Clerk on the initial filing.
- c) Date of Service. Documents will be considered served upon another party only if they are served in compliance with Section 101.304 and any other service requirements specified elsewhere in the Board's procedural rules. The date of service is determined as follows:
- 1) Personal Service. Personal service of a document is complete on the date on which the document was delivered, as specified in either the affidavit or certificate of service signed by the person who made personal delivery or the declaration of service signed by the process server who made personal delivery.
  - 2) Service by U.S. Mail or Third-Party Commercial Carrier with Recipient Signature. If a recipient's signature is recorded by the U.S. Postal Service or a third-party commercial carrier upon delivery of a document, service is

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complete on the date on which the document was delivered, as specified in the signed delivery confirmation.

- 3) Service by E-Mail or Facsimile. Service of a document by e-mail or facsimile is complete on the date on which the document was successfully transmitted, as specified in the affidavit or certificate of service, signed by the party to the proceeding who is serving the document. However, a document successfully e-mailed or faxed on a Saturday or Sunday, on a national or State legal holiday, or after 5:00 p.m. on a weekday is ~~considered~~deemed served on the next business day.
  - 4) Service by U.S. Mail or Third-Party Commercial Carrier without Recipient Signature. If a recipient's signature is not recorded by the U.S. Postal Service or a third-party commercial carrier upon delivery of a document, service is presumed complete ~~four~~ days after the date on which the document was provided to the U.S. Postal Service or the third-party commercial carrier.
    - A) The presumption applies only if an affidavit or certificate of service, signed by the party to the proceeding who is serving the document, states the following: the date, the time by when, and the place the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address appearing on the envelope or package containing the document; and that proper postage or the delivery charge was prepaid.
    - B) The presumption can be rebutted by proper proof, which may include delivery tracking information from the website of the U.S. Postal Service or the website of the third-party commercial carrier.
- d) Date of Board Decision and Date of Service of Final Board Decision.
- 1) For ~~apurposes of~~ statutory decision deadline ~~proceeding~~proceedings, the date of the Board decision is the date of the Board meeting at which a final Board order was adopted.
  - 2) For ~~purposes of~~ appealing a final adjudicatory decision of the Board, the date of service of the final decision is the date on which the party receives the Board's ~~certified~~ mailing of the decision. If a motion for

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reconsideration is timely filed under Section 101.520, the date of service of the final decision is the date on which the party receives the Board's ~~certified~~ mailing of the Board order ruling upon the motion.

- 3) For ~~purposes of~~ appealing a final rulemaking decision of the Board in which a rule is adopted, amended, or repealed, a person is ~~considered~~~~deemed~~ to have been served with the final decision on the date on which the new rule, the amendment, or the repealer becomes effective under the IAPA. For ~~purposes of~~ appealing a final rulemaking decision in which no rule is adopted, amended, or repealed, the date of service of the final decision is the date on which the participant receives the Board's mailing of the decision. If a motion for reconsideration is timely filed under the Board's procedural rules (35 Ill. Adm. Code 102.700 and 102.702), the date of service of the final decision is the date on which the participant receives the Board's mailing of the Board order ruling upon the motion.
- 4) For appealing a final decision of the Board in a TLWQS proceeding, a person is considered to have been served with the final decision on the date on which the decision is first published on the Board's website. (See 415 ILCS 5/38.5(j).)

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.302 Filing of Documents**

- a) This Section contains the Board's general filing requirements. Additional requirements may exist for specific proceedings elsewhere in the Board's procedural rules (see 35 Ill. Adm. Code 101 through 130). The Clerk will refuse for filing any document that does not comply with the minimum requirements of this Section.
- b) All documents to be filed with the Board must be filed with the Clerk.
  - 1) If allowed by the Board, the hearing officer, the Clerk, or the procedural rules to be filed in paper under subsection (h), documents must be filed at the following address:

Pollution Control Board, Attn: Clerk

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100 West Randolph Street  
James R. Thompson Center, Suite 11-500  
Chicago, Illinois 60601-3218

- 2) All documents filed with the Clerk must provide the name and signature of the person seeking to file the document and identify the name of the person on whose behalf the document is being filed. If a paper document is submitted for filing, the original must bear the original pen-and-ink signature of the person seeking to file the document. Signatures for ~~purposes of~~ electronic filings through COOL are addressed in Section 101.1010.
  - 3) Each document being filed with the Clerk must be accompanied by a notice of filing (see Appendix D) and documentation of service (see Section 101.304(d)).
  - 4) The date on which a document is considered to have been filed is determined under Section 101.300(b).
  - 5) ~~Serving Service of~~ a document upon a hearing officer does not qualify ~~as constitute~~ filing it with the Clerk unless the document is submitted to the hearing officer during ~~the course of~~ a hearing.
- c) Electronic documents may be filed through COOL under Subpart J. Paper documents may be filed with the Clerk by U.S. Mail, in person, or by third-party commercial carrier.
  - d) A filing by e-mail or facsimile will only be allowed with the prior approval of the Clerk of the Board or the hearing officer assigned to the proceeding. Any prior approval by the Clerk or hearing officer applies only to the specified filing.
  - e) The initial filings listed in this subsection require filing fees and will only be considered filed when accompanied by the appropriate fee. The fee may be paid in the form of government voucher, money order, or check made payable to the Illinois Pollution Control Board, or electronically through COOL with a valid credit card ~~in accordance with Section 101.1040(b)(1)~~, but cannot be paid in cash.
- 1) Petition for Site-Specific Regulation, \$75;

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- 2) Petition for Variance, \$75;
  - 3) Petition for Review of Agency Permit Decision, UST Decision, or any other appeal filed under Section 40 of the Act, \$75;
  - 4) Petition to Review Pollution Control Facility Siting Decisions, under Section 40.1 of the Act, \$75; ~~and~~
  - 5) Petition for Adjusted Standard, under Section 28.1 of the Act, \$75; ~~and~~
  - 6) Petition for TLWQS, under Section 38.5, \$75.
- f) For each document filed with the Clerk, the filing party must serve a copy of the document upon the other parties and, if a hearing officer has been assigned, upon the hearing officer in ~~compliance~~ with Section 101.304.
- g) All documents filed with the Board must contain the relevant proceeding caption and docket number. All documents must be submitted on or formatted to print on 8½ x 11 inch paper, except as provided in subsection (j). Paper documents must be submitted on recycled paper as defined in Subpart B, and double sided. All pages in a document must be sequentially numbered. All documents created by word processing programs must be formatted as follows:
- 1) The margins must each be a minimum one inch on the top, bottom, and both sides of the page; and
  - 2) The size of the type in the body of the text must be ~~at least~~ no less than 12-point font, and in footnotes ~~at least~~ no less than 10-point font.
- h) Unless the Board, the hearing officer, the Clerk, or the procedural rules provide otherwise, all documents must be filed through COOL electronically.
- 1) If a document is filed in paper, the original and ~~two~~ copies of the document (~~three~~ total) are required. If a document is filed through COOL in ~~compliance~~ with Subpart J, no paper original or copy of the document is required.
  - 2) The following documents must be filed through COOL or on compact disk or other portable electronic data storage device, ~~comply with~~ meet the

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~~requirements of~~ Section 101.1030(g), and, to the extent technically feasible, be in text-searchable Adobe PDF:

- A) The Agency record required by 35 Ill. Adm. Code 105.212, 105.302, or 105.410, or 35 Ill. Adm. Code 125.208 (see 35 Ill. Adm. Code 105.116);
  - B) The OSFM record required by 35 Ill. Adm. Code 105.508 (see 35 Ill. Adm. Code 105.116);
  - C) The local siting authority record required by 35 Ill. Adm. Code 107.302 (see 35 Ill. Adm. Code 107.304); and
  - D) A petition filed under 35 Ill. Adm. Code 104 or 35 Ill. Adm. Code 106 (see 35 Ill. Adm. Code 104.106 and 35 Ill. Adm. Code 106.106).
- 3) A document containing information claimed or determined to be a trade secret, or other non-disclosable information under 35 Ill. Adm. Code 130, is prohibited from being filed electronically and must instead be filed only in paper. The version of the document that is redacted under 35 Ill. Adm. Code 130 must be filed through COOL.
- 4) When filing a rulemaking proposal, if any document protected by copyright law (17 USC 101 et seq.) is proposed under Section 5-75 of the IAPA [5 ILCS 100/5-75] to be incorporated by reference, the copyrighted document is prohibited from being filed electronically, but the remainder of the rulemaking proposal must be filed through COOL. In addition, the rulemaking proponent must:
- A) File a paper original of the copyrighted document. The rulemaking proposal also must include:
    - i) The copyright owner's written authorization for the Board to make, at no charge to the Board, no more than a total of ~~two~~ paper copies of the copyrighted document if the Board is required by State law to furnish a copy to JCAR, a court, or a member of the public during or after the rulemaking; or

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- ii) The proponent's representation that it will, at its own expense, promptly acquire and deliver to the Clerk's Office no more than a total of ~~2~~two paper originals of the copyrighted document if the Clerk's Office notifies the proponent in writing that the Board is required by State law to furnish a copy to JCAR, a court, or a member of the public during or after the rulemaking; or
- B) File a license or similar documentation of access that, at no charge to the Board, gives the Board the rights, during and after the rulemaking, to do the following: electronically access the copyrighted document from the sole designated computer at the Board's Chicago office; print a single copy of the copyrighted document to maintain at the Board's Chicago office; and print no more than a total of ~~2~~two copies of the copyrighted document if the Board is required by State law to furnish a copy to JCAR, a court, or a member of the public.
- i) No written discovery, including interrogatories, requests to produce, and requests for admission, or any response to written discovery, may be filed with the Clerk of the Board except with permission or direction of the Board or hearing officer. Any discovery request under these rules to any nonparty must be filed with the Clerk of the Board in ~~compliance~~accordance with subsection (h).
- j) Oversized Exhibits. When ~~reasonably~~ practicable, oversized exhibits must be reduced to conform to or be formatted to print on 8½ x 11-inch paper for filing with the Clerk's Office. However, even when an oversized exhibit is so reduced or formatted, the original oversized exhibit still must be filed with the Clerk's Office. In ~~compliance~~accordance with 2 Ill. Adm. Code 2175.300, the original oversized exhibit may be returned to the person who filed it.
- k) Page Limitation. No motion, brief in support of a motion, or brief may exceed 50 pages, and no amicus curiae brief may exceed 20 pages, without prior approval of the Board or hearing officer. These limits do not include appendices containing relevant material; however, materials that may be readily available to the Board, such as prior Board opinions and orders, federal regulations, and statutes, need not be included in appendices.

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- 1) Documents filed that do not ~~comply with~~~~meet the requirements of~~ 35 Ill. Adm. Code. Subtitle A may be rejected by the Clerk or the hearing officer. Any rejection of a filing will include a description of the Board's rules that have not been met.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.304 Service of Documents**

- a) Service Requirements. This Section contains the Board's general service requirements. However, the more specific Part for a proceeding type may contain additional requirements.
- b) Duty to Serve and When to Initiate Service. A party filing a document with the Clerk under Section 101.302 must also serve one copy of the document upon each of the other parties to the adjudicatory proceeding and, if a hearing officer has been assigned, upon the assigned hearing officer. Service of a document must be initiated concurrently with submitting the document to the Clerk for filing.
  - 1) Service of a document upon a party must be made upon a person authorized by law to receive service on behalf of the party. If a party is represented by an attorney who has filed an appearance, service upon the party is made by serving the document upon the party's attorney. If more than one attorney appears for a party, service upon one of the party's attorneys is sufficient.
  - 2) Each document being served (e.g., enforcement complaint, petition for review) must be accompanied by a notice of filing (see Appendix D) and a copy of the documentation of service (see subsection (d)).
  - 3) The date on which service of a document is considered to have been completed is determined under Section 101.300(c).
  - 4) A proceeding is subject to dismissal, and the filing party is subject to sanctions, if service is not timely initiated or completed.
  - 5) Whether service of a document was proper may be challenged by the party allegedly served. To avoid waiving the right to contest personal

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jurisdiction, any challenge to service must be made under Section 101.400(a)(5).

- c) **Methods of Service.** A document must be served in one of the following ways:
- 1) Except as provided in subsection (c)(2), service of documents may be made by any of the following methods:
    - A) Personal service;
    - B) U.S. Mail;
    - C) Third-party commercial carrier;
    - D) E-mail in ~~compliance~~ accordance with Subpart J; and
    - E) Facsimile, but only if the party being served has filed a notice consenting to receipt of facsimile service and not filed a notice revoking that consent.
  - 2) Service of enforcement complaints and EMSA statements of deficiency upon respondents must be made by:
    - A) Personal service;
    - B) U.S. Mail with a recipient's signature recorded by the U.S. Postal Service upon delivery; or
    - C) A third-party commercial carrier with a recipient's signature recorded by the third-party commercial carrier upon delivery.
  - 3) Service of administrative citations must be made as required under 35 Ill. Adm. Code 108.
- d) **Documentation of Service and When to File Documentation of Service.** A party serving a document upon another party must also file documentation of that service. A proceeding is subject to dismissal, and the filing party is subject to sanctions, if documentation of service is not timely filed with the Clerk. Documenting service and filing that documentation must be done as follows:

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- 1) For personal service of a document, either an affidavit or certificate of service signed by the person who made personal delivery or a declaration of service signed by the process server who made personal delivery must accompany the document being filed with the Clerk. However, if the signed affidavit, certificate, or declaration is not available to the filing party when the document is filed with the Clerk, the filing must include:
  - A) An affidavit or certificate of service, signed by the filing party, stating that service has been initiated, but not yet completed, and providing the following: the date, the time by when, and the place the document was provided to the person making personal delivery; the address appearing on the envelope or package containing the document; and a statement that the delivery charge was prepaid; and
  - B) Within ~~7~~seven days after it becomes available to the filing party, the affidavit or certificate of service containing the signature of the person who made personal delivery or the declaration of service containing the signature of the process server, accompanied by a notice identifying the filed document to which the signed affidavit, certificate, or declaration corresponds. A copy of the signed affidavit, certificate, or declaration and the notice must be served under subsection (a).
- 2) For service of a document by U.S. Mail or third-party commercial carrier with a recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery, the delivery confirmation containing the recipient's signature must accompany the document being filed with the Clerk. However, if the delivery confirmation containing the recipient's signature is not available to the filing party when the document is filed with the Clerk, the filing must include:
  - A) An affidavit or certificate of service, signed by the filing party, stating that service has been initiated, but not yet completed, and providing the following: the date, the time by when, and the place the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address appearing on the envelope or

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package containing the document; and a statement that the proper postage or the delivery charge was prepaid; and

- B) Within ~~7~~seven days after it becomes available to the filing party, the delivery confirmation containing the recipient's signature, accompanied by a notice identifying the filed document to which the signed delivery confirmation corresponds. A copy of the delivery confirmation and the notice must be served under subsection (a).
- 3) For service of a document by e-mail or facsimile, an affidavit or certificate of service must accompany the document being filed with the Clerk. An affidavit or certificate of e-mail service must comply with Section 101.1060. An affidavit or certificate of facsimile service must include the date and time of the facsimile transmission, the telephone number to which the transmission was sent, the number of pages transmitted, and a statement that the document was served by facsimile.
- 4) For service of a document by U.S. Mail or a third-party commercial carrier without a recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery, an affidavit or certificate of service must accompany the document being filed with the Clerk. The affidavit or certificate must state the following: the date, the time by when, and the place the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address appearing on the envelope or package containing the document; and that proper postage or the delivery charge was prepaid.
- 5) An affidavit of service must be notarized and is for use by a non-attorney. A certificate of service is for use by an attorney. Sample forms of an affidavit of service and a certificate of service are available in Appendices E and H.
- 6) A certificate of service must bear an attorney's signature. Signatures in affidavits of service, declarations of service, and delivery confirmations must be written by hand. A handwritten signature in documentation of service filed with the Clerk may be a facsimile or digitized electronic signature.

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- e) Service of Amicus Curiae Briefs. Any person who files an amicus curiae brief with the Board in any proceeding must serve copies of that brief on all parties in ~~compliance~~~~accordance~~ with this Section.
- f) Service of Comments of Participants in an Adjudicatory Proceeding. Participants ~~must~~~~are required to~~ serve comments upon the parties to the proceeding. The Board will consider the comments as time and the Act or other applicable law allow.
- g) Service on Agencies. Service must be at the addresses listed below unless a specific person has an appearance on file with the Board or has, in ~~compliance~~~~accordance~~ with Section 101.1070, consented to e-mail service.
- 1) Service on the Illinois Environmental Protection Agency. The Agency must be served at:  
  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276  
epa.dlc@illinois.gov
  - 2) Service on Office of State Fire Marshal. The OSFM must be served at:  
  
Division of Petroleum and Chemical Safety  
Office of the State Fire Marshal  
1035 Stevenson Dr.  
Springfield IL 62703
  - 3) Service on the Illinois Attorney General. The Office of the Attorney General must be served at:  
  
Division Chief of Environmental Enforcement  
Office of the Attorney General  
100 West Randolph St., Suite 1200  
Chicago IL 60601  
enviro@atg.state.il.us

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- 4) Service on the Illinois Department of Natural Resources. DNR must be served at:

Office of Legal Services  
Illinois Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

- 5) Service on the Illinois Department of Transportation. IDOT must be served at:

Office of Chief Counsel  
DOT Administration Building  
2300 S. Dirksen Parkway, Room 300  
Springfield IL 62764

- 6) Service on Region V of the United States Environmental Protection Agency. USEPA Region V must be served at:

USEPA, Region V  
77 West Jackson  
Chicago IL 60604

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.306 Incorporation of Documents from Another Proceeding**

- a) Upon the separate written request of any person or on its own initiative, the Board or hearing officer may incorporate materials from the record of another Board docket into any proceeding. The person seeking incorporation must file the material to be incorporated with the Board in ~~compliance~~ ~~accordance~~ with Section 101.302(h). The person seeking incorporation must demonstrate to the Board or the hearing officer that the material to be incorporated is authentic, credible, and relevant to the proceeding. Notice of the request must be given to all identified participants or parties by the person seeking incorporation.
- b) The Board will give the incorporated matter the appropriate weight in light of the following factors: the standard of evidence under which the material was previously presented to the Board; the present purpose for incorporating the

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material; and the past and current opportunity for cross-examination of the matters asserted within the incorporated material.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.308 Statutory Decision Deadlines and Waiver of Deadlines**

- a) Petitions in the following proceedings each have a 120-day statutory decision deadline: Variances (Section 38 of the Act), Permit Appeals and UST appeals (Section 40 of the Act), and Pollution Control Facility Siting Review (Section 40.1 of the Act). Other adjudicatory proceedings may be subject to decision deadlines as provided by law.
- b) ~~When~~~~Where~~ the petitioner does not waive the decision deadline, the Board will proceed expeditiously to establish all hearing and filing requirements. Willful or unexcused failure to follow Board requirements on the deadlines will subject the party to sanctions under Subpart H. This Section will be strictly construed ~~when~~~~where~~ there is a decision deadline unless the Board receives a waiver ~~underas set out in~~ subsection (c).
- c) All waivers of a deadline for Board action must be filed as a separate document. Waivers must be titled and state which type of waiver it is, identify the proceeding by name and docket number, and be signed by the party or by an authorized representative or attorney. A waiver of a statutory deadline does not preclude the Board from issuing an opinion or order prior to any decision deadline, nor does it preclude the filing of a motion seeking a decision on the matter.
  - 1) An open waiver waives the decision deadline completely and unequivocally until the petitioner elects to reinstate the 120-day decision period by filing a notice to reinstate. Upon proper filing of the notice, the decision period is reinstated. ~~UnderIn accordance with~~ Section 101.300(b)(4), the decision period ~~restarts on~~~~recommences as of~~ the date on which the notice to reinstate is filed with the Board.
  - 2) A time certain waiver must be expressed in length of days or to a specific calendar date. If expressed in length of days, day one will be the first day after the date upon which the current time clock expires. If the petitioner files a time certain waiver before the hearing date, the waiver must be for

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at least 40 days. If the extension is not renewed for at least 40 days prior to the decision deadline, the Board will set the matter for hearing.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION

**Section 101.400 Appearances, Withdrawals, and Substitutions of Attorneys in Adjudicatory Proceedings**

- a) Appearances. A person who is a party in a Board adjudicatory proceeding may appear as follows:
- 1) Individuals may appear on their own behalf or through an attorney-at-law licensed and registered to practice law. (See Section 1 of the Attorney Act [705 ILCS 205/1].)
  - 2) When appearing before the Board, any person other than individuals must appear through an attorney-at-law licensed and registered to practice law. (See Section 1 of the Corporation Practice of Law Prohibition Act [705 ILCS 220/1] and Section 1 of the Attorney Act.)
  - 3) An out-of-state attorney may appear as counsel and provide legal services in a ~~particular~~ proceeding before the Board only if the attorney has permission to do so under Illinois Supreme Court Rule 707. No Board order is required for an out-of-state attorney to appear and no motion to appear pro hac vice is necessary. The out-of-state attorney's appearance must include the following:
    - A) A representation that the out-of-state attorney is in, and will maintain throughout the proceeding, compliance with Supreme Court Rule 707; and
    - B) Identification of the active status Illinois attorney associated with the out-of-state attorney under Supreme Court Rule 707 and the date on which the active status Illinois attorney filed an appearance in the proceeding.
  - 4) Any attorney appearing in a representative capacity must file a separate

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written appearance with the Clerk, together with documentation of service of the appearance under Section 101.304(d) and notice of filing of the appearance under Section 101.304(b)(2). The appearance must include:

- A) For law firms, the Agency, and the Attorney General's Office, a lead attorney must be designated for ~~purposes of~~ phone and mail contact pertaining to the proceeding. Absent written notice, the Board will designate the attorney whose signature appears first on the party's first filing as the lead attorney.
  - B) The attorney's business address and designation of a primary e-mail address for service by e-mail. Up to ~~two~~ secondary e-mail addresses may also be included.
- 5) Any person seeking to contest personal jurisdiction must do so by filing a motion with the Board ~~consistent in accordance~~ with Section 2-301 of the Code of Civil Procedure [735 ILCS 5/2-301].
- b) Withdrawals. An attorney who has appeared in a representative capacity and who wishes to withdraw from that representation must file a notice of withdrawal with the Clerk, together with documentation of service and notice of filing on all parties or their representatives.
  - c) Substitution. Any attorney who substitutes for an attorney of record must file a written appearance under subsection (a). That appearance must identify the attorney for whom the substitution is made. However, no attorney will be considered withdrawn from a proceeding until a formal withdrawal is filed in ~~compliance~~~~accordance~~ with subsection (b).
  - d) Any person may appear on ~~his or her own~~ behalf ~~of himself~~ or ~~on others'~~ ~~behalf~~~~others~~ in a rulemaking, ~~consistent proceeding in accordance~~ with 35 Ill. Adm. Code 102.100(b), or in a TLWQS proceeding.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.402 Intervention of Parties**

- a) The Board may permit any person to intervene in any adjudicatory proceeding. If a person seeks to intervene in an adjudicatory proceeding, the person must file a

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motion to do so with the Clerk and serve a copy of the motion on all parties to the proceeding. The motion must ~~stateset forth~~ the grounds for intervention.

- b) In determining whether to grant a motion to intervene, the Board will consider the timeliness of the motion and whether intervention will unduly delay, materially prejudice, or otherwise interfere with an orderly or efficient proceeding.
- c) Subject to subsection (b), the Board will permit any person to intervene in any adjudicatory proceeding if:
  - 1) The person has an unconditional statutory right to intervene in the proceeding; or
  - 2) It may be necessary for the Board to impose a condition on the person.
- d) Subject to subsection (b), the Board may permit any person to intervene in any adjudicatory proceeding if:
  - 1) The person has a conditional statutory right to intervene in the proceeding;
  - 2) The person may be materially prejudiced absent intervention; or
  - 3) The person is so situated that the person may be adversely affected by a final Board order.
- e) An intervenor will have all the rights of an original party to the adjudicatory proceeding, except that the Board may limit the rights of the intervenor as justice may require. The limits may include providing that: the intervenor is bound by Board and hearing officer orders already issued or by evidence already admitted; that the intervenor does not control any decision deadline; and that the intervenor cannot raise issues that were raised or might more properly have been raised at an earlier stage of the proceeding.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.404 Agency as a Party in Interest**

- a) Under Section 30 of the Act, the Board may request that the Agency investigate:

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- 1) ~~Any~~ alleged violation of the Act, ~~any~~ the regulations adopted under the Act, any permit or term or condition of a permit granted by the Agency, or any Board order; ~~term or condition of any such permit~~ and
  - 2) ~~Any such~~ other matters ~~investigations~~ as the Board finds ~~may deem~~ advisable.
- b) Upon ~~a~~ such request under subsection (a), the Board may designate the Agency as a party in interest in any ongoing proceeding concerning ~~in~~ that matter. The designation of the Agency as a party in interest does not require the Agency to take a position on the merits of the proceeding.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.406 Consolidation of Claims**

The Board, upon the motion of any party or upon its own motion, may consolidate ~~two~~ or more proceedings for ~~the purpose of~~ hearing or decision or both. The Board will consolidate the proceedings if consolidation is in the interest of convenient, expeditious, and complete determination of claims, and if consolidation would not cause material prejudice to any party. The Board will not consolidate proceedings in which ~~where~~ the burdens of proof vary.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART E: MOTIONS

**Section 101.500 Filing of Motions and Responses**

- a) The Board may entertain any motion the parties wish to file that is permissible under the Act or other applicable law, this Part ~~these rules~~, or the ~~Illinois~~ Code of Civil Procedure [735 ILCS 5].
- b) All motions must be in writing, unless made orally on the record during a hearing or during a status conference, and must state whether the motion is directed to the Board or to the hearing officer. A party's oral ~~Oral~~ motion made to the Board made at hearing is waived if the party fails to file the motion ~~must be filed in writing~~ within 14 days after the Board receives the hearing transcript ~~or the motion is deemed waived~~. Motions that should be directed to the hearing officer are specified ~~set out~~ in Section 101.502. All motions must be filed and served in

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compliance~~conformance~~ with Subparts C and J.

- c) Motions may be filed at any time unless otherwise specifically provided.
- d) Within 14 days after service of a motion, a party may file a response to the motion. If no response is filed, the party waives~~will be deemed to have waived~~ objection to the granting of the motion, but the waiver of objection does not bind the Board or the hearing officer in its disposition of the motion. Unless undue delay or material prejudice would result, neither the Board nor the hearing officer will grant any motion before ~~expiration of~~ the 14-day response period expires, except in decision deadline ~~driven~~ proceedings in which~~where~~ no decision deadline waiver has been filed. Parties may request that the Board grant more time to respond by filing a motion for extension of time before the response period expires.
- e) The moving person will not have the right to reply, except as ~~permitted by~~ the Board or the hearing officer permits to prevent material prejudice. A motion for permission to file a reply must be filed with the Board within 14 days after service of the response.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.502 Motions Directed to the Hearing Officer**

- a) The hearing officer has the authority to rule on all motions that are not dispositive of the proceeding. Dispositive motions include motions to dismiss, motions to decide a proceeding on the merits, motions to strike any claim or defense for insufficiency or want of proof, motions claiming lack of jurisdiction, motions for consolidation, motions for summary judgment, and motions for reconsideration. Oral motions directed to a hearing officer at a status conference will be summarized in a written hearing officer order. The duties and authorities of the hearing officer are further specified~~set out~~ in Section 101.610.
- b) At hearing, objections and hearing officer rulings must be made on the record. A party's~~An~~ objection to a hearing officer ruling made at hearing is~~will be deemed~~ waived if the party fails to file the objection~~not filed~~ within 14 days after the Board receives the hearing transcript.
- c) Unless the Board orders otherwise ~~ordered by the Board~~, neither the filing of a

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motion, nor any appeal to the Board of a hearing officer order will stay the proceeding or extend the time ~~to perform~~~~for the performance of~~ any act. Unless otherwise provided, all hearing officer orders will remain in effect during the pendency of any appeal to the Board.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.504 Contents of Motions and Responses**

All motions and responses must state the grounds upon which the motion is made and must ~~concisely state~~~~contain a concise statement of~~ the position or relief sought. Facts asserted that are not of record in the proceeding must be supported by oath, affidavit, or certification ~~consistent~~~~in~~ ~~accordance~~ with Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109]. A brief or memorandum in support of the motion or response may be included.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.508 Motions to Board Preliminary to Hearing**

Motions that a party desires the Board to rule on before hearing should be filed at least 21 days prior to the regularly scheduled Board meeting before the noticed hearing date. Any motion filed after ~~this~~~~the above prescribed~~ time will be considered by the Board if time permits.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.510 Motions to Cancel Hearing**

- a) Time to File. Unless the Board or the hearing officer orders otherwise the hearing officer may grant motions to cancel hearings that are filed no fewer than 10 days or, if all parties agree to the motion, 5 days before the scheduled hearing date. The hearing officer may grant a motion filed after the prescribed time only if the movant demonstrates that the movant will suffer material prejudice if the hearing is not canceled.
- b) Contents. All motions to cancel a hearing must ~~state~~~~set forth~~ a proposed date to reschedule the hearing and must be supported by an affidavit of the person or persons with knowledge of the facts that support the motion. The affidavit must include the factual basis for the request to cancel and a complete status report that describes the progress of the proceeding and sets forth the number of cancellation

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requests previously granted to the movant. The hearing officer will grant the motion only if the movant demonstrates that the request to cancel is not ~~due to the result of~~ the movant's lack of diligence.

- c) In a proceeding ~~with for which there is~~ a decision deadline, the hearing officer will deny a motion to cancel a hearing if the decision deadline does not allow enough time for the Board to reschedule the hearing, provide the required notice of the rescheduled hearing, complete the hearing, and deliberate and decide the matter.
- d) If the hearing officer grants a motion to cancel a hearing, the hearing officer will revise the schedule to complete the record in ~~compliance accordance~~ with Section 101.612. The hearing officer also will file the revised schedule with the Clerk and serve a copy of the revised schedule on all parties in ~~compliance accordance~~ with Subpart C.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.512 Motions for Expedited Review**

- a) Motions for expedited review must be directed to the Board. All motions for expedited review must ~~completely state contain a complete statement of~~ the facts and reasons for the request and must be accompanied by an oath or affirmation attesting that the facts cited are true.
- b) In acting on a motion for expedited review, the Board will, at a minimum, consider all statutory requirements and whether material prejudice will result from the motion being granted or denied.
- c) The Board will grant a motion for expedited review consistent with available resources and decision deadlines.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.514 Motions to Stay Proceedings**

- a) Motions to stay a proceeding must be directed to the Board and must be accompanied by sufficient information detailing why a stay is needed, and in decision deadline proceedings, by a waiver of any decision deadline. A status report detailing the progress of the proceeding must be included in the motion.

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(See also Section 101.308.)

- b) If the motion to stay is granted, at the close of the stay, the parties must file a status report in ~~compliance~~ ~~accordance~~ with Subpart C. Additional requests for stay of the proceedings must be directed to the hearing officer.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.516 Motions for Summary Judgment**

- a) Any time after the opposing party has appeared (or after the expiration of time within which any party ~~mustis required to~~ appear), but no fewer than 30 days prior to the regularly scheduled Board meeting before the noticed hearing date, a party may move the Board for summary judgment for all or any part of the relief sought. Any response to a motion for summary judgment must be filed within 14 days after service of the motion for summary judgment. The hearing officer may extend the filing and response deadlines contained in this subsection upon written motion by a party, consistent with any statutory deadlines.
- b) If the record, including pleadings, depositions and admissions on file, together with any affidavits, shows that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law, the Board will enter summary judgment.
- c) Any party wishing to cancel a hearing pending decision on a motion for summary judgment must file a motion to cancel hearing under Section 101.510.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.518 Motions for Interlocutory Appeal from Hearing Officer Orders**

A party may take to the Board an interlocutory appeal~~Interlocutory appeals~~ from a hearing officer ruling of the hearing officer may be taken to the Board by filing a motion within 14 days after the party receives receipt of the hearing officer's written order. However, if the hearing officer makes the officer's ruling is rendered on the record at hearing, any motion for interlocutory appeal must be filed within 14 days after the Board receives the hearing transcript. Filing a motion for interlocutory appeal will not postpone a scheduled hearing, stay the effect of the hearing officer's ruling, or otherwise stay the proceeding. ~~Failure of a party to timely file a motion for interlocutory appeal constitutes a waiver of any objection to the hearing officer's~~

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~~ruling.~~

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.520 Motions for Reconsideration**

- a) Any motion for reconsideration or modification of a Board order must be filed within 35 days after the receipt of the order. (See Section 101.902.)
- b) Any response to a motion for reconsideration or modification must be filed within 14 days after the filing of the motion.
- c) A timely-filed motion for reconsideration or modification stays the effect of the order until final disposition of the motion ~~in accordance with Section 101.300(d)(2).~~

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.522 Motions for Extension of Time**

~~If a party's motion shows good cause, the~~The Board or hearing officer, ~~for good cause shown on a motion after notice to the opposite party,~~ may extend any deadline ~~the time for filing any document or doing any act which is required by this Part~~ ~~these rules to be done within a limited period.~~ The motion may be filed either before or after the deadline expires ~~expiration of time.~~

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

**Section 101.602 Notice of Board Hearings**

- a) The ~~Clerk~~ ~~hearing officer~~ will serve ~~give~~ the parties with the hearing officer's ~~at least 21 days written~~ notice of a hearing at least 21 days before the hearing.
- b) The Clerk will provide notice of all hearings, except for administrative citation hearings, in a newspaper of general circulation in the county in which the facility or pollution source is located, or where the activity in question occurred. Unless otherwise required by applicable law, when a hearing is to be held to satisfy the public hearing requirement of the Clean Air Act (42 USC 7401 et seq.) for State

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Implementation Plan revisions, the Clerk will give notice of the hearing by publication in the Illinois Register in lieu of newspaper notice. Notice must be published at least 21 days before the hearing. If the proceeding involves federal rules that the State has been delegated authority to administer, notice must be published at least 30 days before the hearing.

- c) *Whenever a proceeding before the Board may affect the right of the public individually or collectively to the use of community sewer or water facilities provided by a municipally owned or publicly regulated company, the Board shall at least 30 days prior to the scheduled date for the first hearing in the proceeding, give notice of the date, time, place, and purpose of the hearing by public advertisement in a newspaper of general circulation in the area of the State concerned [415 ILCS 5/33(c)].*

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.604 Formal Board Transcript**

All Board hearings will be transcribed by a certified court reporter in ~~compliance~~~~accordance~~ with Section 32 of the Act or other applicable law. Any party or witness may file a motion with the hearing officer to correct the transcript within 21 days after ~~the Board receives receipt of~~ the transcript ~~in the Clerk's Office~~. ~~If a Failure of any~~ party or witness ~~fails~~ to timely file a motion to correct the transcript, ~~the party or witness waives constitutes a waiver of~~ the right to correct, unless material prejudice ~~would result~~~~results~~.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.606 Informal Recordings of the Proceedings**

Informal recording of Board proceedings is allowed as provided for in this Section. The hearing officer may prohibit audio or video recording at hearing if a witness refuses to testify on the grounds that the witness ~~must~~~~may~~ not be compelled to testify if any portion of the testimony is to be broadcast or televised. If the hearing officer determines that recording is disruptive or detrimental to proper development of the record, the hearing officer may limit or prohibit audio ~~and~~~~or~~ video recording.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.608 Default**

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- a) ~~If Failure of~~ a party fails to appear at the hearing, or ~~fails failure~~ to proceed as ~~ordered by~~ the Board or hearing officer ordered, ~~the party defaults will constitute default.~~
- b) If a respondent fails to appear at hearing, the complainant or petitioner must prove its prima facie case ~~in order~~ to prevail on the merits.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.610 Duties and Authority of the Hearing Officer**

The hearing officer has the duty to manage proceedings assigned, to set hearings, to conduct a fair hearing, to take all necessary action to avoid delay, to maintain order, and to ensure development of a clear, complete, and concise record for timely transmission to the Board. The hearing officer has all powers necessary to these ends, including the authority to:

- a) Require parties to proceed to hearing and establish a schedule for, and notice and service of, any prefiled submission of testimony and written exhibits;
- b) Administer oaths and affirmations;
- c) Allow for the examination of or examine witnesses to ensure a clear and complete record;
- d) Regulate the course of the hearing, including controlling the order of proceedings;
- e) Establish reasonable time limits on ~~the duration of~~ the testimony and questioning of any witness, and limit repetitive or cumulative testimony and questioning;
- f) Determine that a witness is adverse, hostile, or unwilling under Section 101.624;
- g) Issue an order compelling the answers to interrogatories or responses to other discovery requests;
- h) Order the production of evidence under Section 101.614;
- i) Order the filing of any required record or recommendation in a manner ~~that which~~ provides for a timely review and development of issues prior to the hearing and

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consistent with any statutory decision deadline;

- j) Initiate, schedule, and conduct a pre-hearing conference;
- k) Order a briefing and comment schedule and exclude late-filed briefs and comments from the record;
- l) Rule upon objections and evidentiary questions;
- m) Order discovery under Sections 101.614 and 101.616;
- n) Rule on any motion directed to the hearing officer or deferred to the hearing officer by the Board ~~consistent in accordance~~ with Section 101.502;
- o) Set status report schedules;
- p) Require all participants in a rulemaking ~~or TLWQS proceeding proceeding~~ to state their positions ~~regarding with respect to~~ the proposal ~~or petition, as applicable~~; and
- q) Rule upon offers of proof and receive evidence and rule upon objections to the introduction of evidence.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.612 Schedule to Complete the Record**

- a) The hearing officer ~~will~~**must** establish a schedule to complete the record by hearing officer order. The schedule may provide dates and deadlines for pre-hearing conferences, discovery completion, and hearing and post-hearing submissions (including public comments). The schedule must provide for a completed record at least 30 days before the decision date, unless the hearing officer orders otherwise to prevent material prejudice. The hearing officer ~~will~~**must** file the schedule with the Clerk and serve a copy of the schedule on all parties in ~~compliance accordance~~ with Subpart C.
- b) The hearing officer may rule upon any motion to revise the schedule to complete the record. The hearing officer may grant the motion to the extent that the revised schedule provides for a completed record at least 30 days before the decision date or to prevent material prejudice. If the hearing officer grants a motion to revise

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the schedule, the hearing officer ~~will~~must file the revised schedule with the Clerk and serve a copy of the revised schedule on all parties in ~~compliance~~accordance with Subpart C. (See also Section 101.510(d).)

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.616 Discovery**

The assigned hearing officer will set all time deadlines for discovery not already provided for in this Subpart consistent with Board deadlines. For ~~purposes of~~ discovery, the Board may look to the Code of Civil Procedure [735 ILCS 5] and the Illinois Supreme Court Rules for guidance ~~when~~where the Board's procedural rules are silent (see Section 101.100(b)). All discovery disputes will be handled by the assigned hearing officer.

- a) All relevant information and information calculated to lead to relevant information is discoverable, excluding those materials that would be protected from disclosure in the courts of this State under statute, Supreme Court Rules or common law, and materials protected from disclosure under 35 Ill. Adm. Code 130.
- b) If the parties cannot agree on the scope of discovery or the time or location of any deposition, the hearing officer has the authority to order discovery or to deny requests for discovery.
- c) All discovery must be completed at least 10 days prior to the scheduled hearing in the proceeding unless the hearing officer orders otherwise.
- d) The hearing officer may, on his or her own motion or on the motion of any party or witness, issue protective orders that deny, limit, condition or regulate discovery to prevent unreasonable expense, or harassment, to expedite resolution of the proceeding, or to protect non-disclosable materials from disclosure consistent with Sections 7 and 7.1 of the Act and 35 Ill. Adm. Code 130.
- e) Unless a claim of privilege is asserted, it is not a ground for objection that the testimony of a deponent or person interrogated will be inadmissible at hearing, if the information sought is reasonably calculated to lead to relevant information. Any appeals of rulings by the hearing officer regarding discovery must be in writing and filed with the Board prior to hearing.

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- f) Failure to comply with any order regarding discovery may subject the offending persons to sanctions under Subpart H.
- g) If any person serves any request for discovery or answers to discovery for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, or knowingly gives a false answer to discovery questions, the Board, on its own motion or the motion of a party, may impose sanctions under Subpart H.
- h) A party must amend any prior responses to interrogatories, requests for production, or requests for admission if the party learns that the response is in some material respect incomplete or incorrect, and the additional or corrected information has not otherwise been made known to the other parties during the discovery process or in writing.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.618 Admissions**

- a) General. All requests to admit must be served upon a party no later than 35 days before hearing. All answers or objections to requests to admit must be served upon the party requesting the admission within 28 days after the service of the request.
- b) Extension of Time. ~~Under~~~~in accordance with~~ Sections 101.522 and 101.610, the hearing officer may extend the time for filing any request, answer, or objection either before or after the expiration of time.
- c) Request to Admit. Any party serving a request to admit ~~under~~~~in accordance with~~ subsection (d) or (e) must include the following language in the first paragraph of the request: "Failure to respond to the following requests to admit within 28 days may have severe consequences. ~~If you fail~~~~Failure~~ to respond to the following requests, ~~you~~ will ~~be considered to have admitted that~~~~result in~~ all the facts requested ~~are~~~~being deemed admitted as~~ true for this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding or an attorney."
- d) Request for Admission of Fact. A party may serve a written request for admission of the truth of specific statements of fact on any other party.

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- e) Request for Admission of Genuineness of Document. A party may serve a written request for admission of the genuineness of documents on any other party. Copies of the document must be served unless the document has already been furnished in the present proceeding.
- f) ~~Admitted If Not Denied Admission in the Absence of Denial~~. Each of the matters of fact and the genuineness of each document of which admission is requested is admitted unless, within 28 days after service, the party to whom the request is directed serves upon the party requesting the admission either a sworn statement denying specifically the matters of which admission is requested or ~~stating setting forth~~ in detail the reasons why the party cannot truthfully admit or deny those matters, or written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part. If written objections to a part of the request are made, the remainder of the request must be answered within the period designated in the request. A denial must fairly address the substance of the requested admission.
- g) Partial Denial or Qualification. If good faith requires that a party deny a part of a matter for which an admission is requested, or if a part requires qualification, the party must specify the part ~~that which~~ is denied or qualified and admit only the remainder.
- h) Objection. Any objection to a request or to any answer must be stated with specificity, and will be heard by the hearing officer upon notice and motion of the party making the request.
- i) Effect of Admission. Any admission made by a party ~~tounder~~ a request under this Section is for ~~the purpose of~~ the pending proceeding only. It ~~is does not constitute~~ an admission by the party for any other purpose and ~~must may~~ not be used against him ~~or her~~ in any other proceeding.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.620 Interrogatories**

- a) Unless ~~ordered otherwise by~~ the hearing officer ~~orders otherwise~~, a party may serve a maximum of 30 written interrogatories, including subparts, on any other party, no later than 35 days before hearing.

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- b) Within 28 days after service, the party to whom the interrogatory is directed must serve the answers and objections, if any, upon the party submitting the interrogatories. Each interrogatory must be answered separately and fully in writing under oath, unless it is objected to. Answers must be signed by the person making them and objections must be signed by the attorney making them or, ~~if~~ ~~the event of~~ an individual ~~represents~~ ~~representing~~ himself or herself, the individual making them.
- c) Grounds for an objection to an interrogatory must be stated with specificity, and be accompanied by a copy of the interrogatory. Any ground that is not stated in a timely objection is waived unless ~~waiver would result~~ ~~in~~ ~~results~~ in material prejudice or good cause for the delay is shown.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.622 Subpoenas and Depositions**

- a) Upon request by any party to a contested proceeding, the Clerk will issue subpoenas for the attendance of witnesses at a hearing or deposition. Subpoena forms are available at the Board's Chicago office. The person requesting the subpoena is responsible for completing the subpoena and serving it upon the witness.
- b) Service of the subpoena on the witness must be completed no later than 10 days before the date of the required appearance. A copy of the subpoena must be filed with the Clerk and served upon the hearing officer within 7 days after service upon the witness. Failure to serve both the Clerk and the hearing officer ~~makes will render~~ the subpoena null and void. Service and filing must ~~comply be in accordance~~ with Subpart C.
- c) Subpoenas may include a command to produce books, papers, documents, or other tangible things designated ~~in the subpoena~~ ~~herein~~ and relevant to the matter under consideration.
- d) The hearing officer, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance, may quash or modify the subpoena if it is unreasonable or irrelevant. The hearing officer, under the standards of Section 101.614, will rule upon motions to quash or modify material requested in

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the subpoena under subsection (c) ~~in accordance with the standards articulated in Section 101.614.~~

- e) Each witness subpoenaed by a party under this Section is entitled to receive witness fees from that party as provided in Section 4.3 of the Circuit Courts Act [705 ILCS 35/4.3].
- f) Unless the hearing officer orders otherwise, any witness subpoenaed for a deposition may be required to attend only in the county in which he or she resides or maintains an office address. ~~Consistent~~In accordance with Illinois Supreme Court Rule 206(d), all depositions must be limited to 3 hours in length unless the parties and the non-party deponent by stipulation agree to a longer time frame or unless the hearing officer orders otherwise after a showing of good cause. ~~(See Ill. S. Ct. Amended Rule 206(d).)~~
- g) Failure of any witness to comply with a subpoena will subject the witness to sanctions under this Part, or the judicial enforcement of the subpoena. The Board may, upon proper motion by the party requesting the subpoena, request the Attorney General to pursue judicial enforcement of the subpoena on behalf of the Board.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.624 Examination of Adverse, Hostile, or Unwilling Witnesses**

- a) Adverse Witnesses. At hearing, upon motion granted by the hearing officer, any party, or any person for whose immediate benefit the proceeding is prosecuted or defended, or any officers, directors, managing agents, or foremen of any party may be called as an adverse witness consistent with Section 2-1102 of as allowed by the Code of Civil Procedure [735 ILCS 5/2-1102]. ~~(See Section 2-1102 of the Code of Civil Procedure.)~~ Adverse witnesses may be examined as if under cross-examination. The party calling the adverse witness may rebut the testimony and may impeach the witness.
- b) Hostile or Unwilling Witnesses. If the hearing officer determines that any witness is hostile or unwilling, the witness may be examined by the party calling the witness as if under cross-examination.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 101.626 Information Produced at Hearing**

In ~~compliance~~ accordance with Section 10-40 of the IAPA, the hearing officer will admit evidence that is admissible under the rules of evidence as applied in the civil courts of Illinois, except as otherwise provided in this Part.

- a) Evidence. The hearing officer may admit evidence that is material, relevant, and would be relied upon by prudent persons in the conduct of serious affairs, unless the evidence is privileged.
- b) Admissibility of Evidence. When the admissibility of evidence depends upon a good faith argument as to the interpretation of substantive law, the hearing officer will admit the evidence.
- c) Scientific Articles and Treatises. Relevant scientific or technical articles, treatises, or materials may be introduced into evidence by a party. The materials are subject to refutation or disputation through introduction of documentary evidence or expert testimony.
- d) Written Testimony. Written testimony may be introduced by a party in a hearing only if provided to all other parties of record ~~before~~ prior to the date of the hearing and only after the opposing parties have had an opportunity to object to the written testimony and to obtain a ruling on the objections ~~before~~ prior to its introduction. Written testimony may be introduced by a party only if the persons whose written testimony is introduced are available for cross-examination at hearing.
- e) Admission of Business Records. A writing or record, whether in the form of any entry in a book or otherwise made as a memorandum or record of any act, transaction, occurrence, or event, may be admissible as evidence of the act, transaction, occurrence, or event. To be admissible, the writing or record must have been made in the regular course of business, ~~if~~ provided it was the regular course of business to make the memorandum or record at the time of the act, transaction, occurrence, or event, or within a reasonable time afterwards. All other circumstances of the making of the writing or record, including lack of personal knowledge by the entrant or maker, may be admitted to affect the weight of the evidence, but will not affect admissibility. The term "business," as used in this subsection (e), includes businesses, professions, occupations, and callings of

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every kind.

- f) Prior Inconsistent Statements. Prior statements made under oath may be admitted to impeach a witness if the statement is inconsistent with the witness' testimony at hearing.
- g) Oral and Written Statements. Oral and written statements from participants may be taken at hearing ~~under~~in accordance with Section 101.628.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.627 Electronic Filing of Hearing Exhibits After Adjudicatory or TLWQS Hearing**

- a) Scope. After an adjudicatory or TLWQS hearing, an accurate reproduction of each exhibit offered for admission at the hearing must be electronically filed through COOL under Subpart J by the party or participant who offered the exhibit, unless the hearing officer determines that it is not practicable for the offering party or participant to do so.
  - 1) This electronic filing requirement:
    - A) Applies regardless of whether the hearing exhibit was admitted by the hearing officer; and
    - B) Does not apply to a hearing exhibit that contains information claimed or determined to be a trade secret or other nondisclosable information under 35 Ill. Adm. Code 130, but it does apply to the version of the exhibit that is redacted under 35 Ill. Adm. Code 130.
  - 2) When practicable, the offering party or participant must:
    - A) Reduce an oversized hearing exhibit to conform to or be formatted to print on 8½ x 11-inch paper; and
    - B) Electronically file the version of the oversized exhibit reduced under subsection (a)(2)(A).

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- b) Timing. The offering party or participant must comply with subsection (a) within 5 days after the last day of the hearing at which the exhibit was offered. Upon good cause shown, the hearing officer may extend this deadline.
- c) Certification. The electronic filing under subsection (a) must include a certification in which the offering party or participant certifies that each hearing exhibit being filed is an accurate reproduction of the corresponding exhibit offered at the hearing.
- d) Exhibit Number. The offering party or participant must mark each hearing exhibit electronically filed under subsection (a) with the number assigned to that exhibit by the hearing officer.
- e) Form. Each hearing exhibit electronically filed under subsection (a) must comply with Section 101.1030, except as follows:
- 1) The exhibit must, to the extent technically feasible, be in a text-searchable format; and
  - 2) Multiple exhibits may be filed as a single electronic file, subject to the size limit of Section 101.1030(c).
- f) Service. The offering party or participant must serve the other parties or participants and the hearing officer with its notice of filing the hearing exhibits under subsection (a). (See Section 101.302(b)(3).) The offering party or participant is not required to serve the hearing exhibits, unless the hearing officer orders otherwise.
- g) Objection and Response
- 1) No later than 5 days after the offering party or participant files a hearing exhibit under subsection (a), any other party or participant may file an objection but only to allege that the filed exhibit is not an accurate reproduction of the exhibit offered at the hearing. Each hearing exhibit filed under this Section will be promptly posted to COOL by the Clerk's Office.

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- 2) No later than 5 days after being served with an objection under subsection (g)(1), the offering party or participant may file a response to the objection.
- 3) Upon good cause shown or to avoid undue delay, the hearing officer may modify one or both deadlines under this subsection (g).

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.628 Statements from Participants**

- a) Oral Statements. The hearing officer may permit a participant to make oral statements on the record when time, facilities, and concerns for a clear and concise hearing record so allow. The oral statements must be made under oath and are subject to cross-examination. (See Sections 101.110 and 101.114.)
- b) Written Statements. Any participant may submit written statements relevant to the subject matter at any time ~~before~~prior to hearing or at hearing. ~~The participant~~Participants submitting ~~the~~such a statement will be subject to cross-examination by any party. Written statements submitted without the availability of cross-examination will be treated as public comment in ~~compliance~~accordance with subsection (c) and will be afforded lesser weight than evidence subject to cross-examination.
- c) Public Comments or Amicus Curiae Briefs. Oral public comment may be made on the record at a hearing and is not subject to cross-examination. Additionally, participants may file written public comments subject to the requirements of this Section and the hearing officer's schedule for ~~completing~~completion of the record. The Board also allows for the filing of amicus curiae briefs by non-party participants. Amicus curiae briefs will be allowed in ~~compliance~~accordance with Section 101.110.
  - 1) Written public comments must be filed within 14 days after the close of the last hearing unless the hearing officer specifies a different date for submission of post-hearing comments. However, all public comments must be filed with the Board no later than 30 days before the decision date, unless the hearing officer orders otherwise to prevent material prejudice. Consistent with the burden of proof in an adjudicatory proceeding or with the designation of the proponent in a rulemaking or the

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petitioner in a TLWQS proceeding, the hearing officer may provide for differing filing deadlines ~~regarding with respect to~~ post-hearing comments by different persons. Under hearing officer order, rebuttal public comments may be submitted.

- 2) All public comments must present arguments or comments based on evidence ~~contained~~ in the record. The comments may also present legal argument citing legal authorities.
- 3) Comments must be filed with the Board. ~~Comments will be distributed to parties and the hearing officer by the Clerk's office.~~

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.630 Official Notice and Evidence Evaluation**

- a) Official notice may be taken of:
  - 1) Matters all facts of which the circuit courts of this State may take judicial notice; ~~may be taken and of other~~
  - 2) Generally recognized technical or scientific facts within the Board's specialized knowledge ~~and experience of the Board~~.
- b) Parties will be notified of the material noticed under subsection (a) and they will be given an opportunity to contest that material.
- c) The Board may use its experience, technical competence, and specialized knowledge in evaluating evidence.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART G: ORAL ARGUMENT

**Section 101.700 Oral Argument**

- a) The Board may hear oral argument upon written motion of a party or the Board's own motion. The oral argument will be transcribed by a stenographer provided by the Board and become part of the record of the proceedings before the Board.

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The purpose of oral argument is to address legal questions. Oral argument is not intended to address new facts.

- b) Motions for oral argument must contain arguments supporting the grant of the motion for oral argument. In considering a motion for oral argument, the Board will consider, but is not limited to considering, the uniqueness of the issue or proceeding and whether the issue or proceeding involves a conflict of law.
- c) In any proceeding with a statutory decision deadline, the Board will deny the request for oral argument if there is insufficient time to schedule oral argument and allow time for the Board to issue its decision.
- d) If the Board grants the motion for oral argument, it will issue an order ~~stating~~setting forth a schedule for oral argument that may include a briefing schedule. The brief will be limited to the issues for which oral argument was granted.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART H: SANCTIONS

**Section 101.800 Sanctions for Failure to Comply with Procedural Rules, Board Orders, or Hearing Officer Orders**

- a) If any person unreasonably fails to comply with any provision of 35 Ill. Adm. Code 101 through 130 or any order entered by the Board or the hearing officer, including any subpoena issued by the Board, the Board may order sanctions. The Board may order sanctions on its own motion, or in response to a motion by a party.
- b) Sanctions include the following:
  - 1) Further proceedings may be stayed until the order or rules are complied with, except in proceedings with a statutory decision deadline. Proceedings with a statutory decision deadline may be dismissed ~~before~~prior to the date on which decision is due;
  - 2) The offending person may be barred from filing any other pleading or other document relating to any issue to which the refusal or failure relates;

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- 3) The offending person may be barred from maintaining any ~~particular~~ claim, counterclaim, third-party complaint, or defense relating to that issue;
  - 4) As to claims or defenses asserted in any pleading or other document to which that issue is material, a judgment by default may be entered against the offending person or the proceeding may be dismissed with or without prejudice;
  - 5) Any portion of the offending person's pleadings or other documents relating to that issue may be stricken and, if appropriate, judgment may be entered as to that issue; and
  - 6) The witness may be barred from testifying concerning that issue.
- c) In deciding what sanction to impose, the Board will consider factors including: the relative severity of the refusal or failure to comply; the ~~past~~ history of the proceeding; the degree to which the proceeding has been delayed or prejudiced; and the existence or absence of bad faith ~~by on the part of~~ the offending party or person.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

**Section 101.902 Motions for Reconsideration**

In ruling upon a motion for reconsideration, the Board will consider factors including new evidence, or a change in the law, to conclude that the Board's decision was in error. (See also Section 101.520.) A motion for reconsideration of a final Board order is not a prerequisite ~~to appealing for the appeal of~~ the final Board order.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.904 Relief from Final Opinions and Orders**

- a) Upon its own motion or motion of any party, the Board may correct clerical mistakes in orders or other parts of the record and errors ~~in the record~~ therein

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arising from oversight or omission before the appeal is docketed in the appellate court. While the appeal is pending, the mistakes may be corrected only with permission of the appellate court. Any corrected order will be ~~delivered~~mailed to all parties and participants in that proceeding.

- b) On written motion, the Board may relieve a party from a final order entered in a contested proceeding, for the following:
- 1) Newly\_~~discovered~~ evidence that existed at the time of hearing and that by due diligence could not have been timely discovered;
  - 2) Fraud (whether intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; or
  - 3) Void order, such as an order based upon jurisdictional defects.
- c) A motion under this Section does not affect the finality of a Board order or suspend the operation of a Board order. The motion must be filed in the same proceeding in which the order was entered but is not a continuation of the proceeding. The motion must be supported by oath or affidavit or other appropriate showing as to matters not of record. All parties or participants in the proceeding must be notified by the movant as provided by Section 101.304.
- d) A motion under subsection (b) must be filed with the Board within one year after entry of the order, except that a motion under subsection (b)(3) must be filed within a reasonable time after entry of the order.
- e) Any response to a motion under this Section must be filed within 14 days after the filing of the motion.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.906 Judicial Review of Board Orders**

- a) Under Sections 29(a), 38.5(j), and 41(a) of the Act and Illinois Supreme Court Rule 335, judicial review of final Board orders is available ~~directly in from~~ the appellate court. However, under Section 11-60 of the Property Tax Code [35 ILCS 200/11-60], judicial review of final Board orders in tax certification proceedings is available from the circuit court.

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- b) For ~~purposes of~~ judicial review, a final Board order is appealable as of the date of service of the final order upon the appealing person (see Section 101.300(d)).
- c) The procedure for stay of any final Board order during appeal will be as provided in Supreme Court Rule 335 ~~of the Rules of the Supreme Court of Illinois (Ill. S. Ct. Rule 335)~~.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.908 Interlocutory Appeal**

Upon motion of any party, the Board may consider an interlocutory appeal consistent ~~in~~ accordance with Illinois Supreme Court Rule 308. ~~(Ill. S. Ct. Rule 308)~~.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

**Section 101.1000 Electronic Filing and E-Mail Service**

- a) The Board provides the opportunity to file and access documents electronically through its Clerk's Office On-Line (COOL). COOL is located on the Board's website (pcb.illinois.gov)~~(www.ipeb.state.il.us)~~. The Board has taken steps designed to ensure the integrity and security of COOL in compliance ~~accordance~~ with State policies developed under the Electronic Commerce Security Act [5 ILCS 175].
- b) To file an electronic document ~~in~~ with the Board proceeding, a person must upload the document on COOL. Electronic filing is not accomplished by sending a document to the e-mail address of the Clerk or hearing officer.
- c) Except as provided in Section 101.302(h)(3), (h)(4), and (j) and Section 101.1050, all documents must be filed through COOL. However, if filing through COOL is not reasonably practicable, the Board, the hearing officer, or the Clerk may grant permission to file in paper.
- d) Generally, the Clerk's Office will not accept paper documents for filing; however, the Clerk's Office will convert paper-filed documents into electronic documents

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and place them on COOL, when permission to file a paper document is granted under subsection (c).

- e) All documents filed with the Board may be served by e-mail except for enforcement complaints, administrative citations, and EMSA statements of deficiency. (See Section 101.304(c) and Section 101.1060.)

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.1010 Electronic Filing Authorization and Signatures**

- a) A person seeking to upload a document on COOL for filing must have been issued a State of Illinois digital signature certificate under Section 15-310 of the Electronic Commerce Security Act. (See 5 ILCS 175/15-310.) A link to the subscriber agreement and application for a State of Illinois digital signature certificate is available through COOL.
- 1) Maintaining digital signature confidentiality is the responsibility of the holder of the digital signature certificate. The certificate holder is responsible for any document electronically filed by anyone using his or her digital signature certificate.
  - 2) The digital signature certificate holder is responsible for keeping his or her contact information current.
- b) Each electronic document uploaded on COOL for filing must bear a facsimile electronic signature (i.e., scanned image of original pen-and-ink signature) or typographical electronic signature (i.e., "/s/ typed name") of the person authorizing the filing (e.g., attorney, participant, pro se party). However, if this electronic signature is absent, the document will be ~~considered~~ deemed to have been signed by the holder of the digital signature certificate used to upload the document and the certificate holder will be ~~considered~~ deemed to have authorized the filing. (See 5 ILCS 175/5-120.) To file an electronic document on behalf of another person in an adjudicatory proceeding, an electronic signature of a licensed and registered attorney is required. (See Section 101.400(a).)
- c) If an electronic document or portion ~~of one thereof~~ requires the signatures of any persons in addition to those specified in subsection (b) (e.g., settlement agreement, witness' affidavit), the person authorizing the filing must:

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- 1) Confirm that the additional persons have approved the document or corresponding portion ~~of it~~ thereof and obtain their original pen-and-ink signatures before the document is uploaded on COOL for filing;
- 2) Ensure that the document or corresponding portion ~~of it~~ thereof bears the facsimile electronic signatures of, and indicates the identity of, the additional persons;
- 3) Upload the document on COOL as a scanned image containing the necessary signatures; and
- 4) ~~Keep~~ Retain the paper original of the document, including the original pen-and-ink signatures of the additional persons, for one year after the later of the following:
  - A) The date on which the ~~time~~ period expires for appealing the final order of the Board; or
  - B) If the final order of the Board is appealed, the date on which the ~~time~~ period expires for seeking any further review in the courts.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.1020 Filing Electronic Documents**

- a) COOL. To file an electronic document through COOL, the document must first be uploaded on COOL.
- b) Digital Signature Certificate. Uploading a document on COOL requires a valid State of Illinois digital signature certificate.
- c) Uploading Hours. Electronic documents may be uploaded on COOL 24 hours per day, every day.
- d) E-Mail Receipt. Uploading a document on COOL will generate an e-mail receipt for the digital signature certificate holder. The receipt will verify the date and time when the document was uploaded on COOL.

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- e) Time of Filing. Subject to subsection (f), an electronic document uploaded on COOL will be considered filed as of the date and time specified on the e-mail receipt generated under subsection (d), except that:
- 1) A document uploaded on a Saturday or Sunday, on a national or State legal holiday, or after 4:30 p.m. on a weekday is ~~considered~~deemed filed the next business day.
  - 2) A document uploaded without one or more portions of the filing (e.g., oversized exhibit; trade secret or non-disclosable information; copyrighted document proposed for incorporation by reference in a rule) or without a required oath, affidavit, notarization, signature, or filing fee is considered filed on the date that the Clerk receives the document's last missing item, except as provided in subsection (e)(2)(A) or (e)(2)(B). If the Clerk receives the document's last missing item by U.S. Mail or third-party commercial carrier after the document's filing deadline date, the document will be considered filed on:
    - A) ~~On the date that the Clerk receives the document's last missing item; or~~
    - AB) The~~On the postmark date on which~~ of the document's last missing item was provided to the U.S. Postal Service (see Section 101.300(b)(3)); or if that item was sent by U.S. Mail, was received after the date of a filing deadline, and has a postmark date that precedes or is the same as the deadline date.
    - B) The date on which the document's last missing item was provided to the third-party commercial carrier for delivery to the Clerk within 3 business days (see Section 101.300(b)(3)).
  - 3) A document consisting of multiple electronic files is considered filed as of the date and time specified on the e-mail receipt generated under subsection (d) for the last file uploaded to complete the document.
- f) Review by the Clerk. The Clerk will review electronically each document uploaded on COOL, validate the proceeding information provided, and accept or reject the document for filing.

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- 1) If the Clerk accepts an uploaded document, the Clerk's Office will e-mail a notice of acceptance to the digital signature certificate holder, indicating that the filed document may be viewed on COOL.
  - 2) If the Clerk rejects an uploaded document, the Clerk's Office will e-mail a notice of rejection to the digital signature certificate holder. The Clerk may reject an uploaded document because the document is prohibited from being filed electronically under Section 101.302(h)(3) or (h)(4), the document fails to comply with file size or naming requirements of Section 101.1030(c), or the document is corrupted or otherwise cannot be readily opened. If an uploaded document is rejected by the Clerk, the Board may, upon good cause shown, enter an order rulingdeeming the document filed as of the date and time specified when the document was uploaded on COOL, subject to subsections (e)(1) through (e)(3).
- g) **Technical Failure.** If an electronic document is not uploaded, or is materially delayed in uploading, on COOL due to a technical failure, the Board may, upon good cause shown, enter an order rulingdeeming the document uploaded under subsection (d) as of the date and time of the first attempted uploading. "Technical failure" as used in this subsection is limited to a system outage of COOL or other malfunction of the hardware, software, or telecommunications facilities of the Board or the Board's electronic filing provider. "Technical failure", therefore, does not include any malfunction of the equipment used by the person authorizing the filing or the digital signature certificate holder.
- h) **Clerk's Electronic Stamp.** An electronic document uploaded on COOL and accepted by the Clerk for filing will be endorsed by the Clerk with a file stamp statingsetting forth the date of filing. This file stamp will be merged with the electronic document and visible when the document is viewed on COOL. Electronically filed documents so endorsed have the same legal effect as paper documents file- stamped by the Clerk conventionally underin accordance with Section 101.300(b).
- i) **Decision Deadlines.** For ~~purposes of~~ Board decision deadlines, the decision period does not begin until the date on which the electronic document constituting the initial filing is considered filed under this Section.
- j) **Filing Deadlines.** The electronic filing of a document does not alter any applicable filing deadlines.

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(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.1030 Form of Electronic Documents for Filing**

- a) In addition to complying with the formatting requirements of Section 101.302(g) and (j), electronic documents uploaded on COOL for filing must be in one of the following electronic formats:
- 1) Adobe Portable Document Format (PDF), version 2.0 or greater;
  - 2) Microsoft Word for Windows, version 6.0 or greater;
  - 3) Corel WordPerfect for Windows, version 6.0 or greater; or
  - 4) Microsoft Excel for Windows, version 4.0 or greater.
- b) Generally, electronic documents filed in ~~compliance~~accordance with this Subpart will be posted to COOL by the Clerk's Office in text-searchable Adobe PDF. When practicable, persons should:
- 1) Upload their electronic documents on COOL in text-searchable Adobe PDF; and
  - 2) Convert their electronic documents to a text-searchable Adobe PDF directly from the program used to create the document, rather than from a scanned image of the paper document.
- c) No single electronic file uploaded on COOL, whether constituting all or part of an electronic document, may contain more than 10 megabytes (MB) of data. To comply with this requirement, an electronic document may be divided into parts and submitted as multiple electronic files, each file being 10 MB or less. The person authorizing the filing is responsible for dividing the document into appropriately-sized files and naming each file to reflect its place within the electronic document.
- d) Multiple electronic documents, whether for the same proceeding or different proceedings, must be uploaded separately on COOL and, therefore, must not be combined into a single electronic file for filing through COOL.

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- e) Electronic documents may contain links to material external to the filed document. However, links to external material are for convenience purposes only. The external material behind the link is not considered part of the filing or the record of the proceeding in which the document was filed.
- f) All documents uploaded on COOL must be free of viruses or other harmful processes. If an electronic document containing a virus or other harmful process is uploaded on COOL, the Board may, consistent with Section 101.800(b) and (c), impose sanctions, including barring the document from being filed in any manner and barring the person authorizing the filing or the digital signature certificate holder from any further electronic filing through COOL.
- g) Documents filed under Section 101.302(h)(2) must:
  - 1) Include bookmarks, immediately viewable when the document is opened, to individual documents in the same order as they appear in the corresponding Table of Contents to facilitate navigation and location of specific contents within the document; and
  - 2) Have pagination displayed on each document in the top right corner of each page.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.1060 E-Mail Service**

- a) Except as provided in subsections (b) and (c), a person required to serve a document may serve the document by e-mail, in lieu of serving a paper document, if the recipient has consented to e-mail service in the proceeding and has not revoked the consent. (See Section 101.1070.)
  - 1) [A person serving a document by e-mail must successfully transmit the document to the recipient's primary e-mail address or any of the recipient's secondary e-mail addresses. \(See Section 101.1070\(b\).\)](#)
  - 2) To serve a document by e-mail, it is not necessary to electronically file the document or to obtain a State of Illinois digital signature certificate.

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- b) Service of enforcement complaints and EMSA statements of deficiency on a respondent must be made personally, by U.S. Mail with a recipient's signature recorded, or by a third-party commercial carrier with a recipient's signature recorded. (See Section 101.304(c)(2).)
- c) Service of administrative citations must be made as required under 35 Ill. Adm. Code 108.
- d) A person required to serve a document on the hearing officer must serve the hearing officer by sending the document to the hearing officer's e-mail address in lieu of serving a paper document upon the hearing officer if the person has the capability of serving the document by e-mail.
- e) When a document is served by e-mail, documentation of service must be filed with the Clerk and served on all persons entitled to service in that proceeding. A sample form of affidavit or certificate of e-mail service is available in Appendix H. An affidavit or certificate of e-mail service must include the following:
  - 1) The e-mail address of the recipient and the [e-mail address of the person authorizing the filing](#);
  - 2) The number of pages in the e-mail transmission;
  - 3) A statement that the document was served by e-mail; and
  - 4) The date of the e-mail transmission and the time by when it took place.
- f) If any computer malfunction precludes the e-mail service of a document, the person authorizing the filing must promptly serve the document in paper under Section 101.304(c).
- g) Except for [a final adjudicatory order](#)~~orders~~ of the Board [in an enforcement proceeding under 35 Ill. Adm. Code 103](#), which the Clerk's Office serves [on the respondent or respondents](#) in paper by certified mail, the Clerk's Office will serve Board orders and hearing officer orders by e-mail, in lieu of serving paper documents, if the recipient has consented to e-mail service in the proceeding and has not revoked the consent. (See Section 101.1070.)

## POLLUTION CONTROL BOARD

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- 1) The Clerk will record the date and time of e-mail service, consistent with subsection (e).
- 2) When serving a Board order or hearing officer order by e-mail, the Clerk will transmit the order to all the recipient's e-mail addresses designated under Section 101.1070(b), simultaneously requesting a delivery receipt. If the Clerk receives no delivery receipt within 24 hours after transmission, the Clerk will promptly serve the Board order or hearing officer order in paper under Section 101.304(c).

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.1070 Consenting to Receipt of E-Mail Service**

- a) In any proceeding, a person consents to e-mail service of documents in lieu of receiving paper documents by:
  - 1) Filing a "Consent to Receipt of E-Mail Service" (see sample form of consent in Appendix I);
  - 2) Providing the hearing officer, during a hearing or conference, with an e-mail address that is designated for receiving service;
  - 3) Filing an attorney's appearance; or
  - 4) Appearing on a notice list or service list and providing the Clerk's Office with an e-mail address that is designated for receiving service.
- b) Any person who consents to email service under subsection (a) must designate a primary e-mail address for receiving service and may designate up to 2 secondary e-mail addresses for receiving service.
- cb) At any time during a proceeding, consent to e-mail service may be provided ~~underas set forth in~~ subsection (a). To accept e-mail service, it is not necessary to obtain a State of Illinois digital signature certificate.
- de) A person's consent to receiving e-mail service may be revoked by that person at any time during the proceeding upon the person's filing of a notice of the

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

revocation with the Clerk's Office. However, an attorney who filed an appearance must not revoke consent unless the appearance is withdrawn.

- ~~ed~~) Upon a change in any primary or secondary the e-mail address of a recipient of e-mail service, the recipient must file a notice ~~notify the Clerk's Office~~ of the e-mail address change with the Clerk's Office for each pending proceeding in which the person has consented to e-mail service.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

POLLUTION CONTROL BOARD

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**Section 101.APPENDIX I Consent to Receipt of E-Mail Service**

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

\_\_\_\_\_ )  
 Applicable Caption )  
 (see Appendix A) ) docket number  
 \_\_\_\_\_ )

I, the undersigned, authorize the service of documents on me by e-mail in lieu of receiving paper documents in the above-captioned proceeding. My primary e-mail address to receive service is as follows: \_\_\_\_\_ [you must designate a primary e-mail address]. My secondary e-mail address or e-mail addresses, if any, to receive service are \_\_\_\_\_ [you are not required to designate a secondary e-mail address, but if you do, you may designate up to two secondary e-mail addresses].

[signature]

[date]

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENTS

- 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 Actions</u> :
1.792	New Section
1.794	New Section
- 4) Statutory Authority: 105 ILCS 5/2-3
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rules represent a set of changes to the rules guiding short-term substitute teaching licenses in response to a number of legislative changes. The changes are being made to help ensure that all students are supported by highly prepared and effective substitute teachers.

PA 100-596 made several changes to Article 21B of the School Code. Specifically, it added a provision in Section 21B-20 that created short-term substitute teaching licenses that are valid until June 30, 2023. This rulemaking will add provisions clarifying that short-term substitute teachers may hold the short-term substitute teacher license. An individual who has a valid and active educator license with stipulations endorsed for paraprofessional and at least an associate's degree may be a short-term substitute teacher without obtaining the license. No short-term substitute may be employed for more than five consecutive days per licensed teacher. For teacher absences lasting six or more days per licensed teacher who is under contract, a school district may not hire an individual holding a short-term substitute teaching license. All individuals who sub on a short-term substitute teaching license must complete the required training, but nothing prohibits school boards from requiring substitute teachers who are working on other licenses to also complete the training. A school board with a substitute teacher training program in place prior to this amendatory Act may utilize that program to satisfy this requirement. Additionally, this rulemaking will add provisions per PA 100-813, which provided that the State Board of Education shall implement a program and adopt rules to allow school districts to supplement their substitute teacher recruitment for elementary and secondary schools with the use of recruiting firms.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
1.30	Amendment	42 Ill. Reg. 18831; October 19, 2018
1.50	Amendment	42 Ill. Reg. 18831; October 19, 2018
1.423	Amendment	43 Ill. Reg. 3385; March 15, 2019

- 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:

Rachel Diamond  
Agency Rules Coordinator  
Illinois State Board of Education  
100 West Randolph Street Ste 14-300  
Chicago IL 60601-3268

312/814-3587  
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) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2018

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

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

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 23: EDUCATION AND CULTURAL RESOURCES

## SUBTITLE A: EDUCATION

## CHAPTER I: STATE BOARD OF EDUCATION

## SUBCHAPTER 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 Licensure Information System (ELIS)
- 1.79 School Report Card
- 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
- 1.97 Survey of Learning Conditions
- 1.100 Waiver and Modification of State Board Rules and School Code Mandates
- 1.110 Appeal Process under Section 22-60 of the School Code

## SUBPART B: SCHOOL GOVERNANCE

## Section

- 1.210 Approval of Providers of Training for School Board Members under Section 10-16a of the School Code
- 1.220 Duties of Superintendent (Repealed)
- 1.230 Board of Education and the School Code (Repealed)
- 1.240 Equal Opportunities for all Students

## STATE BOARD OF EDUCATION

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- 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)
- 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 Licensed Educators
- 1.330 Toxic Materials Training

## SUBPART D: THE INSTRUCTIONAL PROGRAM

## Section

- 1.410 Determination of the Instructional Program
- 1.420 Basic Standards
- 1.422 Electronic Learning (E-Learning) Days Pilot Program
- 1.423 Competency-Based High School Graduation Requirements Pilot Program
- 1.425 Additional Criteria for Physical Education
- 1.430 Additional Criteria for Elementary Schools
- 1.440 Additional Criteria for High Schools
- 1.442 State Seal of Biliteracy
- 1.443 Illinois Global Scholar Certificate
- 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

## STATE BOARD OF EDUCATION

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## Section

- 1.510 Transportation
- 1.515 Training of School Bus Driver Instructors
- 1.520 Home and Hospital Instruction
- 1.530 Health Services
- 1.540 Undesignated Epinephrine Auto-injectors; Opioid Antagonists

## SUBPART F: STAFF LICENSURE REQUIREMENTS

## Section

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

## SUBPART G: STAFF QUALIFICATIONS

## Section

- 1.700 Requirements for Staff Providing Professional Development
- 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 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 School Support 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

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- 1.781 Requirements for Bilingual Education Teachers in Prekindergarten, Kindergarten and any of Grades 1-12
- 1.782 Requirements for Teachers of English as a Second Language in Prekindergarten, Kindergarten and any of Grades 1-12
- 1.783 Requirements for Administrators of Bilingual Education Programs
- 1.790 Substitute Teacher
- [1.792 Short-Term Substitute Teacher](#)
- [1.794 Substitute Teachers; Recruiting Firms](#)
- 1.APPENDIX A Professional Staff Educator Licensure
- 1.APPENDIX B Competency-Based High School Graduation Requirements Pilot Program Criteria for Review
- 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)
- 1.APPENDIX F Criteria for Determination – Student Performance and School Improvement (Repealed)
- 1.APPENDIX G Criteria for Determination – State Assessment (Repealed)
- 1.APPENDIX H Guidance and Procedures for School Districts Implementing the Illinois Global Scholar Certificate

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.44, 2-3.96, 2-3.159, 10-17a, 10-20.14, 10-21.4a, 10-22.43a, 21B-5, 21B-20, 22-30, 22-60, 24-24, 26-13, 27-3.5, 27-6, 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].

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,

## STATE BOARD OF EDUCATION

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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. 17411, effective October 28, 2010; amended at 35 Ill. Reg. 1056, effective January 3, 2011; amended at 35 Ill. Reg. 2230, effective January 20, 2011; amended at 35 Ill. Reg. 12328, effective July 6, 2011; amended at 35 Ill. Reg. 16743, effective September 29, 2011; amended at 36 Ill. Reg. 5580, effective March 20, 2012; amended at 36 Ill. Reg. 8303, effective May 21, 2012; amended at 38 Ill. Reg. 6127, effective February 27, 2014; amended at 38 Ill. Reg. 11203, effective May 6, 2014; amended at 39 Ill. Reg. 2773, effective February 9, 2015; emergency amendment at 39 Ill. Reg. 12369, effective August 20, 2015, for a maximum of 150 days; amended at 39 Ill. Reg. 13411, effective September 24, 2015; amended at 40 Ill. Reg. 1900, effective January 6, 2016; amended at 40 Ill. Reg. 2990, effective January 27, 2016; amended at 40 Ill. Reg. 4929, effective March 2, 2016; amended at 40 Ill. Reg. 12276, effective August 9, 2016; emergency amendment at 40 Ill. Reg. 15957, effective November 18, 2016, for a maximum of 150 days; amended at 41 Ill. Reg. 126, effective December 27, 2016; amended at 41 Ill. Reg. 4430, effective April 5, 2017; amended at 41 Ill. Reg. 6924, effective June 2, 2017; emergency amendment at 41 Ill. Reg. 8932, effective June 28, 2017, for a maximum of 150 days; amended at 41 Ill. Reg. 14044, effective November 3, 2017; amended at 42 Ill. Reg. 11512, effective June 8, 2018; amended at 43 Ill. Reg. 3792, effective February 28, 2019; amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART G: STAFF QUALIFICATIONS

[Section 1.792 Short-Term Substitute Teacher](#)

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENTS

- a) To serve as a short-term substitute teacher, an individual shall hold a valid short-term substitute teaching license issued pursuant to Section 21B-20(4) of the School Code [105 ILCS 5].
- b) Any individual who holds a valid and active educator license and at least an associate degree may serve as a short-term substitute teacher without having to also hold the short-term substitute teaching license.
- c) In accordance with Section 21B-20(4) of the School Code, a short-term substitute teacher shall be employed no more than five consecutive days per licensed teacher under contract.
- d) All individuals must complete the training required pursuant to Section 10-20.67 of the School Code prior to serving as a short-term substitute teacher.
- e) All short-term substitute teaching licenses shall expire June 30, 2023.

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1.794 Substitute Teachers; Recruiting Firms**

- a) School districts *may supplement their substitute teacher recruitment for elementary and secondary schools with the use of recruiting firms* (see Section 2-3.173 of the School Code) [105 ILCS 5].
- b) To qualify for this program, a district not organized under Article 34 of the School Code shall demonstrate to the State Board, using a form designed by the State Board for this purpose, verifying that it has been unable to find an adequate number of substitute teachers and has exhausted all other efforts.
- c) A district organized under Article 34 of the School Code must provide assurance to the State Board, using a form designated by the State Board, for this purpose, verifying:
  - 1) The district is *unable to find an adequate number of substitute teachers and has exhausted all other efforts*;
  - 2) The district has *prioritized existing substitute teachers over substitute teachers from recruiting firms*;

## STATE BOARD OF EDUCATION

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- 3) Copies of all substitute teacher contracts will be filed with the district's regional office of education, acting as an extension of the State Board of Education, in an electronic or paper format; and
- 4) Each recruiting firm contracted by the district shall file an annual report with the district that includes the number of substitute teachers placed in the district, the total cost of the contract to the district, and the percentage of substitute teacher openings that were filled.
- de) *Substitute teachers provided by recruiting firms must meet all mandated State laws, rules, and screening requirements for substitute teachers, as well as additional requirements outlined in Section 2-3.173 of the School Code.*
- ed) *A recruiting firm may enter into an agreement with a labor organization that has a collective bargaining agreement with a school district [105 ILCS 5/2-3.173].*

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF AGRICULTURE

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- 1) Heading of Part: Industrial Hemp Act
- 2) Code Citation: 8 Ill. Adm. Code 1200
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1200.10	New Section
1200.20	New Section
1200.30	New Section
1200.40	New Section
1200.50	New Section
1200.60	New Section
1200.70	New Section
1200.80	New Section
1200.90	New Section
1200.100	New Section
1200.110	New Section
1200.120	New Section
1200.130	New Section
- 4) Statutory Authority: Implemented and authorized by Section 15 of the Industrial Hemp Act [505 ILCS 89].
- 5) Effective Date of Rules: April 24, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 24360, December 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Yes
- 11) Differences between Proposal and Final Version: The Department made numerous changes to address concerns that were received from the public. Changes include: In Section 1200.10 expanding the scope of persons that can work with industrial hemp

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED RULES

through an approved license by creating a definition for an "agent;" In Section 1200.20 added increased the type of approved seeds by adding seeds that are accompanied by a certificate of analysis; In Section 1200.20, removed a license non-transferability limitations; In Section 1200.20, reduced fees by removing the requirement that each non-contiguous parcel of land require a separate application fee; In Section 1200.30, removed the requirement that an applicant receive an application 90 days prior to planting, in order to allow seeds to be planted in the spring of 2019; In Section 1200.30, removed the requirement that an applicant's proposed grounds be considered a farm under the Property Tax Code of Illinois; In Section 1200.30, narrowed the limitations on person's with prior felonies by adopting the language use in the Farm Bill; In Section 1200.50, removed the obligation to conduct annual mandatory inspections; In Section 1200.60, added language concerning laboratory approval requirements; In Section 1200.70, added language concerning testing requirements; In Section 1200.80, reduced licensing fees; In Section 1200.110, added language to clarify that the transportation of hemp is legal under State law; In Section 1200.120, the added remedies for violations of the Act and rules. moved Section 1200.100, concerning administrative penalties, to Section 1200.130. Additionally, the Department and the Joint Committee on Administrative Rules made numerous nonsubstantial formatting changes.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemakings: The purpose of the rulemaking is to fulfil the Department's obligations under the Industrial Hemp Act, by creating a regulatory framework for the licensing, cultivation, and enforcement of industrial hemp.
- 16) Information and questions regarding these adopted rules shall be directed to:

Albert A. Coll  
Assistant General Counsel  
Illinois Department of Agriculture  
P. O. Box 19281, State Fairgrounds  
Springfield IL 62794-9281

217/782-5051

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED RULES

fax: 217/785-4505

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

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED RULES

TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER I: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER v: LICENSING AND REGULATIONSPART 1200  
INDUSTRIAL HEMP ACT

Section	
1200.10	Definitions and Incorporations
1200.20	General Provisions
1200.30	Application and Licensure
1200.40	Reports
1200.50	Inspection and Sampling
1200.60	Laboratory Approval
1200.70	Testing Requirements
1200.80	Fees
1200.90	Restrictions on Sale and Transfer
1200.100	Other Prohibited Activities
1200.110	Transportation of Industrial Hemp
1200.120	Violations
1200.130	Administrative Penalties

AUTHORITY: Implementing and authorized by Section 15 of the Industrial Hemp Act [505 ILCS 89].

SOURCE: Adopted at 43 Ill. Reg. 4973, effective April 24, 2019.

**Section 1200.10 Definitions and Incorporations**

Definitions for this Part are located in Section 5 of the Industrial Hemp Act [505 ILCS 89]. The following definitions shall also apply to this Part:

"Act" means the Industrial Hemp Act [505 ILCS 89].

"Agent" means any family member, employee, contracted employee, or farmhand of a licensed or registered hemp cultivator or processor.

"Applicant" means the individual or entity who is applying for a license or registration.

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED RULES

"Contiguous Land Area" means land areas used for cultivation of industrial hemp that are not separated by more than 100 feet by waterways, fences, railroads, lanes, roads, highways, interstates or other separations.

"Cultivating" means planting, growing, harvesting and storing a plant or crop.

*"Department" means the Illinois Department of Agriculture.*

*"Director" means the Director of Agriculture.*

"Farm" means any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming [35 ILCS 200/1-160].

"Handle" means to possess, transport or store industrial hemp for any period of time on premises owned, operated or controlled by a person or entity, or the agent thereof, licensed to cultivate industrial hemp or registered to process industrial hemp.

"Indoor Cultivation" means the process of cultivating industrial hemp in a greenhouse or in an enclosed building or structure capable of continuous cultivation throughout the year. Continuous cultivation is not required.

*"Industrial Hemp" means the plant Cannabis sativa L. and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3% on a dry weight basis that has been cultivated under a license issued under the Act or is otherwise lawfully present in this State, and includes any intermediate or finished product made or derived from industrial hemp.*

*"Land Area" means a farm as defined in Section 1-60 of the Property Tax Code [35 ILCS 200] in this State or land or facilities under the control of an institution of higher education.*

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"Law Enforcement" means the officers and activities of the federal, State, and local agencies responsible for maintaining public order and enforcing the law.

"License" means authorization by the Department for any individual or legal entity to grow industrial hemp in the State.

"Licensee" means a person or entity that has applied for, and received, a license to cultivate Industrial Hemp from the Department.

"Person" means any individual, partnership, firm, corporation, company, society, association, the State or any department, agency, or subdivision thereof, or any other entity, or the agent thereof.

*"Process" means the conversion of raw industrial hemp plant material into a form that is presently legal to import from outside the United States under federal law.*

"Registrant" means any person or entity that has applied for, and received, a Registration to process industrial hemp from the Department.

"Registration" means authorization by the Department for any individual or legal entity to process or handle industrial hemp.

"Variety" means a group of plants or an individual plant that exhibits distinctive observable physical characteristics or has a distinct genetic composition. This includes the terms "cultivar" and "strain".

**Section 1200.20 General Provisions**

- a) No person shall cultivate industrial hemp in the State without first receiving an Industrial Hemp Cultivation License from the Department.
- b) No person shall process or handle industrial hemp in the State without first receiving a processor/handler registration from the Department.
- c) All licensees in the State must provide reports as outlined in Section 1200.40(a) and (b).

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- d) Licensed industrial hemp cultivators are solely responsible for procuring seeds, clones, transplants or propagules for planting.
- e) All seeds, clones, transplants and propagules used to cultivate industrial hemp in Illinois shall be certified under the Association of Official Seed Certifying Agencies (AOSCA) standards and guidelines for industrial hemp or shall be accompanied by a certificate of analysis from an accredited certified laboratory from a state with a regulated industrial hemp program that certifies the industrial hemp grown will not contain in excess of 0.3% THC.
- f) No land area may contain cannabis plants or parts of cannabis plants that the licensee knows or has reason to know are of a variety that will produce a plant that, when tested, will produce more than 0.3% THC concentration on a dry weight basis. No licensee shall use any such variety for any purpose associated with the cultivation of industrial hemp.
- g) The minimum land area for industrial hemp cultivation shall be a contiguous land area of one quarter of an acre for outdoor cultivation and 500 square feet for indoor cultivation.
- h) Licensee information may be shared with law enforcement without notice to the licensee.
- i) Any violations of the Act, this Part, or any Illinois or Federal Criminal Code may subject the licensee or registrant to administrative penalties as set forth in Sections 1200.120 and 1200.130 and may also subject the licensee or registrant to criminal prosecution.

**Section 1200.30 Application and Licensure**

- a) Each applicant for an industrial hemp cultivation license shall submit a signed, complete, accurate and legible application form provided by the Department. The applicant shall provide the following:
  - 1) The name and address of the person or entity applying for the cultivation license;
  - 2) The type of business or organization, such as corporation, LLC, partnership, sole proprietor, etc.;

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- 3) Business name and address, if different than the ones submitted in response to subsection (a)(1);
  - 4) The legal description of the land area, including Global Positioning System coordinates of each contiguous land area, to be used to cultivate industrial hemp;
  - 5) A map of the land area on which the applicant plans to grow industrial hemp, showing the boundaries and dimensions of the growing area in acres or square feet;
  - 6) The applicable fee prescribed by Section 1200.80; and
  - 7) The varieties of industrial hemp that are intended for cultivation.
- b) No person who has been convicted of any controlled substances related felony in the 10 years prior to the date of application shall be eligible to obtain a license or registration.
  - c) Within 30 days after receipt of a completed application and the associated fee, the Department will either issue a license or deny the application. Incomplete applications will be rejected and an additional application fee will be collected for corrected and/or new applications.
  - d) A license or registration shall be good for a maximum of 3 calendar years from the date of issuance.
  - e) Any changes to the licensee's cultivation application as outlined in the original application must be approved by the Department prior to implementation.
  - f) All processors of industrial hemp shall register with the Department on a form provided by the Department, which shall include:
    - 1) The name and address of the person or entity applying for the processor registration;
    - 2) The business type, such as a corporation, LLC, partnership, sole proprietor, etc.;

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- 3) The business name and address if different than the one submitted in response to subsection (g)(1);
- 4) The nature of the processing by the registrant; and
- 5) The applicable fee set forth in Section 1200.80.

**Section 1200.40 Reports**

- a) At least 30 days prior to harvest, to the best of the licensee's ability, each licensee shall file a Harvest Report, on a form provided by the Department, that includes:
  - 1) The expected harvest dates and locations of each variety of industrial hemp cultivated by the licensee.
  - 2) The licensee shall notify the Department if the harvest dates change in excess of 5 days.
- b) No later than February 1 of each year, each licensee shall submit an Industrial Hemp Cultivator Final Report to the Department that includes:
  - 1) Total acres or square feet of industrial hemp planted in the previous calendar year;
  - 2) A description of each variety planted and harvested in the previous calendar year;
  - 3) Total acres or square feet harvested in the previous calendar year; and
  - 4) Total yield in the appropriate measurement, such as tonnage, seeds per acre, or other measurement approved by the Department.

**Section 1200.50 Inspection and Sampling**

- a) All licensees shall be subject to inspections at the discretion of the Department to ensure compliance with the Act.

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- b) The Department shall provide a minimum of 5 business days' notice to the licensee of the inspection. The notification shall inform the licensee of the scope and process by which the inspection will be conducted.
- c) Failure to comply with a properly noticed inspection shall result in the initiation of disciplinary proceedings pursuant to Section 1200.100.
- d) Either the licensee or an agent of the licensee shall be present for the inspection and sampling and shall provide the inspector with unrestricted access to all industrial hemp plants, parts, seeds, and harvested material, including all buildings and other structures used for the cultivation and storage of industrial hemp and all documents pertaining to the licensee's industrial hemp cultivation and business.
- e) All industrial hemp plants are subject to sampling and testing to verify that the delta-9 THC concentration does not exceed 0.3% on a dry weight basis.
  - 1) Individual or composite samples of each variety of cannabis may be sampled from the licensee's land area, including indoor cultivation sites, at the Department's discretion.
  - 2) A representative sample will be taken by Department personnel or approved laboratory personnel.
  - 3) The sampled material shall be tested by an approved laboratory.
  - 4) Quantitative laboratory determination of the delta-9 THC concentration on a dry weight basis will be performed.
  - 5) A sample test result with a delta-9 THC concentration on a dry weight basis that exceeds 0.3% but is less than 0.7% may be retested at the expense of the licensee. A request for a retest by the licensee must be received by the Department within 3 days after initial receipt of the original test results by the licensee.
  - 6) All harvested industrial hemp receiving a sample test result with a delta-9 THC concentration on a dry weight basis that exceeds 0.3% and is not retested at the request of the licensee shall be destroyed.

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- 7) All harvested industrial hemp receiving both a sample test result and a sample retest result with delta-9 THC concentrations on a dry weight basis that exceeds 0.3% shall be destroyed.
- 8) All harvested industrial hemp receiving a sample test result with a delta-9 THC concentration on a dry weight basis that equals or exceeds 0.7% shall be destroyed.
- 9) All harvested industrial hemp awaiting test results shall be stored by the licensee or processor and shall not be processed or transported until test results are obtained and the industrial hemp is released by the Department.
- 10) Testing of industrial hemp will be completed by the Department or by a third-party laboratory approved by the Department pursuant to this Part.
- 11) Actual cost of testing shall be paid by the licensee.

**Section 1200.60 Laboratory Approval**

- a) No laboratory shall handle, test or analyze hemp unless approved by the Department in accordance with this Section. A list of approved laboratories will be made available by the Department on its website.
- b) No laboratory shall be approved to handle, test or analyze cannabis unless the laboratory:
  - 1) Is accredited to the ISO/IEX 17025 standard by a private non-profit laboratory accrediting organization;
  - 2) Is independent from all other persons involved in the hemp industry in Illinois, which shall mean that no person with a direct or indirect interest in the laboratory shall have a direct or indirect financial, management, or other interest in a cultivation license or processor registration;
  - 3) Has employed at least one person to oversee and be responsible for the laboratory testing who has earned, from a college or university accredited by a national or regional certifying authority, at least:

## DEPARTMENT OF AGRICULTURE

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- A) a master's level degree in chemical or biological sciences and a minimum of 2 years post-degree laboratory experience; or
  - B) a bachelor's degree in biological sciences and a minimum of 4 years post-degree laboratory experience.
- c) Each independent testing laboratory that claims to be accredited must provide the Department with a copy of the most recent annual inspection report granting accreditation and every annual report thereafter.

**Section 1200.70 Testing Requirements**

- a) Industrial hemp sampled for testing may be transported to the approved laboratory by the Director, or one of his or her designees, or by approved laboratory personnel.
- b) The industrial hemp shall be tested using post-decarboxylation, or other similarly reliable methods, to detect delta-9 concentration levels of the sampled hemp.

**Section 1200.80 Fees**

An applicant or licensee shall submit the following nonrefundable fees with each license application submitted, in the form of a certified check or money order payable to the "Illinois Department of Agriculture", or by such other means as approved by the Department.

- a) The application fee for an Industrial Hemp Cultivation License shall be \$100 for each noncontiguous land area and each indoor cultivation operation area.
- b) Upon approval of an application, the license fee for each noncontiguous land area and each indoor cultivation operation shall be \$1000 for a 3 year license; \$700 for a 2 year license; and \$375 for a 1 year license.
- c) The application fee for a processor registration shall be \$100 for each address operated by the processor.
- d) Upon approval of an application for registration, the registration fee for each registered address operated by a processor shall be \$1000 for a 3 year registration; \$700 for a 2 year registration; and \$375 for a 1 year registration.

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**Section 1200.90 Restrictions on Sale and Transfer**

- a) A licensed person shall not sell or transfer, or permit the sale or transfer of, living plants or viable seeds to any person in the State of Illinois who does not hold a license or registration issued by the Department.
- b) A licensed person shall not sell or transfer, or permit the sale or transfer of, living plants or viable seeds outside the State of Illinois that is not authorized by a state agency under the laws of the destination state.
- c) The Department shall permit the sale or transfer of stripped stalks, fiber, dried roots, nonviable seeds, seed oils, floral and plant extracts (excluding THC in excess of 0.3%) and other marketable hemp products to members of the general public, both within and outside the State of Illinois.

**Section 1200.100 Other Prohibited Activities**

- a) A licensed person shall not plant or grow hemp on any site not listed in the application.
- b) A licensed person shall not ship or transport, or allow to be shipped or transported, live hemp plants, cuttings for planting, or viable seeds from a variety that is currently designated by the Department as a prohibited variety or a variety of concern to any location outside the State of Illinois.
- c) A licensed person shall not ship or transport, or allow to be shipped or transported, any hemp product with a delta-9 THC concentration in excess of 0.3%.

**Section 1200.110 Transportation of Industrial Hemp**

- a) Only a licensed or registered person, or an agent thereof, may not transport live or harvested industrial hemp.
- b) Industrial hemp that has not been processed may be transferred by the licensee or registrant from the place of cultivation to the place of processing at any time.
- c) Approved laboratory personnel may transport hemp samples for testing to laboratories for testing purposes.

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- d) There is no State restriction on the transportation of industrial hemp product following retail sale to a member of the public.

**Section 1200.120 Violations**

- a) A licensee shall be subject to subsection (b) if the Department determines that the licensee has negligently violated the Act or this Part, including by negligently:
  - 1) Failing to provide a legal description of land on which the licensee produces hemp;
  - 2) Failing to obtain a license; or
  - 3) Producing Cannabis sativa L. with a delta-9 THC concentration of more than 0.3% on a dry weight basis.
- b) A hemp licensee described in subsection (a) shall comply with a plan established by the Department to correct the negligent violation, including:
  - 1) a reasonable date by which the licensee shall correct the negligent violation; and
  - 2) A requirement that the licensee shall periodically report to the Department on the compliance of the licensee for a period of not less than 2 calendar years.
- c) A licensee that negligently violates the Act or this Part (see subsection (a)) shall not, as a result of that violation, be subject to any criminal enforcement action by any federal, State or local government.
- d) A licensee that negligently violates subsection (a) 3 times in a 5 year period shall be ineligible to produce hemp for a period of 5 years beginning on the date of the third violation.
- e) If the Department determines that a licensee has violated the Act or this Part with a culpable mental state greater than negligence, the Department shall immediately report the licensee to:

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- 1) The Attorney General of the United States;
- 2) The Attorney General of Illinois; and
- 3) The Illinois State Police.

**Section 1200.130 Administrative Penalties**

- a) Any hearing conducted by the Department pursuant to the Act shall be conducted in accordance with the Department's rules applicable to formal administrative proceedings (8 Ill. Adm. Code 1.Subparts A and B). All such hearings shall be held in Springfield IL or such other location as mutually agreed to by the Department and the other party.
- b) Notwithstanding any other criminal penalties related to the unlawful possession of cannabis, the Department may revoke, suspend, place on probation or supervision, reprimand, issue cease and desist orders, refuse to issue or renew a license or registration, or take any other disciplinary or nondisciplinary action as the Department may deem proper with regard to a licensed or registered entity or person.
- c) The Department may impose fines, not to exceed \$10,000 for each violation, for any violations of the Act or this Part.

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Conference Registration and Fees
- 2) Code Citation: 29 Ill. Adm. Code 115
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
115.10	New Section
115.20	New Section
115.30	New Section
115.40	New Section
- 4) Statutory Authority: Implementing and authorized by Section 5(i) of the Illinois Emergency Management Agency Act [20 ILCS 3305].
- 5) Effective Date of Rules: April 18, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference is on file at the Agency's headquarters located at 1035 Outer Park Drive, Springfield IL and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 43 Ill. Reg. 1347; January 25, 2019
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: In the title, added "ILLINOIS" to "EMERGENCY MANAGEMENT AGENCY"
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED RULES

- 15) Summary and Purpose of Rulemaking: IEMA is adopting this new Part to provide for IEMA-sponsored conference registration and fees pursuant to new authority under Section 5(i) of the Illinois Emergency Management Agency Act.
- 16) Information and questions regarding these adopted rules shall be directed to:

Traci Burton  
Paralegal Assistant  
Illinois Emergency Management Agency  
1035 Outer Park Drive  
Springfield IL 62704

217/785-9860  
217/524-3698

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

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF ADOPTED RULES

TITLE 29: EMERGENCY SERVICES, DISASTERS AND CIVIL DEFENSE  
CHAPTER I: [ILLINOIS](#) EMERGENCY MANAGEMENT AGENCY  
SUBCHAPTER a: GENERAL ADMINISTRATIONPART 115  
CONFERENCE REGISTRATION AND FEES

## Section:

115.10	Scope
115.20	Definitions
115.30	Exemptions
115.40	Registration and Fees

**AUTHORITY:** Implementing and authorized by Section 5(i) of the Illinois Emergency Management Agency Act [20 ILCS 3305].

**SOURCE:** Adopted at 43 Ill. Reg. 4988, effective April 18, 2019.

**Section 115.10 Scope**

Except as otherwise specifically exempted, this Part applies to all persons who attend Illinois Emergency Management Agency sponsored conferences.

**Section 115.20 Definitions**

"Director" means the Director of the Illinois Emergency Management Agency.

"IEMA" means the Illinois Emergency Management Agency.

**Section 115.30 Exemptions**

- a) All employees of IEMA and conference speakers shall be exempt from the fee specified in Section 115.40. These individuals are still required to register for the conference.
- b) The Director may exempt individuals from the fee specified in Section 115.40 as he/she deems appropriate. These individuals are still required to register for the conference.

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF ADOPTED RULES

**Section 115.40 Registration and Fees**

- a) Individuals attending IEMA-sponsored conferences shall register as instructed by IEMA. Online registration will be provided through IEMA's website (<https://www.illinois.gov/iema>).
- b) Unless specifically exempted, conference fees are required for each registration.
- c) Fees for all IEMA-sponsored conferences shall be a maximum of \$100. Fees will be set by IEMA depending on federal and State funding available for each conference. Fee schedules and the deadline for refunds, if appropriate, will be provided at the time IEMA begins accepting registrations for the conference.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Sexual Assault Survivors Emergency Treatment Code
- 2) Code Citation: 77 Ill. Adm. Code 545
- 3) 

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
545.20	Amendment
545.70	New Section
545.75	New Section
545.80	New Section
545.85	New Section
545.90	New Section
545.APPENDIX A	Repealed
545.APPENDIX B	Repealed
- 4) Statutory Authority: Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70]
- 5) Effective Date of Rules: April 17, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 43 Ill. Reg. 971; January 11, 2019
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various nonsubstantive, typographical, grammatical, and form changes were made in response to the comments from JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? Yes
- 14) Are there any rulemakings pending on this Part? No

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: This rulemaking implements portions of PA 100-775, signed August 10, 2018 and effective January 1, 2019, which amended the Sexual Assault Emergency Treatment Center Act to provide for emergency treatment for pediatric sexual assault survivors, whether in a hospital or in a new category of health care provider, an approved pediatric health care facility.
- 16) Information and questions regarding these adopted rules shall be directed to:

Erin Conley  
Rules Coordinator  
Illinois Department of Public Health  
Division of Legal Services  
535 W. Jefferson St., 5th Floor  
Springfield IL 62761

217/782-2043  
e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH  
 CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
 SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETY

PART 545  
 SEXUAL ASSAULT SURVIVORS  
 EMERGENCY TREATMENT CODE

## Section

- 545.10 Applicability  
 545.20 Definitions  
 545.25 Incorporated and Referenced Materials  
 545.30 Application of Rules (Repealed)  
 545.35 Development and Approval of Plans  
 545.40 Program Administration (Repealed)  
 545.50 Areawide Sexual Assault Treatment Plans  
 545.60 Treatment of Sexual Assault Survivors  
 545.61 Submitting Sexual Assault Evidence to Law Enforcement  
 545.65 Transfer of Sexual Assault Survivors  
 545.67 Compliance Review  
 545.70 ~~Approval Requirements of a Sexual Assault Transfer Plan~~  
 545.75 ~~Approval of a Sexual Assault Treatment Hospital with a Pediatric Transfer Plan~~  
 545.80 ~~Approval of a Sexual Assault Treatment Plan~~  
 545.85 ~~Approval of a Pediatric Health Care Facility Sexual Assault Treatment Plan~~  
 545.90 ~~Approval of an Out-of-State Hospital Sexual Assault Treatment Transfer Plan~~  
 545.95 Emergency Contraception  
 545.100 Written Notice to Sexual Assault Survivors
- 545.APPENDIX A Sexual Assault Treatment Plan Form (Repealed)  
 545.APPENDIX B Sexual Assault Transfer Plan Form (Repealed)  
 545.APPENDIX C Emergency Contraception Protocols

AUTHORITY: Implementing and authorized by the Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70].

SOURCE: Filed December 30, 1977; rules repealed and new rules adopted at 5 Ill. Reg. 1139, effective January 23, 1981; codified at 8 Ill. Reg. 16334; amended at 11 Ill. Reg. 1589, effective February 1, 1987; amended at 12 Ill. Reg. 20790, effective December 1, 1988; emergency

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amendment at 26 Ill. Reg. 5151, effective April 1, 2002, for a maximum of 150 days; emergency expired August 28, 2002; amended at 27 Ill. Reg. 1567, effective January 15, 2003; amended at 33 Ill. Reg. 14588, effective October 9, 2009; amended at 34 Ill. Reg. 12214, effective August 4, 2010; amended at 41 Ill. Reg. 14980, effective November 27, 2017; amended at 42 Ill. Reg. 16036, effective August 2, 2018; emergency amendment at 43 Ill. Reg. 1089, effective January 1, 2019, for a maximum of 150 days; amended at 43 Ill. Reg. 4992, effective April 17, 2019.

**Section 545.20 Definitions**

Act – the Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70].

Advanced practice registered nurse – has the meaning ascribed in Section 50-10 of the Nurse Practice Act [225 ILCS 65]. (Section 1a of the Act)

Alcohol-facilitated sexual assault – the use of any alcoholic beverage in the commission of a sexual assault.

~~Advanced practice nurse or APN – a person who has met the qualifications of a certified nurse midwife (CNM); certified nurse practitioner (CNP); certified registered nurse anesthetist (CRNA); or clinical nurse specialist (CNS) and has been licensed by the Department of Financial and Professional Regulation, as defined in the Nurse Practice Act. (Section 50-5 of the Nurse Practice Act)~~

*Ambulance provider – an individual or entity that owns and operates a business or service using ambulances or emergency medical services vehicles to transport emergency patients. (Section 1a of the Act)*

Approved pediatric health care facility – a health care facility, other than a hospital, with a sexual assault treatment plan approved by the Department to provide medical forensic services to pediatric sexual assault survivors who present with a complaint of sexual assault within a minimum of the last 7 days or who have disclosed past sexual assault by a specific individual and were in the care of that individual within a minimum of the last 7 days. (Section 1a of the Act)

~~Areawide sexual assault treatment plan or areawide plan or areawide plan – a plan, developed by the hospitals or by hospitals and approved pediatric health care facilities in the community or area to be served, which provides for medical forensic hospital emergency services to sexual assault survivors that shall be made~~

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*available by each of the participating hospitals and approved pediatric health care facilities.* (Section 1a of the Act)

Caregiver – any person who is legally responsible for providing care to the patient or who renders support to the patient.

*Department – the Department of Public Health.* (Section 1a of the Act)

Drug-facilitated sexual assault – the use of a chemical submissive agent in the commission of a sexual assault~~sex offense~~, given without consent of the victim, that produces relaxant effects, blackouts, coma, impaired judgment, or loss of coordination.

*Emergency contraception – medication as approved by the federal Food and Drug Administration (FDA) that can significantly reduce the risk of pregnancy if taken within 72 hours after sexual assault.* (Section 1a of the Act)

*Follow-up health care – health care services related to a sexual assault, including laboratory services and pharmacy services, rendered within 90 days after the initial visit for medical forensic~~hospital emergency~~ services.* (Section 1a of the Act)

~~*Forensic services – the collection of evidence pursuant to a statewide sexual assault evidence collection program administered by the Department of State Police, using the Illinois State Police Sexual Assault Evidence Collection Kit.*~~  
(Section 1a of the Act)

*Health care professional – a physician, a physician assistant, a sexual assault forensic examiner, ~~or an advanced practice registered nurse, a registered professional nurse, a licensed practical nurse, or a sexual assault nurse examiner.~~*  
(Section 1a of the Act)

*Hospital – a hospital licensed under the Hospital Licensing Act or operated under the University of Illinois Hospital Act, any outpatient center included in the hospital's sexual assault treatment plan where hospital employees provide medical forensic services, and an out-of-state hospital that has consented to the jurisdiction of the Department under Section 2.06 of the Act~~has the meaning given to that term in the Hospital Licensing Act.~~* (Section 1a of the Act)

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~~*Hospital emergency services* – health care delivered to outpatients within or under the care and supervision of personnel working in a designated emergency department of a hospital, including, but not limited to, care ordered by such personnel for a sexual assault survivor in the emergency department. (Section 1a of the Act)~~

*Illinois State Police Sexual Assault Evidence Collection Kit* – a prepackaged set of materials and forms to be used for the collection of evidence relating to sexual assault. The standardized evidence collection kit for the State of Illinois shall be the Illinois State Police Sexual Assault Evidence Collection Kit. (Section 1a of the Act)

*Law enforcement agency having jurisdiction* – the law enforcement agency in the jurisdiction where an alleged sexual assault or sexual abuse occurred. (Section 1a of the Act)

*Licensed practical nurse* – has the meaning ascribed in Section 50-10 of the Nurse Practice Act. (Section 1a of the Act)

*Medical forensic services* – health care delivered to patients within or under the care and supervision of personnel working in a designated emergency department of a hospital or an approved pediatric health care facility. "Medical forensic services" includes, but is not limited to, taking a medical history, performing photo documentation, performing a physical and anogenital examination, assessing the patient for evidence collection, collecting evidence in accordance with a statewide sexual assault evidence collection program administered by the Department of State Police using the Illinois State Police Sexual Assault Evidence Collection Kit, if appropriate, assessing the patient for drug-facilitated or alcohol-facilitated sexual assault, providing an evaluation of and care for sexually transmitted infection and human immunodeficiency virus (HIV), pregnancy risk evaluation and care, and discharge and follow-up healthcare planning. (Section 1a of the Act)

*Pediatric health care facility* – a clinic or physician's office that provides medical services to pediatric patients. (Section 1a of the Act)

*Pediatric sexual assault survivor* – a person under the age of 13 who presents for medical forensic services in relation to injuries or trauma resulting from a sexual assault. (Section 1a of the Act)

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Photo documentation – digital photographs or colposcope videos stored and backed-up securely in the original file format. (Section 1a of the Act)

~~Nurse – a person licensed under the Nurse Practice Act. (Section 1a of the Act)~~

~~Physician – a person licensed to practice medicine in all its branches as defined in the Medical Practice Act of 1987. (Section 1a of the Act)~~

~~Physician assistant – has the meaning ascribed in Section 4 of the Physician Assistant Practice Act of 1987. (Section 1a of the Act) any person not a physician who has been certified as a physician assistant by the National Commission on the Certification of Physician Assistants or equivalent successor agency and performs procedures under the supervision of a physician as defined in the Physician Assistant Practice Act of 1987. (Section 4 of the Physician Assistant Practice Act of 1987)~~

~~Registered Professional Nurse – has the meaning provided in Section 50-10 of the Nurse Practice Act. (Section 1a of the Act)~~

~~Sexual assault:–~~

~~An act of nonconsensual sexual conduct; as used in this Part, "sexual conduct" has the meaning ascribed under Section 11-0.1 of the Criminal Code of 2012; or~~

~~Any act of sexual penetration; as used in this paragraph, "sexual penetration" has the meaning ascribed under Section 11-0.1 of the Criminal Code of 2012 and includes, or sexual penetration, as defined in Section 11-0.1 of the Criminal Code of 2012, including, without limitation, acts prohibited under Sections 11-1.20 through 11-1.60 of the Criminal Code of 2012. (Section 1a of the Act)~~

~~Sexual assault forensic examiner – a physician or physician assistant who has completed training that meets or is substantially similar to the Sexual Assault Nurse Examiner Education Guidelines established by the International Association of Forensic Nurses. (Section 1a of the Act)~~

~~Sexual assault nurse examiner – an advanced practice registered nurse or a~~

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registered professional nurse who has completed a sexual assault nurse examiner ~~(SANE)~~~~(SANE)~~ training program that meets the Forensic Sexual Assault Nurse Examiner Education Guidelines established by the International Association of Forensic Nurses. (Section ~~1a6.4(e)~~ of the Act)

Sexual assault services voucher – a document generated by a hospital or approved pediatric health care facility at the time the sexual assault survivor receives outpatient medical forensic services that may be used to seek payment for any ambulance services, medical forensic services, laboratory services, pharmacy services, and follow-up healthcare provided as a result of the sexual assault. (Section 1a of the Act)

Sexual assault survivor or survivor – a person who presents for medical forensic hospital emergency services in relation to injuries or trauma resulting from a sexual assault. (Section 1a of the Act)

Sexual assault transfer plan – a written plan developed by a hospital and approved by the Department, which describes the hospital's procedures for transferring sexual assault survivors to another hospital, and an approved pediatric health care facility, if applicable, in order to receive forensic medical services~~emergency treatment~~. (Section 1a of the Act)

Sexual assault treatment plan – a written plan ~~developed by a hospital that describes the hospital's procedures and protocols for providing~~ medical~~hospital emergency services and~~ forensic services to sexual assault survivors who present themselves for such services, either directly or through transfer from a another hospital or approved pediatric health care facility. (Section 1a of the Act)

Transfer hospital – a hospital with a sexual assault transfer plan approved by the Department. (Section 1a of the Act)~~Transfer hospital – a hospital that provides only transfer services to sexual assault survivors, pursuant to an Areawide Sexual Assault Treatment Plan.~~

Transfer services – the appropriate medical screening examination and necessary stabilizing treatment prior to the transfer of a sexual assault survivor to a hospital or an approved pediatric health care facility that provides medical~~hospital emergency services and~~ forensic services to sexual assault survivors pursuant to a sexual assault treatment plan or areawide sexual assault treatment plan. (Section 1a of the Act)

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~~*Treatment hospital – a hospital with a sexual assault treatment plan approved by the Department to provide medical forensic services to all sexual assault survivors who present with a complaint of sexual assault within a minimum of the last 7 days or who have disclosed past sexual assault by a specific individual and were in the care of that individual within a minimum of the last 7 days. (Section 1a of the Act)*~~  
~~Treatment hospital – a hospital that provides hospital emergency treatment services and forensic evidence collection to sexual assault survivors, pursuant to a sexual assault treatment plan or areawide sexual assault treatment plan.~~

~~*Treatment hospital with approved pediatric transfer – a hospital with a treatment plan approved by the Department to provide medical forensic services to sexual assault survivors 13 years old or older who present with a complaint of sexual assault within a minimum of the last 7 days or who have disclosed past sexual assault by a specific individual and were in the care of that individual within a minimum of the last 7 days. (Section 1a of the Act)*~~

Unauthorized personnel – all individuals whose presence in the examination room is not desired or required either by the hospital or by the survivor (e.g., representatives of the media).

~~*Voucher – a document generated by a hospital at the time the sexual assault survivor receives hospital emergency and forensic services that a sexual assault survivor may present to providers to cover the cost of any follow-up healthcare. (Section 1a of the Act)*~~

(Source: Amended at 43 Ill. Reg. 4992, effective April 17, 2019)

**Section 545.70 Approval Requirements of a Sexual Assault Transfer Plan (Repealed)**

- a) The transfer hospital shall submit its sexual assault transfer plan on a form provided by the Department. The transfer plan shall include, at a minimum:
- 1) The name and address of the transfer hospital;
  - 2) The contact information, including the name, telephone number, fax number, and email address, for the individual responsible for implementation and enforcement of the transfer plan and the billing

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submission to the Illinois Department of Healthcare and Family Services;  
and

3) Documentation of the transfer hospital's ability to comply with Sections 2, 2.2, 5, 5.2, 5.3, and 7 of the Act.

b) The completed transfer plan shall be sent to:

Illinois Department of Public Health  
Division of Health Care Facilities and Programs  
525 West Jefferson Street, 4<sup>th</sup> Floor  
Springfield IL 62761-0001

c) A completed copy of the transfer plan shall be retained by the transfer hospital.

(Source: Former Section 545.70 repealed at 12 Ill. Reg. 20790, effective December 1, 1988; new Section 545.70 added at 43 Ill. Reg. 4992, effective April 17, 2019)

**Section 545.75 Approval of a Sexual Assault Treatment Hospital with a Pediatric Transfer Plan**

a) The treatment hospital shall submit its treatment/pediatric transfer plan on a form provided by the Department. The pediatric transfer plan shall include, at a minimum:

1) The name and address of the treatment hospital;

2) The contact information, including name, telephone number, fax number, and email address, for the individual responsible for implementation and enforcement of the adult treatment and pediatric transfer plan and billing submission to the Illinois Department of Healthcare and Family Services;  
and

3) Documentation of the treatment hospital's ability to comply with Sections 2, 2.2, 5, 5.1, 5.2, 5.3, 6.5, 6.6, and 7 of the Act.

b) The completed adult treatment and pediatric transfer plan shall be sent to:

Illinois Department of Public Health

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Division of Health Care Facilities and Programs  
525 West Jefferson Street, 4<sup>th</sup> Floor  
Springfield IL 62761-0001

- c) A completed copy of the treatment/pediatric transfer plan shall be retained by the treatment hospital.

(Source: Added at 43 Ill. Reg. 4992, effective April 17, 2019)

**Section 545.80 Approval of a Sexual Assault Treatment Plan ~~(Repealed)~~**

- a) The treatment hospital shall submit its sexual assault treatment plan on a form provided by the Department. The sexual assault treatment plan shall include, at a minimum:

- 1) The name and address of the treatment hospital;
- 2) The contact information, including name, telephone number, fax number, and email address, for the individual responsible for implementation and enforcement of the plan and billing submission to the Illinois Department of Healthcare and Family Services; and
- 3) Documentation of the treatment hospital's ability to comply with Sections 2, 2.2, 5, 5.1, 5.2, 5.3, 6.5, 6.6, and 7 of the Act.

- b) The completed sexual assault treatment plan shall be sent to:

Illinois Department of Public Health  
Division of Health Care Facilities and Programs  
525 West Jefferson Street, 4<sup>th</sup> Floor  
Springfield IL 62761-0001

- c) A completed copy of the sexual assault treatment plan shall be retained by the treatment hospital.

(Source: Former Section 545.80 repealed at 27 Ill. Reg. 1567, effective January 15, 2003; new Section 545.80 added at 43 Ill. Reg. 4992, effective April 17, 2019)

**Section 545.85 Approval of a Pediatric Health Care Facility Sexual Assault Treatment**

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**Plan**

- a) The pediatric health care facility shall submit its pediatric sexual assault treatment plan on a form provided by the Department. The pediatric sexual assault treatment plan shall include, at a minimum:
- 1) The name and address of the pediatric health care facility;
  - 2) The contact information, including name, telephone number, fax number, and email address, for the individual responsible for implementation and enforcement of the sexual assault treatment plan and billing submission to the Illinois Department of Healthcare and Family Services; and
  - 3) Documentation of the pediatric health care facility's ability to comply with Sections 2, 2.06, 2.2, 5, 5.1, 5.2, 5.3, 6.5, 6.6, and 7 of the Act.
- b) The completed pediatric sexual assault treatment plan shall be sent to:
- Illinois Department of Public Health  
Division of Health Care Facilities and Programs  
525 West Jefferson Street, 4<sup>th</sup> Floor  
Springfield IL 62761-0001
- c) A completed copy of the pediatric sexual assault treatment plan shall be retained by the pediatric health care facility.

(Source: Added at 43 Ill. Reg. 4992, effective April 17, 2019)

**Section 545.90 Approval of an Out-of-State Hospital's Sexual Assault Treatment~~Transfer~~ Plan ~~(Repealed)~~**

- a) The out-of-state hospital that consents to the jurisdiction of the Department in accordance with Section 2.06 of the Act (Section 5.4(b)(i) of the Act) shall submit its sexual assault treatment plan on a form provided by the Department. The out-of-state hospital sexual assault treatment plan shall include, at a minimum:
- 1) The name and address of the out-of-state hospital;
  - 2) The contact information, including name, telephone number, fax number,

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and email address, for the individual responsible for implementation and enforcement of the sexual assault treatment plan and billing submission to the Illinois Department of Healthcare and Family Services; and

3) Documentation of the out-of-state hospital's ability to comply with Sections 2, 2.06, 2.2, 5, 5.1, 5.2, 5.3, 5.4, 6.5, 6.6, and 7 of the Act.

b) The completed sexual assault treatment plan shall be sent to:

Illinois Department of Public Health  
Division of Health Care Facilities and Programs  
525 West Jefferson Street, 4<sup>th</sup> Floor  
Springfield IL 62761-0001

c) A completed copy of the sexual assault treatment plan shall be retained by the out-of-state hospital.

(Source: Former Section 545.90 repealed at 27 Ill. Reg. 1567, effective January 15, 2003; new Section 545.90 added at 43 Ill. Reg. 4992, effective April 17, 2019)

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**Section 545.APPENDIX A Sexual Assault Treatment Plan Form (Repealed)**

**Sexual Assault Treatment Plan**

~~Instructions: This form describes the minimum components of a Sexual Assault Treatment Plan. References to the "Regulations" mean the Illinois Department of Public Health Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545). All responses shall be written as clearly and succinctly as possible. If additional sheets are necessary, attach those sheets to the page on which the information is originally requested. A completed copy of the plan shall be retained by the hospital. The completed plan shall be sent to:~~

~~Illinois Department of Public Health  
Division of Health Facilities and Programs  
525 West Jefferson Street, 4<sup>th</sup> Floor  
Springfield, Illinois 62761-0001~~

**PART A**

~~Name of Treatment Hospital: \_\_\_\_\_  
Mailing  
Address: \_\_\_\_\_~~

~~Contact Person for Program: \_\_\_\_\_  
(Name) (Job Title)~~

~~(E-mail) (Telephone Number) (Fax Number)  
Contact Person for  
Billing: \_\_\_\_\_  
(Name) (Job Title)~~

~~(E-mail) (Telephone Number) (Fax Number)~~

~~Estimated number of sexual assault survivors to be served in coming FY: \_\_\_\_\_~~

~~Areawide Plan:  Yes  No~~

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If yes, names of participating transfer hospitals: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PART B**

1. ~~Attach copies of appropriate documents distributed to sexual assault survivors that describe:~~
  - a) ~~Risk of sexually transmitted diseases and infections.~~
  - b) ~~Types of medication for sexually transmitted diseases and side effects.~~
  - c) ~~Medical procedures, medication given, and possible contraindications of the medication.~~
  - d) ~~Necessity of follow up visits, examinations and laboratory tests.~~
  - e) ~~Information concerning emergency contraception in accordance with Section 545.95 of the Regulations.~~
  - f) ~~The Evidence Collection Kit Patient Information Sheet shall be used as a component of written information distribution. (See Section 545.60(d) of the Regulations.)~~
  - g) ~~Drug facilitated sexual assault testing information, including an explanation of the comprehensive scope of drug screening and the limited time frame within which evidence can be collected.~~
2. ~~Describe evidence collection procedures to be taken. The Illinois State Police Evidence Collection Instruction Sheet and Notes to Forensic Examiner Sheet may be used and attached.~~
3. ~~Describe counseling resources provided to sexual assault survivors. Counseling services shall comply with Section 545.60(d) of the Regulations.~~

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**PART C**

Review and sign the Conditions of Approval:

**CONDITIONS OF APPROVAL**

The following conditions of approval shall apply to all hospitals providing treatment services to sexual assault survivors. These conditions are enumerated below to ensure that all treatment hospitals are informed and aware of their responsibilities in accordance with the Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545) and the Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70]

1. The hospital shall provide hospital emergency services to sexual assault survivors, with the consent of the sexual assault survivor and as ordered by the attending physician, advanced practice nurse or physician assistant in accordance with the Sexual Assault Survivors Emergency Treatment Act and with the Sexual Assault Survivors Emergency Treatment Code (see Section 545.60 of the Regulations).
2. The hospital shall provide emergency services at no direct charge to the survivor. If the survivor is neither eligible to receive services under the Illinois Public Aid Code nor covered by a policy of insurance, the hospital shall seek reimbursement only from the Illinois Department of Healthcare and Family Services (HFS), according to procedures established by HFS for that purpose (Hospital Services, 89 Ill. Adm. Code 148).
3. The hospital shall submit billings to HFS on properly authenticated vouchers supplied by HFS for all eligible survivors for whom hospital emergency services were provided pursuant to its approved Treatment Plan.
4. The hospital shall maintain and preserve all survivor medical records in a manner and for a duration established by hospital policy for not less than 10 years, in accordance with Section 6.17 of the Hospital Licensing Act.
5. The hospital shall maintain all business and professional records in accordance with acceptable business and accounting practices, and all records shall be legible. Records shall be retained for a period of not less than three years after the date of service or as required by State law, whichever period is longer, except that if an audit is initiated within the required retention period, the records shall be retained until the audit is completed and every exception is resolved.

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6. ~~The hospital shall comply with the reporting procedures for sexual assault survivors as required by Section 3.2 of the Criminal Identification Act [20 ILCS 2630].~~
7. ~~The hospital shall post information in the emergency department concerning crime victim compensation to comply with the Crime Victims Compensation Act [740 ILCS 45].~~

~~FOR THE HOSPITAL:~~

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~~Administrator~~

(Source: Repealed at 43 Ill. Reg. 4992, effective April 17, 2019)

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**Section 545.APPENDIX B Sexual Assault Transfer Plan Form (Repealed)**

Sexual Assault Transfer Plan

Note: All transfer plans shall conform to the requirements of the federal Emergency Medical Treatment and Active Labor Act (42 USC 1395dd).

Instructions: This form describes the minimum components of a Sexual Assault Transfer Plan as part of an areawide plan. References to the "Regulations" mean the Illinois Department of Public Health Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545). All responses shall be written as clearly and succinctly as possible. If additional sheets are necessary, attach those sheets to the page on which the information is originally requested. A completed copy of the plan shall be retained by the hospital. The completed plan shall be sent to:

Illinois Department of Public Health  
Division of Health Care Facilities and Programs  
525 West Jefferson Street, 4<sup>th</sup> Floor  
Springfield, Illinois 62761-0001

**PART A**

Name of Transfer Hospital: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Contact Person for Program: \_\_\_\_\_

(Name)

(Job Title)

(E-mail)

(Telephone Number)

(Fax Number)

Contact Person for Billing: \_\_\_\_\_

(Name)

(Job Title)

(E-mail)

(Telephone Number)

(Fax Number)

Estimated number of sexual assault survivors to be transferred in coming FY: \_\_\_\_\_

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Name of affiliated Treatment Hospital: \_\_\_\_\_

Distance of Transfer Hospital from affiliated Treatment Hospital: \_\_\_\_\_

Estimate of maximum distance survivor may have to travel to receive treatment: \_\_\_\_\_

Name, telephone number and address of ambulance provider(s): \_\_\_\_\_

**PART B**

- 1. Describe the procedures that will be taken to ensure privacy and support for the survivor. Services shall be in accordance with Section 545.65 of the Regulations.
- 2. Attach a copy of the emergency department treatment record that shall be used as required by Section 545.65(i) of the Regulations.

**PART C**

Review and sign the Conditions of Approval:

**CONDITIONS OF APPROVAL**

The following conditions of approval shall apply to all hospitals providing transfer services to sexual assault survivors. These conditions are enumerated below to ensure that all transfer hospitals are informed and aware of their responsibilities in accordance with the Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545) and the Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70].

- 1. The hospital shall provide an appropriate medical screening examination and initial stabilizing treatment. (See Section 545.65 of the Regulations.)
- 2. The hospital shall provide pre transfer and transfer services to sexual assault survivors in accordance with Section 545.65 of the Regulations.
- 3. The hospital shall provide services at no direct charge to the survivor. If the

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~~survivor is neither eligible to receive services under the Illinois Public Aid Code nor covered by a policy of insurance, the hospital shall seek reimbursement only from the Department of Healthcare and Family Services (HFS) according to procedures established by HFS for that purpose (Hospital Services, 89 Ill. Adm. Code 148).~~

- ~~4. The hospital shall comply with the Emergency Medical Treatment Act [210 ILCS 70] and the federal Emergency Medical Treatment and Active Labor Act (42 USC 1395dd).~~
- ~~5. The hospital shall submit billings to HFS on properly authenticated vouchers supplied by HFS for all eligible survivors for whom hospital emergency services were provided pursuant to its Transfer Plan.~~
- ~~6. The hospital shall maintain all survivor medical records in a manner and for a duration established by hospital policy for not less than 10 years, in accordance with Section 6.17 of the Hospital Licensing Act.~~
- ~~7. The hospital shall maintain all business and professional records in accordance with acceptable business and accounting practices, and all records shall be legible. Records shall be retained for a period of not less than three years after the date of service or as required by State law, whichever period is longer, except that if an audit is initiated within the required retention period, the records shall be retained until the audit is completed and every exception is resolved.~~

~~FOR THE HOSPITAL:~~

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~~Administrator~~

(Source: Repealed at 43 Ill. Reg. 4992, effective April 17, 2019)

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

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
946.10	Amendment
946.15	Amendment
946.40	Amendment
946.50	Amendment
946.60	Amendment
946.200	Amendment
946.201	Amendment
946.210	Amendment
946.220	Repealed
946.235	New Section
946.240	Amendment
946.250	Amendment
946.270	Amendment
946.290	Amendment
946.300	Amendment
946.310	Amendment
946.315	Amendment
946.400	Amendment
946.600	New Section
946.610	New Section
946.620	New Section
946.630	New Section
- 4) Statutory Authority: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].
- 5) Effective Date of Rules: April 17, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

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- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 21571; December 7, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various nonsubstantive, typographical, and grammatical changes were made in response to comments from JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? Yes
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking implements PA 100-1114 and updates the Code by adding definitions, modifying incorporated references, removing references to fingerprint requirements and excluded offenses, and adding requirements for participation in the Opioid Alternative Pilot Program. Additionally, the rulemaking implements PA 100-660, effective August 1, 2018. The statutory changes made in PA 100-660 are incorporated to clarify that use and possession of medical cannabis is allowed on a school bus and on school grounds in accordance with the Illinois School Code. This change is necessary to allow parents or guardians who are registered caregivers for minor qualifying patients to administer medical cannabis to a student during the school day.
- 16) Information and questions regarding these adopted rules shall be directed to:

Erin Conley  
Rules Coordinator  
Illinois Department of Public Health  
Division of Legal Services  
535 W. Jefferson St., 5th Floor  
Springfield IL 62761

217/782-2043  
e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

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NOTICE OF ADOPTED AMENDMENTS

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

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICESPART 946  
COMPASSIONATE USE OF MEDICAL CANNABIS ~~PILOT PROGRAM~~  
~~PATIENT~~  
~~REGISTRY~~

## SUBPART A: GENERAL PROVISIONS

Section	
946.10	Definitions
946.15	Referenced Materials
946.20	Debilitating Medical Conditions
946.25	Terminal Illness
946.30	Addition of Debilitating Medical Conditions
946.35	Medical Cannabis Advisory Committee
946.40	Limitations and Penalties
946.50	Notifications to the Department
946.60	Confidentiality
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## Section

946.300 Qualifications of the Certifying Physician  
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## SUBPART D: CANNABIS-INFUSED PRODUCTS

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946.400 Manufacture of Cannabis-Infused Products  
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[946.610](#) [Medical Cannabis Dispensing Organizations](#)  
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[946.630](#) [Fees](#)

**AUTHORITY:** Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

**SOURCE:** Adopted at 38 Ill. Reg. 17367, effective July 29, 2014; emergency amendment at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 7712, effective May 15, 2015; emergency amendment at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days; emergency amendment to emergency rule at 40 Ill. Reg.

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13732, effective September 16, 2016, for the remainder of the 150 days; amended at 40 Ill. Reg. 16753, effective December 15, 2016; emergency amendment at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days; amended at 43 Ill. Reg. 5012, effective April 17, 2019.

## SUBPART A: GENERAL PROVISIONS

**Section 946.10 Definitions**

"Act" means the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

*"Adequate supply" means 2.5 ounces of usable cannabis during a period of 14 days and that is derived solely from an intrastate source. (Section 10(a)(1) of the Act)*

"Administer" or "Administration" means the direct introduction of medical cannabis into the body of a person, whether by inhalation, ingestion, or any other means.

*"Bona-fide physician-patient relationship" means a relationship established at a hospital, physician's office, or other health care facility in which the physician has an ongoing responsibility for the assessment, care, and treatment of a patient's debilitating medical condition or a symptom of the patient's debilitating medical condition or has diagnosed a disease or condition for which an opioid was prescribed or could be prescribed and is actively monitoring the effectiveness of the treatment. (Section 10(z) of the Act)*  
~~*"Bona-fide physician-patient relationship" means a relationship in which the physician has ongoing responsibility for the assessment, care and treatment of a patient's debilitating medical condition, or a symptom of the patient's debilitating medical condition.*~~

"Cannabis" means *marihuana, hashish and other substances which are identified as including any parts of the plant Cannabis sativa and including any and all derivatives or subspecies, such as Indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or*

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*independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination. (Section 3(a) of the Cannabis Control Act)*

"Caregiver" or "designated caregiver" means a person who is designated by a qualifying patient as the person authorized, on the qualifying patient's behalf, to possess, obtain from a certified medical cannabis dispensary, dispense and assist in the administration of medical cannabis.

*"Cultivation center" means a facility operated by an organization or business that is registered by the Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis. (Section 10(e) of the Act)*

"DD214" means a certified DD214 Certificate of Release or Discharge from Active Duty Member Copy 4 or State Director of Veteran Affairs Copy 6; a certified DD214 Report of Separation from Active Duty Copy 2; or equivalent certified document indicating character of service and dates of service. A DD214 can be certified by the State Department of Veterans' Affairs, county veteran's officials, and the federal Department of Veterans Affairs.

*"Debilitating medical condition" means cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, agitation of Alzheimer's disease, cachexia/wasting syndrome, muscular dystrophy, severe fibromyalgia, spinal cord disease, including but not limited to arachnoiditis, Tarlov cysts, hydromyelia, syringomyelia, Rheumatoid arthritis (RA), fibrous dysplasia, spinal cord injury, traumatic brain injury (TBI) and post-concussion syndrome, Multiple Sclerosis, Arnold-Chiari malformation and Syringomyelia, Spinocerebellar Ataxia (SCA), Parkinson's disease, Tourette's syndrome, Myoclonus, Dystonia, Reflex Sympathetic Dystrophy, RSD (Complex Regional Pain Syndromes Type I), Causalgia, CRPS (Complex Regional Pain Syndromes Type II), Neurofibromatosis, Chronic Inflammatory Demyelinating Polyneuropathy, Sjogren's syndrome, Lupus, Interstitial Cystitis, Myasthenia Gravis, Hydrocephalus, nail-patella syndrome, residual limb pain, seizures*

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*(including those characteristic of epilepsy); and post-traumatic stress disorder (PTSD) or the treatment of these conditions; or any other debilitating medical condition that is added pursuant to the statute or by the Department by rule as provided in Section 946.30. (Section 10(h) of the Act)*

"Department" means the Illinois Department of Public Health.

"Director" means the Director of the Illinois Department of Public Health or his or her designee.

"Dispensing organization district" or "District" means one of the 43 geographically dispersed areas identified in the Act and by the Department of Financial and Professional Regulation where one or more dispensing organizations may be located.

"Evidence-based medical research" means documentation of published, peer-reviewed best evidence on research related to the use of medical cannabis, which includes up-to-date information from relevant, valid research about the effects of medical cannabis on different forms of diseases and conditions, its use in health care, the potential for harm from exposure, and other relevant medical information.

~~"Excluded offense" means: a violation of a state or federal controlled substance law, the Cannabis Control Act, or the Methamphetamine and Community Protection Act, that was classified as a felony in the jurisdiction where the person was convicted, except that the Department may waive this restriction if the person demonstrates to the Department's satisfaction that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use.~~

~~This exception does not apply if the conviction was under state law and involved a violation of an existing medical cannabis law. (Section 10(1-5) of the Act)~~

~~"Fingerprint-based criminal history records check" means a fingerprint-based criminal history records check conducted by the Illinois State Police in accordance with the Uniform Conviction Information Act (UCIA).~~

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"Health care facility" means any and all facilities and agencies licensed by the Department, including, but not limited to, those registered under the Hospital Licensing Act, Nursing Home Care Act, Ambulatory Surgical Treatment Center Act, Alternative Health Care Delivery Act, Hospice Program Licensing Act, Specialized Mental Health Rehabilitation Act of 2013 and any nursing facility operated by the Illinois Department of Veterans' Affairs.

~~"ISP" means the Illinois State Police.~~

~~"Livescan" means an inkless electronic system designed to capture an individual's fingerprint images and demographic data in a digitized format that can be transmitted to ISP for processing. The data is forwarded to the ISP Bureau of Identification (BOI) over a virtual private network (VPN) and then processed by ISP's Automated Fingerprint Identification System (AFIS). Once received at the BOI for processing, the inquiry may be forwarded electronically to the Federal Bureau of Investigation (FBI) for processing.~~

~~"Livescan vendor" means an entity licensed by the Department of Financial and Professional Regulation to provide commercial fingerprinting services under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004.~~

"Medical cannabis" means cannabis and its constituent cannabinoids, such as tetrahydrocannabinol (THC) and cannabidiol (CBD), used as an herbal remedy or therapy to treat disease or alleviate symptoms. Medical cannabis can be administered in a variety of ways, including, but not limited to: vaporizing or smoking dried buds; using concentrates; administering tinctures or tonics; applying topicals such as ointments or balms; or consuming medical cannabis-infused food products.

*"Medical cannabis container" means a sealed, traceable, food compliant, tamper resistant, tamper evident container or package used for the purpose of containment of medical cannabis. (Section 10(n) of the Act)*

*"Medical cannabis dispensing organization" or "Dispensing organization" means a facility operated by an organization or business that is registered by the Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing medical cannabis, paraphernalia, or related supplies and educational materials*

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*to registered qualifying patients, individuals with a provisional registration for qualifying patient cardholder status, or Opioid Alternative Pilot Program participant.* (Section 10(o) of the Act)

*"Medical cannabis-infused product" means food, oils, ointments, sodas or teas, capsules or other products containing usable cannabis that are not smoked.* (Section 10(q) of the Act)

*"Opioid" means a narcotic drug or substance that is a Schedule II controlled substance under Section 206 (b)(1), (2), (3), or (5) or (c) of the Illinois Controlled Substances Act.* (Section 10 (r-5) of the Act)

*"Opioid Alternative Pilot Program participant" means an individual who has received a valid written certification to participate in the Opioid Alternative Pilot Program for a medical condition for which an opioid has been or could be prescribed by a physician based on generally accepted standards of care.* (Section 10(r-10) of the Act)

*"Petitioner" means an applicant who seeks to add debilitating medical conditions to those listed in Section 10(h) of the Act as allowed under Section 946.30.*

*"Private residence" means the part of a structure used as a dwelling, including, without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home or assisted living facility shall not be considered a private residence.*

*"Promptly" means as soon as reasonably practicable, but not later than five days.*

*"Provisional patient" means a qualifying patient who has received a provisional registration from the Department of Public Health.*

*"Provisional registration" means a document issued by the Department of Public Health to a qualifying patient or designated caregiver who has submitted:*

*a valid and complete online application and paid a fee to participate in the Compassionate Use of Medical Cannabis Pilot Program pending approval or denial of the patient's application; or*

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*a completed application for terminal illness. (Section 10(s-5) of the Act)*

"Public place" means any place where an individual could reasonably be expected to be observed by others, including all parts of buildings owned in whole or in part or leased by the State or a unit of local government. A "public place" does not include health care facilities, as defined in this Part, or private residences unless the private residence is used to provide child care, foster care or other similar social service care on the premises.

*"Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition. (Section 10(t) of the Act)*

"Reasonable amount" means less than 2,000 grams of cannabis for any conviction that occurred in the past 10 years or any amount of cannabis if the felony in the jurisdiction where the conviction occurred has been reclassified as a misdemeanor or petty offense since the time of the conviction.

"Registered qualifying patient" means a qualifying patient who has been approved by the Department and has been issued a registry identification card.

*"Registry identification card" or "medical cannabis patient registry card" means a document issued by the Department that identifies a person as a current registered qualifying patient or registered designated caregiver. (Section 10(v) of the Act)*

"Resident" means a person who maintains a legal place of residence in the State of Illinois.

"Reviewing physician" means a physician currently licensed under the Medical Practice Act of 1987 or who possesses a current, active medical license issued by another state, who has conducted a review of the medical records from other physician treating a qualifying patient who is under 18 years of age for the purpose of confirming the diagnosis of debilitating medical conditions as defined in the Act.

"Spinal cord injury" means damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity.

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"Terminal illness" means a debilitating condition or other illness for which the qualifying patient has received a diagnosis for a life expectancy of six months or less.

"Tincture" means cannabis flowered tops and leaves that are soaked in liquid, usually an alcohol solution, transferring the THC and other cannabinoids to the liquid. The tincture may be added to foods and liquids, applied to the skin, or consumed directly by drinking a small quantity or placing a few drops under the tongue.

"Tetrahydrocannabinol" or "THC" means the primary active ingredient in cannabis.

"VA" means federal Department of Veterans Affairs.

"Veteran" means person who served in one of the five active-duty Armed Services or their respective Guard or Reserve units, and who was discharged or released from service under conditions other than dishonorable.

"VA hospital" means a health care facility operated by the federal Department of Veterans Affairs-Veterans Health Administration providing hospital and outpatient health care services to U.S. military service veterans.

"VA official hospital medical records" means records from the VA documenting medical conditions and dates of treatment in the VA healthcare system.

~~"Waiver" means a waiver of an excluded offense granted by the Department solely based upon the results of a fingerprint based criminal history records check if the person demonstrates to the Department's satisfaction that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use. (Section 10(1)(2) of the Act)~~

"Written certification" means a document dated and signed by a physician, stating:

*that the qualifying patient has a debilitating medical condition and specifying the debilitating medical condition the qualifying patient has; and*

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*that:*

*the physician is treating or managing treatment of the patient's debilitating condition; or*

*an Opioid Alternative Pilot Program Participant has a medical condition for which opioids have been or could be prescribed.*

*A written certification shall be made only in the course of a bona-fide physician-patient relationship, after the physician has completed an assessment of either ~~at~~ the qualifying patient's medical history or Opioid Alternative Pilot Program participant, reviewed relevant records related to the patient's debilitating condition, and conducted a physical examination. (Section 10(y) of the Act)*

(Source: Amended at 43 Ill. Reg. 5012, effective April 17, 2019)

**Section 946.15 Referenced Materials**

- a) The following federal statutes are referenced in this Part:
  - 1) Federal Food, Drug, and Cosmetic Act (21 USC 301 et seq.)
  - 2) Federal Fair Packaging and Labeling Act (15 USC 1451 et seq.)
  - 3) Health Insurance Portability and Accountability Act of 1996 (HIPAA) (P.L. 104-191)
  
- b) The following Illinois statutes are referenced in this Part:
  - 1) Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130]
  - 2) Administrative Review Law (Article III of the Code of Civil Procedure) [735 ILCS 5/Art. III]
  - 3) Cannabis Control Act [720 ILCS 550]

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- 4) Methamphetamine Control and Community Protection Act [720 ILCS 646]
  - 5) Open Meetings Act [5 ILCS 120]
  - 6) Medical Practice Act of 1987 [225 ILCS 60]
  - 7) Illinois Controlled Substances Act [720 ILCS 570]
  - 8) Illinois Food, Drug and Cosmetic Act [410 ILCS 620]
  - 9) Food Handling Regulation Enforcement Act [410 ILCS 625]
  - ~~10) Uniform Conviction Information Act [20 ILCS 2635]~~
  - ~~11) Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 [225 ILCS 447]~~
  - ~~1012) Illinois Vehicle Code [625 ILCS 5]~~
  - ~~13) Criminal Code of 2012 [720 ILCS 5]~~
  - ~~1114) Smoke Free Illinois Act [410 ILCS 82]~~
  - ~~1215) Illinois Identification Card Act [15 ILCS 335]~~
  - ~~1316) Freedom of Information Act (FOIA) [5 ILCS 140]~~
  - ~~17) Rights of Crime Victims and Witnesses Act [725 ILCS 120]~~
  - ~~1418) Code of Civil Procedure [735 ILCS 5]~~
  - ~~1519) State Records Act [5 ILCS 160]~~
  - ~~1620) Illinois Vehicle Code [625 ILCS 5]~~
- c) The following State administrative rules are referenced in this Part:
- 1) The Illinois Food, Drug and Cosmetic Act (77 Ill. Adm. Code 720)

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- 2) Manufacturing, Processing, Packing or Holding of Food Code (77 Ill. Adm. Code 730)
- 3) Food Service Sanitation Code (77 Ill. Adm. Code 750)
- 4) ~~Electronic Transmission of Fingerprints (20 Ill. Adm. Code 1265)~~
- 45) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

(Source: Amended at 43 Ill. Reg. 5012, effective April 17, 2019)

**Section 946.40 Limitations and Penalties**

- a) Any person engaging in the following conduct may be charged with civil, criminal or other penalties for:
  - 1) *Undertaking any task under the influence of cannabis, when doing so would constitute negligence, professional malpractice, or professional misconduct;*
  - 2) *Possessing cannabis:*
    - A) *except as provided under Section 22-33 of the School Code, in a school bus;*
    - B) *except as provided under Section 22-33 of the School Code, on the grounds of any preschool or primary or secondary school;*
    - C) *in any correctional facility;*
    - D) *in a vehicle under Section 11-502.1 of the Illinois Vehicle Code;*
    - E) *in a vehicle not open to the public unless the medical cannabis is in a reasonably secured, sealed, tamper-evident container and reasonably inaccessible while the vehicle is moving; or*

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- F) *in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;*
- 3) *Using cannabis:*
- A) *except as provided under Section 22-33 of the School Code, in a school bus;*
- B) *except as provided under Section 22-33 of the School Code, on the grounds of any preschool or primary or secondary school;*
- C) *in any correctional facility;*
- D) *in any motor vehicle;*
- E) *in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;*
- F) *except as provided under Section 22-33 of the School Code, in any public place. "Public place" as used in this subsection (a)(3)(F) means any place where an individual could reasonably be expected to be observed by others. A "public place" includes all parts of buildings owned in whole or in part, or leased, by the State or a local unit of government. A "public place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. For purposes of this subsection (a)(3)(F), a "public place" does not include a health care facility. For purposes of this Section, a "health care facility" includes, but is not limited to, hospitals, nursing homes, hospice care centers, and long-term care facilities;*
- G) *except as provided under Section 22-33 of the School Code, knowingly in close physical proximity to anyone under the age of 18 years of age;*
- 4) *Smoking medical cannabis in any public place where an individual could reasonably be expected to be observed by others, in a health care facility,*

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*or any other place where smoking is prohibited under the Smoke Free Illinois Act;*

- 5) *Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while using or under the influence of cannabis in violation of Sections 11-501 and 11-502.1 of the Illinois Vehicle Code;*
  - 6) *Using or possessing cannabis if that person does not have a debilitating medical condition and is not a registered qualifying patient, [provisional patient](#), or caregiver [or Opioid Alternative Pilot Program participant](#);*
  - 7) *Allowing any person who is not allowed to use cannabis under the Act to use cannabis that a cardholder, [provisional patient](#), or [Opioid Alternative Pilot Program participant](#) is allowed to possess under the Act;*
  - 8) *Transferring cannabis to any person contrary to the provisions of the Act;*
  - 9) *The use of medical cannabis by an active duty law enforcement officer, correctional officer, correctional probation officer, or firefighter; or*
  - 10) *The use of medical cannabis by a person who has a school bus permit or a Commercial Driver's License.*
- b) *Nothing in the Act shall be construed to prevent the arrest or prosecution of a registered qualifying patient, [provisional patient](#), or [Opioid Alternative Pilot Program participant](#) for reckless driving or driving under the influence of cannabis where probable cause exists.*
  - c) *Notwithstanding any other criminal penalties related to the unlawful possession of cannabis, knowingly making a misrepresentation to a law enforcement official of any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution is a petty offense punishable by a fine of up to \$1,000, which shall be in addition to any other penalties that may apply for making a false statement or for the use of cannabis other than use undertaken under the Act.*
  - d) *Notwithstanding any other criminal penalties related to the unlawful possession of cannabis, any person who makes a misrepresentation of a medical condition to a physician or fraudulently provides material misinformation to a physician in*

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*order to obtain a written certification is guilty of a petty offense punishable by a fine of up to \$1,000.*

- e) *Any cardholder or registered caregiver, [provisional patient, or Opioid Alternative Pilot Program participant](#) who sells cannabis shall have his or her registry identification card revoked and is subject to other penalties for the unauthorized sale of cannabis.*
- f) *Any registered qualifying patient, [provisional patient, or Opioid Alternative Pilot Program participant](#) who commits a violation of Section 11-502.1 of the Illinois Vehicle Code or refuses a properly requested test related to operating a motor vehicle while under the influence of cannabis shall have his or her registry identification card revoked.*
- g) *No registered qualifying patient or designated caregiver, [provisional patient, or Opioid Alternative Pilot Program participant](#) shall knowingly obtain, seek to obtain, or possess, individually or collectively, an amount of usable cannabis from a registered medical cannabis dispensing organization that would cause him or her to exceed the authorized adequate supply under Section 10(a) of the Act.*
- h) *Nothing in the Act shall prevent a private business from restricting or prohibiting the medical use of cannabis on its property.*
- i) *Nothing in the Act shall prevent a university, college, or other institution of post-secondary education from restricting or prohibiting the use of medical cannabis on its property. (Section 30 of the Act)*
- j) *Individuals who fail to comply with any of the following notification requirements (see Section 75(a) of the Act) shall be subject to a civil monetary penalty, pursuant to Section 75(d) of the Act. The civil monetary penalty, which may be assessed for each instance of non-compliance, is not to exceed \$150 per instance.*
  - 1) *A registered qualifying patient, [provisional patient, or Opioid Alternative Pilot Program participant](#) shall notify the Department of Public Health of any change in his or her name or address, or if the registered qualifying patient ceases to have his or her debilitating medical condition, within 10 days after the change or death.*

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- 2) *A registered designated caregiver shall notify the Department of Public Health of any change in his or her name or address, or if the designated caregiver becomes aware the registered qualifying patient passed away, within 10 days after the change.*
- 3) *Before a registered qualifying patient changes his or her designated caregiver, the qualifying patient must notify the Department of Public Health.*
- 4) *If a cardholder loses his or her registry identification card, he or she shall notify the Department within 10 days after becoming aware the card has been lost. (Section 75(a) of the Act)*
- k) *Any person, including an employee or official of the Department of Public Health, Department of Financial and Professional Regulation, or Department of Agriculture or another State agency or local government, is guilty of a Class B misdemeanor with a \$1,000 fine for breaching the confidentiality of information obtained under the Act (Section 145(c) of the Act) and Sections 946.270 and 946.275 of this Part.*
- l) Any cardholder, [including a provisional patient or an Opioid Alternative Pilot Program participant](#), found to be in violation of the Act or this Part may have his or her registration suspended or revoked, pursuant to Section 185(a) of the Act and Sections 946.270 and 946.275 of this Part.
- m) *The Department of Public Health may with reasonable cause refer a physician, who has certified a debilitating medical condition of a patient, to the Illinois Department of Financial and Professional Regulation for potential violations of Section 35 of the Act. (Section 35(c) of the Act)*

(Source: Amended at 43 Ill. Reg. 5012, effective April 17, 2019)

**Section 946.50 Notifications to the Department**

- a) The registered qualifying patient, [provisional patient](#) and designated caregiver shall notify the Department of any changes in application information within 10 days after the change occurs. After a registry identification card is issued, information changes shall be made by notifying the Department. Forms for this

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purpose will also be available on the Department's website at <http://www.idph.state.il.us/HealthWellness/MedicalCannabis/index.htm>.

- b) Registered qualifying patients and provisional patients shall notify the Department:
- 1) Of changes in the patient's name or address;
  - 2) If the registered qualifying patient or provisional patient ceases to have the debilitating medical condition; ~~If the qualifying patient is deceased, the designated caregiver, if any, or a legal representative of the patient shall notify the Department;~~
  - 3) Of a change in the designated caregiver;
  - 4) Of a change in the selected dispensary organization; and
  - 5) If the registry identification card is lost or stolen; ~~and~~
  - 6) ~~Upon conviction of any excluded offenses as specified in Section 25(b) of the Act and Section 946.10 of this Part.~~
- c) *If a registered qualifying patient ceases to be a registered qualifying patient or changes his or her registered designated caregiver, the registered qualifying patient shall immediately notify the Department via telephone and the Department of Public Health shall promptly notify the designated caregiver. The registered designated caregiver's registry identification card shall immediately become void and all protections under the Act as to that qualifying patient shall expire 15 days after notification by the Department. (Section 75(c) of the Act)*
- d) If the qualifying patient is deceased, the designated caregiver, if any, or a legal representative of the patient shall notify the Department.
- e) A cardholder, including an Opioid Alternative Pilot Program participant, who fails to make a notification to the Department of Public Health that is required by this Part is subject to a civil infraction, punishable by a penalty of no more than \$150. (Section 75(d) of the Act)

(Source: Amended at 43 Ill. Reg. 5012, effective April 17, 2019)

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**Section 946.60 Confidentiality**

- a) The following information received and records kept by the Department for purposes of administering this Part are subject to all applicable federal privacy laws, are confidential, are exempt from the Illinois Freedom of Information Act, and are not subject to disclosure to any individual or public or private entity, except as necessary for authorized employees of the Department to perform official duties of the Department pursuant to this Part:
  - 1) Applications or renewals, their contents and supporting information submitted by qualifying patients and designated caregivers, including information regarding designated caregivers and physicians;
  - 2) The individual names and other information identifying persons to whom the Department has issued registry identification cards; and
  - 3) All medical records provided to the Department in connection with an application for a registry identification card.
- b) Department hard drives or other data recording media that are no longer in use and that contain cardholder information will be destroyed.
- c) Data subject to this Section shall not be *combined or linked in any manner with any other list or database and shall not be used for any purpose not provided by this Part or the Act.* (Section 150(a) of the Act)
- d) Any dispensing information required to be kept under Section 135 or 150 of the Act or under this Part will identify cardholders, including an Opioid Alternative Pilot Program participant, by their registry identification numbers and not contain names or other personally identifying information.
- e) The Department of Agriculture, the Department of Financial and Professional Regulation and the Illinois State Police may verify registry identification cards. Law enforcement personnel shall have access to the Department's on-line verification system to verify the period for which the registration is valid~~application date~~ and the application~~status~~ status of qualifying patients who have submitted an application for a registry identification card and Opioid Alternative Pilot Program participant registration information.

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- f) This Section does not preclude the following notifications:
- 1) Department employees may notify law enforcement if information submitted to the Department is suspected to be falsified or fraudulent.
  - 2) The Department may notify State or local law enforcement about alleged criminal violations of this Part.
  - 3) The Department will notify the Department of Financial and Professional Regulation if there is reasonable cause to believe that a physician has:
    - A) Issued a written certification without a bona-fide physician-patient relationship; or
    - B) Issued a written certification to a person who was not under the physician's care for the debilitating medical condition; or
    - C) Failed to abide by the acceptable and prevailing standard of care when evaluating a patient's medical condition.
- g) The Department will share, disclose, and forward patient information as required by Section 60(e) of the Act.

(Source: Amended at 43 Ill. Reg. 5012, effective April 17, 2019)

## SUBPART B: QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

**Section 946.200 Application for Registry Identification Card for Qualifying Patients and Designated Caregivers**

- a) A qualifying patient who has been issued a written certification who seeks to use medical cannabis for palliative or therapeutic benefit to treat or alleviate the symptoms associated with the patient's debilitating condition, and the qualifying patient's designated caregiver, when applicable, shall register with the Department on forms and in a manner prescribed by the Department.
- b) To qualify for a registry identification card, a qualifying patient shall:

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- 1) Be a resident of the State of Illinois, as defined in subsection (c), at the time of application and remain a resident during participation in the program;
  - 2) Have a qualifying medical condition for which the use of medical cannabis will provide help with treating or alleviating the pain, nausea and other symptoms associated with the condition or be diagnosed with a terminal illness;
  - 3) Have a signed, written certification meeting the requirements of this Part;
  - 4) ~~Complete the fingerprint-based background check and not have been convicted of an offense specified under Section 65(b) of the Act, unless diagnosed with a terminal illness.~~
- c) Residency. For purposes of this Part, the qualifying patient and designated caregiver, if any, shall be a resident of the State of Illinois if the individual:
- 1) Physically resides in the State of Illinois, or has taken verifiable actions to make Illinois his or her home indefinitely with no present intent to reside in another state.
  - 2) Provides proof of Illinois residency by submitting a valid unexpired Illinois Driver's License, Illinois Temporary Visitor Driver's License or State Identification Card issued by the Illinois Secretary of State and at least ~~one~~two of the following items with the application for a registry identification card. The address on the documentation provided shall match the address on the application. Persons who are homeless shall only be required to submit a Notarized Homeless Status Certification (available at [https://www.cyberdriveillinois.com/publications/pdf\\_publications/dsd\\_a230.pdf](https://www.cyberdriveillinois.com/publications/pdf_publications/dsd_a230.pdf)):
    - A) Pay stub or electronic deposit receipt, issued less than 60 days prior to the application date, that shows evidence of the applicant's withholding for State income tax;
    - B) Valid voter registration card with an address in Illinois;

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- C) Valid, unexpired ~~Illinois Driver's License, Illinois Temporary Visitor Driver's License, or other State identification card issued by the Illinois Secretary of State in the name of the applicant in accordance with the Illinois Identification Card Act or a current~~ military identification card;
- D) Bank statement (dated less than 90 days prior to application) or credit card statement (dated less than 60 days prior to application);
- E) Deed/title, mortgage or rental/lease agreement; property tax bill;
- F) Insurance policy (current coverage for automobile, homeowner's, health or medical, or renter's);
- G) Medical claim or statement of benefits (from a hospital or health clinic or private insurance company or public (government) agency, dated less than 12 months prior to application);
- H) Persons enrolled in the federal Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) disability program may submit a "Benefit Verification Letter" from the Social Security Administration; showing the individual's name and address and the type of benefits received. The letter must be dated within the last year. A copy of the letter may be obtained on-line at <https://www.ssa.gov/myaccount/> or by contacting the Social Security Administration. The annual cost of living increase letter mailed to recipients of social security benefits will not be accepted.
- I) Tuition invoice/official mail from college or university, dated less than the 12 months prior to application;
- J) Utility bill, including, but not limited to, those for electric, water, refuse, telephone land-line, cellular phone, cable or gas, issued less than 60 days prior to application; or
- K) W-2 form from the most recent tax year.

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- d) To apply for a registry identification card, a qualifying patient shall submit a completed application to the Department on the required forms, which shall include, at a minimum, the following items:
- 1) Written certification for the use of medical cannabis meeting the requirements of this Part issued by a physician who meets the requirements set forth in the Act and the Medical Practice Act of 1987 and dated less than 90 days prior to the application;
  - 2) Proof of Illinois residency of the qualifying patient, as specified in subsection (c);
  - 3) Proof of identity of the qualifying patient;
  - 4) Proof of the qualifying patient's age;
  - 5) Photograph of the qualifying patient and designated caregiver, if applicable, as follows:
    - A) Current digital passport-size photograph, taken no more than 30 calendar days before the submission of the application;
    - B) Taken against a plain background or backdrop;
    - C) At least 2 inches by 2 inches in size;
    - D) In natural color; and
    - E) That provides an unobstructed front view of the full face. A full-faced photograph must be taken without any obstruction of the applicant's facial features or any items covering any portion of the face. Prescription glasses and religious head coverings not covering any areas of the open face will be allowed. Head coverings for persons diagnosed and undergoing treatment for cancer will be allowed.
- i) A qualifying patient or designated caregiver will not be required to submit to a photograph if sufficient justification is provided by the qualifying patient or caregiver to

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establish that a photograph would be in violation of or contradictory to the qualifying patient's or designated caregiver's religious convictions. If a qualifying patient or designated caregiver declares that the use of a photograph is against his/her religious convictions, the qualifying patient or designated caregiver will be given an affidavit to be completed. This affidavit contains designated areas for a detailed written explanation of the reasons why a photograph is against the qualifying patient's or designated caregiver's religious convictions, a place for the qualifying patient's or designated caregiver's signature and date, the designation of the religious sect or denomination involved, space for a minister or other religious leader to apply his/her signature attesting to the explanation the qualifying patient or designated caregiver has offered, along with the date and official title of the minister or religious leader.

- ii) The affidavit shall be submitted to the Department. The Director will appoint a committee of three Department employees to review each affidavit. The committee shall submit a recommendation to the Director for his or her final decision.
  - iii) If the qualifying patient or designated caregiver meets all other application requirements of this Part, the Department will issue a non-photo temporary registry identification card, not to exceed 90 days in duration, to allow for medical cannabis use privileges during the determination
  - iv) Upon approval by the Department, a valid registry identification card without a photograph will be issued and can be renewed. The card will be mailed to the qualifying patient's home address.
- 6) Designation of the medical cannabis dispensing organization where the qualifying patient will receive his or her medical cannabis. Only one medical cannabis dispensing organization may be selected at any time, however, the patient is able to submit a request to change the selected dispensary by notifying the Department.

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- 7) Completion of the designated caregiver application if applicable.
- 8) Payment of the applicable application fee (see Section 946.210) by check or money order. If the qualifying patient or caregiver is applying on-line, the Department will accept credit card payments.

(Source: Amended at 43 Ill. Reg. 5012, effective April 17, 2019)

**Section 946.201 Application for Registry Identification Card for Qualifying Patients under 18 Years of Age**

- a) A qualifying patient under 18 years of age shall register with the Department on forms and in a manner prescribed by the Department. The designated caregiver shall complete the application for registry identification card for a qualifying patient under 18 years of age. Once the qualifying patient becomes 18 years of age, he or she must submit a full application for a registry identification card as specified in Section 946.200. Qualifying patients who become 18 years of age during the time period in which their registry identification card is valid may apply for a registry identification card either immediately or during the normal renewal period. Until that time, the registry identification card shall be subject to the conditions applicable to the registered qualifying patient under age 18.
- b) To qualify for a registry identification card, a qualifying patient under 18 years of age shall:
  - 1) Be a resident of the State of Illinois, as defined in subsection (c), at the time of application and remain a resident during participation in the program;
  - 2) Be diagnosed with any debilitating medical condition listed in Section 946.310 for which medical cannabis may be used to treat or alleviate the pain, nausea or other symptoms associated with the condition or have a diagnosis of terminal illness.
- c) The application for a registry identification card for a qualifying patient under 18 years of age shall include the following:
  - 1) Two signed written certifications for the use of medical cannabis:

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- A) A signed written certification as specified in Section 946.310; and
  - B) A signed written certification from a reviewing physician indicating that a comprehensive review of the qualifying patient's medical records from other physicians treating the qualifying patient has been conducted;
- 2) Identify a designated caregiver (custodial parent or legal guardian) who shall complete an application for a caregiver registry identification card as specified in Section 946.200;
- A) A qualifying patient under 18 years of age may identify two designated caregivers if both biological parents or two legal guardians have significant decision-making responsibilities over the qualifying patient; or
  - B) If only one biological parent or legal guardian has significant decision-making responsibilities for the qualifying patient under 18 years of age, then a second designated caregiver may be identified.
- 3) A completed, signed Medical Cannabis Custodial Parent and Legal Guardian Attestation form. This form can be ~~requested~~~~downloaded~~ from the Illinois Department of Public Health via email at [dph.medicalcannabis@illinois.gov](mailto:dph.medicalcannabis@illinois.gov) ~~website at <http://idph.state.il.us/>~~; and
- 4) If applicable, provide proof of guardianship documentation.
- d) Residency. For purposes of this Part, the qualifying patient and custodial parent or legal guardian shall be residents of the State of Illinois.
- e) The designated caregiver shall provide proof of Illinois residency by submitting the following items with the application for a registry identification card. Persons who are homeless shall be required to submit only a Notarized Homeless Status Certification (available at [https://www.cyberdriveillinois.com/publications/pdf\\_publications/dsd\\_a230.pdf](https://www.cyberdriveillinois.com/publications/pdf_publications/dsd_a230.pdf)):

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- 1) A copy of the caregiver's unexpired Illinois Driver's License, [State Identification Card issued by the Illinois Secretary of State](#), or Illinois Temporary Visitor Driver's License; or
  - ~~2) A copy of the caregiver's unexpired Illinois identification card; or~~
  - ~~23) A copy of the caregiver's unexpired U.S. passport.~~
- f) To apply for a registry identification card for a qualifying patient under 18 years old, the designated caregiver shall submit a completed application to the Department on the required forms, which shall include, at a minimum, the following items:
- 1) A written certification for the use of medical cannabis meeting the requirements of this Part, issued by a physician who meets the requirements set forth in the Act and the Medical Practice Act of 1987, and dated less than 90 days prior to the application;
  - 2) A signed written certification from a reviewing physician indicating that a comprehensive review of the qualifying patient's medical records from other physicians treating the qualifying patient has been conducted. This physician shall meet the requirements set forth in the Medical Practice Act of 1987 or shall provide proof of a current, active medical license issued by another state.
  - 3) Proof of Illinois residency of the qualifying patient, as specified in subsection (c);
  - 4) Proof of identity of the qualifying patient (copy of the qualifying patient's birth certificate);
  - 5) Proof of the qualifying patient's age. A copy of the qualifying patient's birth certificate shall fulfill this requirement;
  - 6) Current digital passport-size photograph of the designated caregiver, as follows:
    - A) Taken no more than 30 calendar days before the submission of the application;

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- B) Taken against a plain background or backdrop;
- C) At least 2 inches by 2 inches in size;
- D) In natural color; and
- E) That provides an unobstructed front view of the full face. A full-faced photograph must be taken without any obstruction of the applicant's facial features or any items covering any portion of the face. Prescription glasses and religious head coverings not covering any areas of the open face will be allowed. [Head coverings are allowed for persons diagnosed and undergoing treatment for cancer.](#)
  - i) A designated caregiver for a qualifying patient under 18 years old will not be required to submit a photograph if sufficient justification is provided by the caregiver to establish that a photograph would be in violation of or contradictory to the designated caregiver's religious convictions. If a designated caregiver declares that the use of a photograph is against his/her religious convictions, the designated caregiver will complete an affidavit on a form provided by the Department. The affidavit contains designated areas for a detailed written explanation of the reasons why a photograph is against the designated caregiver's religious convictions; a place for the designated caregiver's signature and date, the designation of the religious sect or denomination involved; space for a minister or other religious leader to apply his/her signature attesting to the explanation the designated caregiver has offered; and the date and official title of the minister or religious leader.
  - ii) The affidavit shall be submitted to the Department. The Director will appoint a committee of three Department employees to review each affidavit. The committee shall submit a recommendation to the Director for his or her final decision.

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- iii) If the designated caregiver meets all other application requirements of this Part, the Department will issue a non-photo temporary registry identification card, not to exceed 90 days in duration, to allow for medical cannabis use privileges during the determination.
  - iv) Upon approval by the Department, a valid registry identification card without a photograph will be issued and can be renewed. The card will be mailed to the designated caregiver's home address.
- 7) Designation of the medical cannabis dispensing organization where the designated caregiver will obtain medical cannabis on behalf of the qualifying patient under 18 years of age.
  - 8) Completion of the Medical Cannabis Parent and Legal Guardian Attestation form.
  - 9) If applicable, submission of proof of guardianship documentation.
  - 10) Payment of the applicable application fee (see Section 946.210) by check or money order. If the patient or caregiver is applying on-line, the Department will accept credit card payments.

(Source: Amended at 43 Ill. Reg. 5012, effective April 17, 2019)

**Section 946.210 Fees**

- a) Except as set forth in subsection (b), the registration, renewal and replacement card fees are as specified in this subsection (a). All fees submitted to the Department shall be non-refundable. Annually, the Department may revise these fees:
  - 1) Qualifying patient application fee valid for:
    - A) One year \$100
    - B) Two years \$200

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- |    |                                                                                                              |       |
|----|--------------------------------------------------------------------------------------------------------------|-------|
| C) | Three years                                                                                                  | \$250 |
| 2) | Qualifying patient under 18 years of age application fee (includes one caregiver application fee) valid for: |       |
| A) | One year                                                                                                     | \$100 |
| B) | Two years                                                                                                    | \$200 |
| C) | Three years                                                                                                  | \$250 |
| 3) | Caregiver or second caregiver for a patient under 18 years of age application fee valid for:                 |       |
| A) | One year                                                                                                     | \$25  |
| B) | Two years                                                                                                    | \$50  |
| C) | Three years                                                                                                  | \$75  |
| 4) | Replacement card fee                                                                                         | \$25  |
| 5) | Returned check fee                                                                                           | \$35  |
- b) The Department may reduce registration and renewal card fees for a qualifying patient: ~~enrolled in the federal Social Security Disability Income (SSDI) or the Supplemental Security Income (SSI) disability programs, with submission of proof as described in subsection (b)(2), and for veterans with proof of service as described in subsection (b)(3).~~
- 1) enrolled in the federal Social Security Disability Income (SSDI) or the Supplemental Security Income (SSI) disability program, with submission of proof as described in subsection (b)(7);
  - 2) who is a veteran with proof of service as described in subsection (b)(3); or
  - 3) receiving U.S. Railroad Retirement Board Disability benefits: or

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- 4) receiving Teacher's Retirement System disability benefits; or
- 5) receiving Illinois State Universities Retirement System disability benefits.
- 6+) Reduced qualifying patient application fee valid for:
- |                |                    |
|----------------|--------------------|
| A) One year    | \$50               |
| B) Two years   | \$100              |
| C) Three years | <u>\$124</u> \$150 |
- 72) Proof for Reduced Fee Applications~~The applicant enrolled in the federal Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) disability program shall submit a "Benefit Verification Letter" from the Social Security Administration, showing the individual's name and address and the type of benefits received. The letter must be dated within the last year. A copy of the letter may be obtained on-line at <https://www.ssa.gov/myaccount/> or by contacting the Social Security Administration. The annual cost of living increase letter mailed to recipients of social security benefits will not be accepted.~~
- A) The applicant enrolled in SSDI or SSI shall submit a "Benefit Verification Letter" from the Social Security Administration showing the individual's name and address and the type of benefits received. The letter must be dated within the last year. A copy of the letter may be obtained on-line at <https://www.ssa.gov/myaccount/> or by contacting the Social Security Administration. The annual cost of living increase letter mailed to recipients of social security benefits will not be accepted.
- B) Applicants receiving U.S. Railroad Retirement Board Disability benefits shall submit verification of monthly disability benefits.
- C) Applicants receiving Teacher's Retirement System disability benefits or disability retirement annuity or Illinois State Universities Retirement System disability benefits shall submit a

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copy of the Notification of First Payment or another verification of monthly disability benefits from the applicable Illinois retirement system.

- ~~83~~) Veterans shall provide a copy of their DD214.
- c) Registered qualifying patients seeking to add a designated caregiver after a registry identification card has been issued shall submit a designated caregiver application as specified in Section 946.200 and a fee of \$75~~\$50 for the designated caregiver application and an additional \$25 replacement card fee to print a new registry identification card for the registered qualifying patient.~~ The designated caregiver registry card shall expire on the same day as the registered qualifying patient registry card expiration date.

(Source: Amended at 43 Ill. Reg. 5012, effective April 17, 2019)

**Section 946.220 Fingerprint-Based Criminal History Records Check (Repealed)**

~~No person convicted of an excluded offense shall be eligible to receive a registry identification card.~~

- a) ~~The Illinois State Police (ISP) will act as the Department's agent for purposes of receiving electronic fingerprints and conducting background checks of each qualifying patient and designated caregiver, if applicable, applying for a registry identification card.~~
- ~~1) The ISP will conduct background checks for conviction information contained within ISP and Federal Bureau of Investigation (FBI) criminal history databases to the extent allowed by law.~~
  - ~~2) For verification of any statutorily imposed duty to conduct background checks pursuant to the Act, ISP will transmit the results of the background check to the Department.~~
  - ~~3) The electronic background checks will be submitted as outlined in the Illinois Uniform Conviction Information Act or ISP rules at 20 Ill. Adm. Code 1265.30 (Electronic Transmission of Fingerprints).~~

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- b) ~~Each qualifying patient and designated caregiver, if applicable, applying for a registry identification card shall have his or her fingerprints collected electronically by a livescan vendor licensed by the Illinois Department of Financial and Professional Regulation, and transmitted to ISP for processing no more than 30 days prior to the date of application or renewal for a registry identification card. If the qualifying patient is under age 18 at the time of application, no fingerprint collection shall be necessary for the qualifying patient; however, the designated caregiver shall comply with the requirements of this Section.~~
- 1) ~~The qualifying patient or designated caregiver shall submit to the Department, with the registry card application or renewal, a copy of the livescan request form and the receipt provided by the livescan fingerprint vendor containing the Transaction Control Number (TCN) as proof that fingerprints have been collected.~~
  - 2) ~~Registry card applications submitted, except those for persons with a diagnosis of terminal illness in accordance with Section 946.25, without a copy of the livescan request form and receipt will be considered incomplete and will not be processed until fingerprinting is completed.~~
  - 3) ~~Any fees associated with the livescan fingerprint based criminal history records check shall be the responsibility of the individual seeking a registry identification card and will be collected by the livescan vendor at the time of fingerprinting.~~
  - 4) ~~If the fingerprints are rejected by ISP, the qualifying patient or designated caregiver shall have his or her fingerprints collected electronically by a licensed livescan vendor a second time.~~
  - 5) ~~If equipment malfunction or other special circumstances make electronic transmission of fingerprint data impractical, the Department will allow use of paper fingerprint records.~~
  - 6) ~~A qualifying patient who is unable to be fingerprinted due to an amputation, deformed or missing fingers, or fingerprints which are worn or missing due to age or illness, may seek a waiver from the livescan process from the Department by explaining in writing why a fingerprint~~

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~~background check cannot be processed. If approved, the Department will provide a name-based background check form.~~

- ~~A) The qualifying patient shall be responsible for all fees associated with the name-based background check.~~
- ~~B) Disability or immobility shall not be accepted as a reason for waiving the fingerprint background check.~~
- e) ~~The Department will obtain from ISP a State and federal criminal records check for each qualifying patient applying for a registry identification card and for each designated caregiver identified on a qualifying patient registry application.~~
- d) ~~The Department will maintain the results of the criminal history records check for the time period associated with the registry identification card or the registered qualifying patient and designated caregiver, if any, and in accordance with the State Records Act, after which the documentation shall be destroyed.~~
- e) ~~Denial of Application or Renewal~~
  - 1) ~~The Department may deny an application or renewal for a qualifying patient or a designated caregiver who has been convicted of an excluded offense in accordance with this subsection (e).~~
    - A) ~~Denial of a designated caregiver will not automatically result in the denial of a qualifying patient application.~~
    - B) ~~The qualifying patient shall identify a new designated caregiver within 15 days after receiving notice of the denial of his or her designated caregiver application or shall indicate that a designated caregiver is not required.~~
    - C) ~~The Department will not deny an application for a registry identification card based solely on the qualifying patient's or designated caregiver's conviction for an excluded offense for a violation of a State or federal controlled substance law that was classified as a felony if his or her conviction was for the possession, cultivation, transfer or delivery of a reasonable amount~~

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~~of cannabis intended for medical use and the termination of the last sentence was 10 or more years prior to application.~~

2) ~~Exception~~

~~If the qualifying patient or designated caregiver has been convicted of any excluded offenses, the Department may approve a registry identification card pursuant to this Part if the person demonstrates that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use. (Section 10(1)(1-5) of the Act) In determining whether to waive a conviction for excluded offenses, the Department will:~~

- ~~A) Review the criminal records and the qualifying patient's medical history to determine whether the patient had been diagnosed with the debilitating medical condition at the time of the offense; and~~
- ~~B) Determine whether the offense consisted of conduct for which, had it occurred on or after January 1, 2014, would likely have been protected by the Act and would likely not have resulted in a conviction.~~

3) ~~Qualifying Patients Under 18 Years of Age~~

- ~~A) Denial of a designated caregiver (custodial parent or legal guardian) because of an excluded offense will not automatically result in the denial of an application for a qualifying patient under 18.~~
- ~~B) The custodial parent or legal guardian shall identify a new designated caregiver within 15 days after receiving notice of the denial of his or her designated caregiver application. The custodial parent or legal guardian shall execute an Authorization and Consent form designating a person over 21 years of age to act as the designated caregiver for the qualifying patient under 18.~~

- ~~f) The Department will not waive convictions for violations of the medical cannabis laws of Illinois or any other State or jurisdiction.~~

(Source: Repealed at 43 Ill. Reg. 5012, effective April 17, 2019)

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**Section 946.235 Provisional Access to Licensed Dispensing Organizations**

- a) A person provided a written certification for a debilitating medical condition who has submitted a valid completed online application to the Department and his or her designated caregiver shall receive a provisional registration and shall be entitled to purchase medical cannabis from a specified licensed dispensing organization for a period of 90 days or until his or her application has been denied or he or she receives a registry identification card, whichever is earlier. (Section 55(b) of the Act)
- b) A person and his or her designated caregiver may obtain an additional provisional registration after the expiration of 90 days if the Department does not provide the individual with a registry identification card or deny the individual's application within those 90 days. The provisional registration may not be extended if the individual does not respond to the Department's request for additional information or corrections to required application documents. (Section 55(b) of the Act)
- c) In order for a person or his or her designated caregiver to receive medical cannabis under the provisional registration, a qualifying patient must present his or her provisional registration along with a valid Illinois driver's license or State identification card issued by the Illinois Secretary of State to the licensed dispensing organization specified in his or her application. (Section 55(b) of the Act)
- d) After verifying the patient's or his or her designated caregiver's provisional registration, the licensed dispensing organization shall dispense no more than 2.5 ounces of medical cannabis during a 14-day period for a period of 90 days, until the patient's application has been denied, or the patient receives a registry identification card from the Department, whichever comes first.
- e) A patient with a provisional registration must keep his or her provisional registration in his or her possession at all times when transporting or engaging in the use of medical cannabis. A designated caregiver must keep his or her provisional registration in his or her possession at all times when transporting medical cannabis on behalf of the registered qualifying patient.

(Source: Added at 43 Ill. Reg. 5012, effective April 17, 2019)

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**Section 946.240 Persons Receiving Medical Care at U.S. Department of Veterans Affairs Facilities**

- a) A qualifying patient who is *a veteran* or spouse of a veteran *who has received treatment at a VA hospital is deemed to have a bona-fide physician-patient relationship with a VA physician if the patient has been seen for his or her debilitating condition at the VA hospital in accordance with VA hospital protocols.* (Section 60 of the Act)
- b) A veteran or spouse of a veteran receiving care for a debilitating condition at a VA hospital shall not be required to submit a written certification from a physician.
- c) A veteran or spouse of a veteran receiving care for a debilitating condition at a VA hospital shall register with the Department on the Registry Identification Card application (see Section 946.200) and shall comply with all other requirements specified in this Part.
- d) To qualify for a patient registry identification card, a qualifying patient who is a veteran or spouse of a veteran and receiving medical care and treatment at a VA hospital shall:
  - 1) Be a resident of the State of Illinois, as defined in Section 946.200(c), at the time of application and remain a resident during participation in the program;
  - 2) Have a qualifying medical condition or be diagnosed with a terminal illness;
  - 3) Provide a copy of his or her official hospital medical records requested from the VA using VA Form 10-5345. The official hospital medical records shall indicate the diagnosis of a qualifying medical condition by a licensed physician;
  - 4) Provide a copy of his or her DD214 or equivalent certified document indicating character and dates of service, or if the spouse of a veteran, a copy of the veteran's documents as described; and

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- ~~5)~~ ~~Complete the fingerprint-based background check and not have been convicted of an excluded offense; and~~
- ~~56)~~ Be at least 18 years of age.

(Source: Amended at 43 Ill. Reg. 5012, effective April 17, 2019)

**Section 946.250 Disposal of Medical Cannabis by Qualifying Patients**

- a) A qualifying patient or designated caregiver or Opioid Alternative Pilot Program participant who is no longer registered with the Department or eligible for a registry identification card shall, within 10 calendar days after he or she ceases to be registered or eligible, return any unused medical cannabis in his or her possession to the law enforcement agency having local jurisdiction for destruction.
- b) A qualifying patient or designated caregiver or Opioid Alternative Pilot Program participant whose registration has been revoked by the Department shall, within 10 days after receiving notice of the revocation, return any unused medical cannabis in his or her possession to the law enforcement agency having local jurisdiction for destruction.
- c) A qualifying patient or designated caregiver or Opioid Alternative Pilot Program participant who is no longer registered with the Department shall not transfer, share, give, sell or deliver any unused medical cannabis in his or her possession to any other person, regardless of whether the person is participating in the Compassionate Use of Medical Cannabis Pilot Program.
- d) A qualifying patient or designated caregiver or Opioid Alternative Pilot Program participant shall not dispose of medical cannabis in any manner other than permitted under this Section.
- e) Disposal of medical cannabis pursuant to this Section or in compliance with this Section shall not constitute a violation of the Criminal Code of 2012.

(Source: Amended at 43 Ill. Reg. 5012, effective April 17, 2019)

**Section 946.270 Revocation of a Registry Identification Card**

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- a) The Department will revoke a registry identification card for any of the following reasons:
- 1) Submission of misleading, incorrect, false or fraudulent information in the application or renewal application;
  - 2) Fraudulent use of the registry identification card;
  - 3) Selling, distributing, transferring in any manner, or giving medical cannabis to any unauthorized person;
  - 4) Tampering with, falsifying, altering, modifying or duplicating a registry identification card for use by someone else;
  - 5) Non-payment of fees specified in Section 946.210 or non-response to the Department's request for information required for application of Qualifying Patients or Designated Caregivers~~Conviction of an excluded offense following the issuance of a registry identification card; or~~
  - 6) The registered qualified patient is deceased; ~~or~~
  - 7) A violation of any requirement of the Act. (Section 65(c)(6) of the Act)
- b) The Department will, based on the totality of the circumstances, either revoke or suspend a registry identification card based on the Department's review of the registered qualifying patient's infraction for:
- 1) Purchasing more medical cannabis than allowable under the Act or this Part from a registered dispensing organization;
  - 2) Failing to notify the Department within 10 business days after becoming aware that the registry identification card has been lost, stolen or destroyed; or
  - 3) Failing to notify the Department within 10 business days after a change in the information provided in the application for a registry identification card; ~~or~~
  - 4) Being convicted of a felony drug offense in Illinois or of a like violation of

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~~the laws of another state, the United States, or a military, territorial or Indian tribal authority.~~

- c) A registry identification card issued to a designated caregiver is void:
  - 1) When the registered qualifying patient or designated caregiver has notified the Department that the individual registered as the designated caregiver is no longer the designated caregiver for that patient;
  - 2) When the registered qualifying patient for whom the designated caregiver serves is no longer registered with the Department;
  - 3) Ten days after the death of the registered qualifying patient, to allow for appropriate disposal of medical cannabis in accordance with this Part.
- d) The Department shall notify the Office of Secretary of State of the revocation.
- e) A void registry identification card is inactive and invalid.

(Source: Amended at 43 Ill. Reg. 5012, effective April 17, 2019)

**Section 946.290 Extension or Renewal of Registry Identification Cards**

- a) Medical cannabis registry identification cards may be valid for up to three years.
- b) Extension. If the qualifying patient or designated caregiver who applied for and received a registry identification card that was approved for a 12-month period before September 12, 2016 seeks to extend his or her registry identification card for up to three years from the original effective date, the patient or caregiver shall complete ~~an extension form no more than a renewal application no less than~~ 45 days prior to the expiration date of the card. For the purpose of extending the registry identification card, it~~is~~ is not necessary to provide proof of Illinois residency ~~or~~; obtain a physician certification ~~or obtain a fingerprint background check~~. A fee is required in accordance with Section 946.210. The qualifying patient or designated caregiver may seek ~~extension a renewal~~ of the registry identification card for a period of one year or two years by paying the fee required by Section 946.210.

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- c) Renewal. At the end of every three-year period, no less than 45 days prior to the expiration of a registry identification card, the qualifying patient and designated caregiver, if one is indicated, may apply for a new registry identification card as follows:
- 1) Submit a completed renewal application for the qualifying patient and designated caregiver, if one is indicated, to the Department on the required forms and include:
    - A) One clear photocopy of a U.S. or State government-issued photo ID, such as a driver's license, as proof of identity;
    - B) Proof of Illinois residency by meeting the requirements specified in Section 946.200(c); ~~and~~
    - C) A signed and dated written physician's certification meeting the requirements of this Part and dated not more than ~~six months~~<sup>90</sup> ~~days~~ prior to the application renewal date. A qualifying patient who is a veteran or spouse of a veteran and receiving medical care for his or her qualifying medical condition at a VA hospital shall submit his or her official VA Medical Record instead of a written physician's certification;
    - D) At the end of every three-year period, a renewal application may be submitted for a one-, two-, or three-year period from the expiration date of the registry identification card;
    - E) If the registered qualifying patient does not have a caregiver, but would like to designate one, a caregiver application may be submitted at this time in accordance with the requirements of Section 946.200;
  - 2) Designate the medical cannabis dispensing organization where the qualifying patient will receive his or her medical cannabis; ~~and~~
  - 3) Pay the required application fee (see Section 946.210);~~;~~
  - 4) The renewal application may be for a period of one, two, or three years.

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- d) ~~If a qualified registered patient or designated caregiver who was issued a registry identification card for a period of one or two years after September 12, 2016 seeks to extend his or her registry identification card up to three years from the registry identification card's original effective date, he or she may complete a renewal application no less than 45 days before the expiration date. It is not necessary to provide proof of Illinois residency, obtain a physician certification or obtain a fingerprint background check. The qualifying patient or designated caregiver may seek a renewal of the registry identification card for a period of one year or two years by paying the fee required by Section 946.210.~~

(Source: Amended at 43 Ill. Reg. 5012, effective April 17, 2019)

## SUBPART C: PHYSICIAN REQUIREMENTS

**Section 946.300 Qualifications of the Certifying Physician**

- a) A doctor of medicine or osteopathy who has a current, valid license under the Medical Practice Act of 1987 and has a current valid controlled substances license under Article III of the Illinois Controlled Substances Act may issue a written certification for a qualifying patient if the physician:
- 1) Has a bona-fide physician-patient relationship with the qualifying patient. The bona-fide physician-patient relationship may not be limited to issuing a written certification for the patient or a consultation simply for that purpose.
  - 2) Complies with generally accepted standards of medical practice, the Medical Practice Act of 1987 and applicable State and federal rules specific to physician practice (e.g., HIPAA rules).
  - 3) Has responsibility for the ongoing care and treatment of the qualifying patient's debilitating condition, provided that the ongoing treatment and care shall not be limited to or for the primary purpose of certifying a debilitating medical condition or providing a consultation solely for that purpose.
  - 4) Has completed an in-person full assessment of the patient's medical history and current medical condition, including a personal physical examination, not more than 90 days prior to making the certification for

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medical cannabis. The assessment of the qualifying patient's current medical condition shall include, but not be limited to, symptoms, signs and diagnostic testing related to the debilitating medical condition.

- 5) Certifies that the qualifying patient is under the physician's care, either for the qualifying patient's primary care or for his or her debilitating medical condition or symptoms of a debilitating medical condition.
  - 6) Confirms that he or she completed an assessment for the qualifying patient's medical history, including reviewing medical records from other treating physicians from the previous 12 months.
- b) The physician shall not:
- 1) *Except as provided in subsection (c), accept, solicit, or offer any form of remuneration from or to a qualifying patient, primary caregiver, cultivation center, or dispensing organization, including each principal officer, board member, agent, and employee;*
  - 2) *Offer a discount or any other item of value to a qualifying patient who uses or agrees to use a particular primary caregiver or dispensing organization to obtain medical cannabis;*
  - 3) *Conduct a personal, in person, physical examination of a patient for purposes of diagnosing a debilitating medical condition at a location where medical cannabis is sold or distributed or at the address of a principal officer, agency, or employee or a medical cannabis organization;*
  - 4) *Hold a direct or indirect economic interest in a cultivation center or dispensing organization if he or she recommends the use of medical cannabis to qualified patients or is in a partnership with a physician who recommends medical cannabis;*
  - 5) *Serve on the board of directors or as an employee of a cultivation center or dispensing organization;*

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- 6) *Refer qualifying patients to a cultivation center, a dispensing organization, or an individual who seeks to become a designated caregiver;*
- 7) *Advertise in a cultivation center or a dispensing organization. (Section 35 of the Act)*
- c) *The physician may accept payment from a qualifying patient for the fee associated with the personal physical examination required prior to issuing the written certification for the qualifying patient. (Section 35 of the Act)*
- d) Physician Certification
  - 1) *A physician who certifies a debilitating medical condition for a qualifying patient may notify the Department of Public Health in writing:*
    - A) *if the physician has reason to believe that the registered qualifying patient has ceased to suffer from a debilitating medical condition;*
    - B) *that the bona-fide physician-patient relationship has terminated;*  
*or*
    - C) *that continued use of medical cannabis would result in contraindication with the patient's other medication.*
  - 2) *The registered qualifying patient's registry identification card shall be revoked by the Department of Public Health after receiving the physician's notification. (Section 35 of the Act)*
  - 3) *The physician's notification shall be in writing on the physician's letterhead and shall include the full name, date of birth, and reason for revoking the written certification.*
  - 4) *The Department shall notify the registered qualifying patient, in writing or electronic notification, that the physician has revoked the written certification and the registry identification card has been revoked.*

(Source: Amended at 43 Ill. Reg. 5012, effective April 17, 2019)

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**Section 946.310 Physician Written Certification for the Medical Cannabis Pilot Program**

- a) A certification confirming the patient's debilitating medical condition shall be written on a form provided by the Department and shall include, at minimum, the following:
- 1) The qualifying patient's name, date of birth, home address and primary telephone number;
  - 2) The physician's name, address, telephone number, e-mail address, medical license number, indication of specialty or primary area of clinical practice, if any, and active controlled substances license under the Illinois Controlled Substances Act;
  - 3) The length of time the qualifying patient has been under the care of the physician;
  - 4) The qualifying patient's debilitating medical condition;
  - 5) A statement that the physician has confirmed a diagnosis of a debilitating medical condition; is treating or managing treatment of the patient's debilitating condition; has a bona-fide physician-patient relationship; has conducted an in-person physical examination; has conducted a review of the patient's medical history, including reviewing medical records from other treating physicians, if any, from the previous 12 months; ~~and~~
  - 6) The physician's signature and date of certification; and-
  - 7) *A statement that a participant in possession of a written certification indicating a debilitating medical condition shall not be considered an unlawful user or addicted to narcotics solely as a result of his or her pending application to or participation in the Compassionate Use of Medical Cannabis Program. (Section 36 of the Act)*
- b) The physician written certification does not constitute a prescription for medical cannabis.
- c) Applications for qualifying patients under 18 years old shall require a written certification from a physician and a reviewing physician. A written certification

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for a reviewing physician is not required for persons under 18 years old who have been diagnosed with a terminal illness.

- d) It is unlawful for any person to knowingly submit a fraudulent certification to be a qualifying patient in the Compassionate Use of Medical Cannabis Pilot Program or a qualifying Opioid Alternative Pilot Program participant. A violation of this subsection shall result in the person who has knowingly submitted the fraudulent certification being permanently banned from participating in the Compassionate Use of Medical Cannabis Pilot Program or the Opioid Alternative Pilot Program. (Section 36 of the Act)

(Source: Amended at 43 Ill. Reg. 5012, effective April 17, 2019)

**Section 946.315 Waiver for Increasing the Adequate Supply of Medical Cannabis**

*A patient may apply for a waiver where a physician provides a substantial medical basis in a signed, written statement asserting that, based on the patient's medical history, in the physician's professional judgment, 2.5 ounces is an insufficient adequate supply for a 14-day period to properly alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. (Section 10(a)(2) of the Act)*

- a) The waiver recommendation shall be on a form provided by the Department. The waiver recommendation shall be completed by the physician who issued the physician certification for the registered qualifying patient. If the waiver recommendation is not completed by the physician who issued the original written certification for the registered qualifying patient, the new physician must complete a written certification that includes an in-person office visit not more than 90 days prior to the date of the waiver recommendation.
- b) The waiver shall describe in the physician's professional opinion why 2.5 ounces is an insufficient adequate supply for a 14-day period.
- c) The waiver shall describe how the qualifying patient will benefit from an increased supply.
- d) The waiver shall include a statement by the physician indicating the amount of medical cannabis that would be a sufficient supply for the qualifying patient's debilitating medical condition.

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- e) If the Department approves the waiver, the amount of medical cannabis recommended by the physician shall be noted on the registry identification card.
- f) The waiver recommendation does not constitute a prescription for medical cannabis.

(Source: Amended at 43 Ill. Reg. 5012, effective April 17, 2019)

## SUBPART D: CANNABIS-INFUSED PRODUCTS

**Section 946.400 Manufacture of Cannabis-Infused Products**

- a) The Department will conduct, no more than 30 days prior to the start of the manufacturing of cannabis-infused products, a pre-operational inspection at all registered cultivation centers to determine whether the facilities, methods, practices and controls used in the manufacture, processing or holding of cannabis-infused products conform to or are operated or administered in conformity with good manufacturing practices to ensure that products for human consumption are safe and have been prepared, packed and held under sanitary conditions.
  - 1) Registered cultivation centers shall allow the Department to inspect the premises and all utensils, fixtures, furniture, machinery and devices used for preparing cannabis-infused products.
  - 2) The Department will conduct pre-operational inspections of registered cultivation centers with regard to the manufacture and preparation of cannabis-infused products under the authority of the Illinois Food, Drug and Cosmetic Act and the Food Handling Regulation Enforcement Act and the Food Service Sanitation Code.
  - 3) If a registered cultivation center ceases manufacturing cannabis-infused products for a period of 180 days or more, the Department shall be contacted to request a pre-operational inspection prior to restarting manufacturing operations.
  - 4) A registered cultivation center shall not manufacture, process, or package cannabis-infused products designed for human consumption at same time and on the same surfaces as products not designated for human consumption.

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- b) *A cultivation center that prepares cannabis-infused products for sale or distribution at a dispensing organization shall be under the operational supervision of a certified food service sanitation manager. (Section 80(a)(6) of the Act) Management responsibilities and supervision shall be in accordance with 77 Ill. Adm. Code 730.8000 and 730.8040 (Manufacturing, Processing, Packing or Holding of Food Code).*
- c) *All items shall be individually wrapped or packaged at the original point of preparation. Smaller like items such as hard candies or cookies may be packaged into larger quantities in a single wrapped package.*
- 1) *The packaging of the medical cannabis-infused product shall conform to the labeling requirements of the Illinois Food, Drug and Cosmetic Act and shall include the following information in English on each product offered for sale or distribution:*
- A) *The name and address of the registered cultivation center where the item was manufactured;*
- B) *The common or usual name of the item;*
- C) *All ingredients of the item, including any colors, artificial flavors, and preservatives, listed in descending order by predominance of weight shown with common or usual names;*
- D) *The following phrase: "This product was produced in a medical cannabis cultivation center, not subject to public health inspection, that may also process common food allergens.";*
- E) *Allergen labeling as specified in the Federal Food, Drug and Cosmetic Act, Federal Fair Packaging and Labeling Act, and the Illinois Food, Drug and Cosmetic Act;*
- F) *The pre-mixed total weight (in ounces or grams) of usable cannabis in the food product;*

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- G) *A warning that the item is a medical cannabis-infused product and not a food must be distinctly and clearly legible on the front of the package;*
- H) *A clearly legible warning emphasizing that the product contains medical cannabis and is intended for consumption by registered qualifying patients only; and*
- I) *Date of manufacture and "use by" date. (Section 80(a) of the Act)*
- 2) Signage may be translated into additional languages as needed.
- d) The Department may institute additional labeling requirements for cannabis-infused products, including, but not limited to, measures of potency.

(Source: Amended at 43 Ill. Reg. 5012, effective April 17, 2019)

SUBPART F: OPIOID ALTERNATIVE PILOT PROGRAMSection 946.600 Registration for the Opioid Alternative Pilot Program

- a) The Opioid Alternative Pilot Program shall be limited to participation by Illinois residents age 21 and older.
- b) A patient who has been issued a written physician certification in accordance with Section 946.620 and who seeks to use medical cannabis under the Opioid Alternative Pilot Program shall register with the Department online.
- c) To qualify for the Opioid Alternative Pilot Program, a patient shall:
- 1) Be a resident of the State of Illinois, as defined in subsection (d), at the time of application and remain a resident during participation in the program;
- 2) Have a signed, written certification meeting the requirements of Section 946.620; and

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- 3) Pay a co-payment of \$10 for the initial 90-day registration for the Opioid Alternative Pilot Program and a co-payment of \$10 for each subsequent registration period.
- d) Residency. For purposes of this Part, the patient shall be a resident of the State of Illinois if the individual:
  - 1) Physically resides in the State of Illinois at the time of registration and throughout the enrollment period.
  - 2) Provides proof of Illinois residency by submitting a color copy of a valid, unexpired Illinois Driver's License, Illinois Temporary Visitor Driver's License, or other State identification card issued by the Illinois Secretary of State in the name of the applicant in accordance with the Illinois Identification Card Act and one of the following items:
    - A) Pay stub or electronic deposit receipt, issued less than 60 days prior to the application date, that shows evidence of the applicant's withholding for State income tax;
    - B) Valid voter registration card with an address in Illinois;
    - C) Current military identification card;
    - D) Bank statement (dated less than 90 days prior to application) or cancelled bank check or deposit slip showing the patient's full name and address, or credit card statement (dated less than 60 days prior to application);
    - E) Deed/title, mortgage or rental/lease agreement, property tax bill;
    - F) Insurance policy (current coverage for automobile, homeowner's, health or medical, or renter's);
    - G) Medical claim or statement of benefits (from a hospital or health clinic or private insurance company or public (government) agency, dated less than 12 months prior to application);

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- H) Tuition invoice/official mail from college or university, dated less than the 12 months prior to application;
  - D) Utility bill, including, but not limited to, those for electric, water, refuse, telephone land-line, cellular phone, cable or gas, issued less than 60 days prior to application; or
  - J) W-2 form from the most recent tax year.
- 3) The address on the documentation provided shall match the address on the application.
- e) To register with the Opioid Alternative Pilot Program, a patient shall submit a completed electronic application to the Department, which shall include, at a minimum, the following items:
- 1) Written certification for the use of medical cannabis, meeting the requirements of this Part, issued by a physician who meets the requirements set forth in the Act and the Medical Practice Act of 1987 and dated less than 30 days prior to the registration;
  - 2) Valid, unexpired Illinois Driver's License, Illinois Temporary Visitor Driver's License, or other State identification card issued by the Illinois Secretary of State in the name of the applicant in accordance with the Illinois Identification Card Act;
  - 3) Proof of Illinois residency of the qualifying patient, as specified in subsection (d);
  - 4) Photograph of the patient as follows:
    - A) Current digital passport-size photograph, taken no more than 30 calendar days before the submission of the application;
    - B) Taken against a plain, light-colored background or backdrop;
    - C) At least 2 inches by 2 inches in size;
    - D) In natural color; and

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- E) That provides an unobstructed front view of the full face. A full-faced photograph must be taken without any obstruction of the applicant's facial features or any items covering any portion of the face. Prescription glasses and religious head coverings not covering any areas of the open face will be allowed. Head coverings for persons diagnosed and undergoing treatment for cancer are allowed;
- 5) Designation of the medical cannabis dispensing organization where the patient will receive his or her medical cannabis. Only one medical cannabis dispensing organization may be selected during each 90-day registration for the Opioid Alternative Pilot Program; and
- 6) Payment of a registration co-payment of \$10 for the initial registration in the Opioid Alternative Pilot Program.
- f) *An Opioid Alternative Pilot Program participant shall not be registered as a medical cannabis cardholder. (Section 62 of the Act)*
- g) A patient enrolled in the Opioid Alternative Pilot Program who submits an application to the Department for a medical cannabis registry identification card shall cease to be registered with the Opioid Alternative Pilot Program immediately upon submission of the application and associated fee.
- h) Opioid Alternative Pilot Program participants shall notify the Department of changes in the participant's name or address.

(Source: Added at 43 Ill. Reg. 5012, effective April 17, 2019)

**Section 946.610 Medical Cannabis Dispensing Organizations**

- a) A patient may seek from a licensed medical cannabis dispensing organization assistance with registration for the Opioid Alternative Pilot Program using the Department's online registration system. The patient shall not pay a fee to the medical cannabis dispensing organization for assistance with the registration process.

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- b) The patient shall allow the medical cannabis dispensing organization to verify the patient's valid certification and registration, prior to dispensing medical cannabis in amounts not to exceed 2.5 ounces of medical cannabis per 14-day period.
- c) The patient shall allow the medical cannabis dispensing organization to verify the patient is not an active registered qualifying patient prior to assisting the patient with registration for the Opioid Alternative Pilot Program and each time medical cannabis is dispensed.

(Source: Added at 43 Ill. Reg. 5012, effective April 17, 2019)

**Section 946.620 Physician Certification for Opioid Alternative Pilot Program**

- a) A certification confirming the patient's eligibility to participate in the Opioid Alternative Pilot Program shall be written on a form provided by the Department or submitted electronically and shall include, at minimum, the following:
- 1) The qualifying patient's name, date of birth, home address and primary telephone number;
  - 2) The physician's name, address, telephone number, e-mail address, medical license number, and active controlled substances license under the Illinois Controlled Substances Act and an indication of specialty or primary area of clinical practice, if any;
  - 3) The length of time the patient has been under the care of the physician;
  - 4) The patient's diagnosis and a statement identifying the patient has been diagnosed with, and is currently undergoing treatment for, a medical condition for which an opioid has been or could be prescribed (Section 36(d)(5) of the Act);
  - 5) A statement that the physician is treating or managing treatment of the patient's health care; has a bona-fide physician-patient relationship; has conducted an in-person physical examination; and has conducted a review of the patient's medical history, including reviewing medical records from other treating physicians, if any, from the previous 12 months;
  - 6) The physician's signature and date of certification. (Section 36 of the Act)

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- 7) *A statement that a participant in possession of a written certification indicating eligibility to participate in the Opioid Alternative Pilot Program shall not be considered an unlawful user or addicted to narcotics solely as a result of his or her pending application to, or participation in the Compassionate Use of Medical Cannabis Program. (Section 36 of the Act)*
- b) *The certification for confirming the patient's eligibility to participate in the Opioid Alternative Pilot Program does not constitute a prescription for medical cannabis.*
- c) *The physician certification for the Opioid Alternative Pilot Program shall be valid for 90 days after the date of the physician's signature.*
- d) *If the physician determines the patient would benefit from continued enrollment in the Opioid Alternative Pilot Program after the conclusion of 90 days, the physician may issue another written certification for the patient after conducting an in-person office visit. The new written certification shall be issued no sooner than 30 days prior to the expiration of the current written certification. The new 90-day period shall begin immediately after the expiration of the current written certification period.*
- e) *It is unlawful for any person to knowingly submit a fraudulent certification to be a qualifying patient in the Compassionate Use of Medical Cannabis Pilot Program or a qualifying Opioid Alternative Pilot Program participant. A violation of this subsection shall result in the person who has knowingly submitted the fraudulent certification being permanently banned from participating in the Compassionate Use of Medical Cannabis Pilot Program or the Opioid Alternative Pilot Program. (Section 36 of the Act)*

(Source: Added at 43 Ill. Reg. 5012, effective April 17, 2019)

**Section 946.630 Fees**

- a) *The fee for the initial 90-day registration in the Opioid Alternative Pilot Program shall be \$10. The fee for each subsequent 90-day registration period shall be \$10.*
- b) *Fees shall be paid by credit card or debit card. Cash shall not be accepted. All fees submitted to the Department shall be non-refundable.*

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(Source: Added at 43 Ill. Reg. 5012, effective April 17, 2019)

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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 Actions:</u>
130.320	Amendment
130.330	Amendment
130.501	Amendment
130.701	Amendment
- 4) Statutory Authority: 35 ILCS 120/12; 20 ILCS 2505/2505-795
- 5) Effective Date of Rules: April 17, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 8404; May 25, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. Only grammatical and technical changes were made. No substantive changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u><i>Illinois Register</i> Citations:</u>
130.801	Amendment	43 Ill. Reg. 1251; January 18, 2019
130.901	Amendment	43 Ill. Reg. 1251; January 18, 2019

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- 15) Summary and Purpose of Rulemaking: This rulemaking amends 86 Ill. Adm. Code 130.320 to reflect the provisions of PA 100-22, which repealed the exemption for gasohol and modified the exemptions for majority blended ethanol and certain biodiesel blends. Effective July 2, 2018, the 20% exemption for gasohol is repealed. The 100% exemptions for majority blended ethanol and pure biodiesel and biodiesel blends with more than 10% but no more than 99% biodiesel are extended until December 31, 2023 (they had previously been set to expire on December 31, 2018).

This rulemaking amends the Department's regulation at 86 Ill. Adm. Code 130.330 entitled Manufacturing Machinery and Equipment to reflect the changes made to the Retailers' Occupation Tax Act pursuant to PA 100-22, which provides that beginning July 1, 2017, the manufacturing machinery and equipment exemption includes machinery and equipment used primarily in graphic arts production.

The rulemaking amends 86 Ill. Adm. Code 130.501 to reflect several amendments to the Retailers' Occupation Tax Act contained in PA 100-303. On and after January 1, 2018, except for returns for motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, retailers whose annual gross receipts average \$20,000 or more must file electronically all returns required to be filed pursuant to the Retailers' Occupation Tax Act. Retailers who demonstrate that they do not have access to the Internet or demonstrate hardship in filing electronically may petition the Department to waive the electronic filing requirement. The Act currently allows retailers a discount of 1.75% or \$5 per calendar year, whichever is greater, to reimburse retailers for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. The discount is not allowed in any case in which tax is paid late, whether or not a return was filed. PA 100-303 also disallows the discount when returns that are not filed in the manner prescribed in the Act, for example, are not filed electronically by retailers with gross receipts that average \$20,000 or more.

This rulemaking amends the Department's regulation at 86 Ill. Adm. Code 130.701, General Information on Obtaining a Certificate of Registration, which is being made pursuant to PA 100-302. PA 100-302 amended the Retailers' Occupation Tax Act to provide that certificates of registration that are issued or renewed on or after July 1, 2017 shall expire one year (currently, 5 years) after the issuance or last renewal of that certificate of registration.

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

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Debra M. Boggess  
Associate Counsel  
Legal Services Office  
Illinois Department of Revenue  
101 West Jefferson  
Springfield IL 62794

217/782-2844

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

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## TITLE 86: REVENUE

## CHAPTER I: DEPARTMENT OF REVENUE

## PART 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
130.311	Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products
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 Flights Engaged in Foreign Trade or Engaged in Trade Between the United States and any of its Possessions
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment

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130.331	Manufacturer's Purchase Credit
130.332	Automatic Vending Machines
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 Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

## SUBPART D: GROSS RECEIPTS

## Section

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
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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].

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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 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,

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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, 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; amended at 35 Ill. Reg. 2169, effective January 24, 2011; amended at 36 Ill. Reg. 6662, effective April 12, 2012; amended at 38 Ill. Reg. 12909, effective June 9, 2014; amended at 38 Ill. Reg. 17060, effective July 25, 2014; amended at 38 Ill. Reg. 17421, effective July 31, 2014; amended at 38 Ill. Reg. 17756, effective August 6, 2014; amended at 38

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Ill. Reg. 19998, effective October 1, 2014; amended at 39 Ill. Reg. 1793, effective January 12, 2015; amended at 39 Ill. Reg. 12597, effective August 26, 2015; amended at 39 Ill. Reg. 14616, effective October 22, 2015; amended at 40 Ill. Reg. 6130, effective April 1, 2016; amended at 40 Ill. Reg. 13448, effective September 9, 2016; amended at 41 Ill. Reg. 10721, effective August 1, 2017; amended at 42 Ill. Reg. 2850, effective January 26, 2018; amended at 43 Ill. Reg. 4201, effective March 20, 2019; amended at 43 Ill. Reg. 5069, effective April 17, 2019.

## SUBPART C: CERTAIN STATUTORY EXEMPTIONS

**Section 130.320 Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel**

- a) Effective January 1, 1990 and prior to July 1, 2003, sales of *gasohol, as defined in Section 3-40 of the Use Tax Act*, are subject to tax, based upon 70% of the proceeds of sales. On and after July 1, 2003 and on or before [July 1, 2017](#)~~December 31, 2018~~, tax shall be based upon 80% of the proceeds from sales of gasohol. On and after January 1, 2019, tax shall be based upon 100% of the proceeds of sales of gasohol. *Effective July 1, 2003, if at any time the tax under the Act on sales of gasohol is imposed at the rate of 1.25%, then the tax imposed by the Act applies to 100% of the proceeds of sales of gasohol made during that time.* (Section 2-10 of the Retailers' Occupation Tax Act (ROTA))
- b) *With respect to majority blended ethanol fuel, as defined in Section 3-44 of the Use Tax Act, the tax imposed by ROTA does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, ~~2023~~2018, but applies to 100% of the proceeds of sales made thereafter.* (Section 2-10 of ROTA)
- c) *With respect to biodiesel blends, as defined in Section 3-42 of the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by ROTA applies to 80% of the proceeds of sales made on or after July 1, 2003 and on or before December 31, 2018 and 100% of the proceeds of sales made thereafter. If at any time, however, the tax under ROTA on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by ROTA applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time.* (Section 2-10 of ROTA)
- d) *With respect to 100% biodiesel, as defined in Section 3-41 of the Use Tax Act, and biodiesel blends, as defined in Section 3-42 of the Use Tax Act, with more*

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*than 10% but no more than 99% biodiesel, the tax imposed by ROTA does not apply to the proceeds of sales made on or after July 1, 2003 and on or before December 31, ~~2023~~2018, but applies to 100% of the proceeds of sales made thereafter. (Section 2-10 of ROTA)*

(Source: Amended at 43 Ill. Reg. 5069, effective April 17, 2019)

**Section 130.330 Manufacturing Machinery and Equipment**

- a) General. Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax does not apply to sales of *machinery and equipment that will be used by the purchaser, or a lessee of the purchaser, primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether the sale or lease is made directly by the manufacturer or by some other person. [35 ILCS 120/2-5(14)]* ~~machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. The exemption applies whether the sale or lease is made directly by the manufacturer or some other person.~~ In certain cases, purchases of machinery and equipment by a lessor will be exempt even though that lessor does not itself employ the machinery and equipment in an exempt manner. *Beginning July 1, 2017, the exemption includes machinery and equipment used primarily in graphic arts production, more fully explained in subsection (h). The manufacturing machinery and equipment exemption is not subject to the sunset provisions contained in the Use Tax Act, Service Use Tax Act, Service Occupation Tax Act and Retailers' Occupation Tax Act. (Section 2-45 of ROTA)*
- b) Manufacturing and Assembling-
- 1) This exemption exempts from tax only machinery and equipment used in manufacturing or assembling tangible personal property for sale or lease. Thus, the use of machinery and equipment in any industrial, commercial or business activity that may be distinguished from manufacturing or assembling will not be an exempt use and the machinery and equipment will be subject to tax.
  - 2) The manufacturing process is the production of any article of tangible personal property, whether the article is a finished product or an article for use in the process of manufacturing or assembling a different article of

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tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating or refining that changes some existing material or materials into a material with a different form, use or name. These changes must result from the process in question and be substantial and significant.

- 3) The process or activity must be commonly regarded as manufacturing. To be so regarded, it must be thought of as manufacturing by the general public. Generally, the scale, scope and character of a process or operation will be considered to determine if the process or operation is commonly regarded as manufacturing. Manufacturing includes such activities as processing, fabricating and refining.
- 4) Manufacturing generally does not include extractive industrial activities. Logging and drilling for oil, gas, and water neither produce articles of tangible personal property nor effect any significant or substantial change in the form, use or name of the materials or resources upon which they operate. However, the extractive processes of mining or quarrying may constitute manufacturing. See *Nokomis Quarry Co. v. Department of Revenue*, 295 Ill. App. 3d 264, 692 N.E.2d 855, 860 (5<sup>th</sup> Dist. 1998) (holding that a calculated blasting method that is performed with specific desired results, which changes limestone deposits into materials with a different form, possessing new qualities or combinations, constitutes manufacturing). Blasting agents, high explosives, detonators, lead-in line and blasting machines are examples of exempt tangible personal property that is often used in the extractive process of quarrying. Equipment used primarily to drill and load holes to place blasting material that fractures aggregate qualifies as manufacturing machinery and equipment. Dredges that are used primarily in a sand and gravel mining operation to pick up and sort materials from a riverbed also qualify for the exemption. Equipment, such as crawler dozers, used primarily to move shot rock after blasting, and wheel loaders, used primarily to load the mined product into off-highway haulage trucks for transport to the crusher-sorter machine, will qualify for the exemption. In addition, wheel loaders used to transport the mined product to the crusher-sorter machine or onto a conveyor system will qualify for the exemption. Machinery and equipment used primarily in activities, such as crushing, washing, sizing and blending, will qualify for the exemption, if the process results in the assembling of an article of tangible personal property with a different form

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than the material extracted, which possesses new qualities or combinations. Other types of mining and quarrying equipment may be exempt under this subsection (b)(4) if used in qualifying activities. (See subsections (c) and (d).)

- 5) ~~Through June 30, 2017, the~~The printing process is not commonly regarded as manufacturing ~~and court decisions have found that printing is not manufacturing.~~ Therefore, machinery and equipment used in any printing application will not qualify for exemption. This includes graphic arts, newspapers, books, etc., as well as other industrial or commercial applications. ~~(However, see Section 130.325 for the Graphic Arts Machinery and Equipment Exemption.)~~
- 6) Agricultural, horticultural and related, similar or comparable activities, including commercial fishing, beekeeping, production of seedlings or seed corn, and the development of hybrid seeds, plants or shoots, are not manufacturing or assembling and, accordingly, machinery and equipment used in such activities is subject to tax. (However, see Section 130.305 for the Farm Machinery and Equipment Exemption.)
- 7) The preparation of food and beverages by restaurants, food service establishments, and other retailers is not manufacturing.
- 8) Assembling means the production of any article of tangible personal property, whether that article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling that results in a material of a different form, use or name.
- 9) Effective September 1, 1988 manufacturing includes photoprocessing if the products of photoprocessing are sold. Machinery and equipment that would qualify for exemption includes, but are not limited to, developers, dryers, enlargers, mounting machines, roll film splicers, film developing image makers, disc film opening and spindling devices, film indexers, photographic paper exposure equipment, photographic paper developing machines, densitometers, print inspection devices, photo print/negative cut assembly stations, film sleeve insertion machines, negative image producers, film coating equipment, photo transparency mounters,

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processor rack sanitizers, photo print embossers, photo print mounting presses, graphic slide generators, chemical mixing equipment and paper exposure positioning and holding devices, etc. Cameras and equipment used to take pictures or expose film are not eligible as the photoprocessing begins after the film is exposed. Retail/net price calculation equipment and chemical reclamation equipment are not considered to be manufacturing machinery and equipment.

## c) Machinery and Equipment

- 1) The law exempts only the purchase and use of "machinery" and "equipment" used in manufacturing or assembling. Accordingly, no other type or kind of tangible personal property will qualify for the exemption, even though it may be used primarily in the manufacturing or assembling of tangible personal property for sale or lease.
- 2) Machinery means major mechanical machines or major components of such machines contributing to a manufacturing or assembling process: *including, machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment.*
- 3) *Equipment includes any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembling process: including computers used primarily in operating exempt machinery and equipment in a computer-assisted design, computer-assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct, or attachment, parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds, and any parts which require periodic replacement in the course of normal operation. Beginning August 23, 2001, equipment includes computers used primarily in a manufacturer's computer-assisted design, computer-assisted manufacturing (CAD/CAM) system. For example, beginning August 23, 2001, a computer used by a manufacturer 25% of the time in operating exempt machinery and equipment (computer assisted manufacturing – CAM) and 75% of the time in design (computer assisted design – CAD) will now qualify for the exemption. Prior to August 23, 2001, a computer used in the manner described in the preceding sentence would not have qualified for the exemption because it*

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did not primarily (over 50% of the time) operate exempt machinery and equipment. *The exemption does not include hand tools, supplies (such as rags, sweeping or cleaning compounds), coolants, lubricants, adhesives, or solvents, items of personal apparel (such as gloves, shoes, glasses, goggles, coveralls, aprons, masks, mask air filters, belts, harnesses, or holsters), coal, fuel oil, electricity, natural gas, artificial gas, steam, refrigerants or water.* (Section 2-45 of the Act)

- 4) The exemption includes the sale of materials to a purchaser who manufactures the materials into an exempted type of machinery or equipment or tools that the purchaser uses in the manufacturing of tangible personal property or leases to a manufacturer of tangible personal property. However, the purchaser must maintain adequate records clearly demonstrating the incorporation of these materials into exempt machinery and equipment.
- 5) Machinery and equipment does not include foundations for, or special purpose buildings to house or support, machinery and equipment.
- 6) *The exemption includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for sale or lease.* (Section 2-45 of the Act) The following examples are illustrative:
  - A) Example 1. A chemical acid is used to etch copper off the surface of a printed circuit board during the manufacturing process. The acid causes a direct and immediate change upon the product. The acid qualifies for the exemption.
  - B) Example 2. An aluminum oxide catalyst is used in a catalytic cracking process to refine heavy gas oil into gasoline. In this process, large molecules of gas oil or feed are broken up into smaller molecules. After the catalyst is injected into the feed and used in the cracking process, it is drawn off and reused in subsequent manufacturing processes. The catalyst qualifies for the exemption.

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- 7) *The exemption does not include machinery and equipment used in the generation of electricity for wholesale or retail sale; the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. [35 ILCS 120/2-45] (The provisions set forth in this subsection (c)(7) were established by Public Act 98-0583, which states that the provisions are declaratory of existing law as to the meaning and scope of this exemption.)*
- 8) *The exemption includes computer software used to operate exempt machinery and equipment used in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease. [35 ILCS 120/2-25]*
- d) Primary Use
- 1) The law requires that machinery and equipment be used primarily in manufacturing or assembling. Therefore, machinery that is used primarily in an exempt process and partially in a nonexempt manner would qualify for exemption. However, the purchaser must be able to establish through adequate records that the machinery or equipment is used over 50 percent in an exempt manner in order to claim the deduction.
- 2) The fact that particular machinery or equipment may be considered essential to the conduct of the business of manufacturing or assembling because its use is required by law or practical necessity does not, of itself, mean that machinery or equipment is used primarily in manufacturing or assembling.
- 3) By way of illustration and not limitation, the following activities will generally be considered to constitute an exempt use:
- A) The use of machinery or equipment to effect a direct and immediate physical change upon the tangible personal property to be sold;
- B) The use of machinery or equipment to guide or measure a direct and immediate physical change upon the tangible personal

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property to be sold, provided this function is an integral and essential part of tuning, verifying, or aligning the component parts of such property;

- C) The use of machinery or equipment to inspect, test or measure the tangible personal property to be sold where the function is an integral part of the production flow;
  - D) The use of machinery and equipment to convey, handle, or transport the tangible personal property to be sold within production stations on the production line or directly between the production stations or buildings within the same plant;
  - E) The use of machinery or equipment to place the tangible personal property to be sold into the container, package, or wrapping in which this property is normally sold when the machinery or equipment is used as a part of an integrated manufacturing process;
  - F) The production or processing of food, including the use of baking equipment such as ovens to bake bread or other bakery items, whether that baking is performed by a central bakery or a retail grocery store;
  - G) The use of machinery or equipment such as buffers, builders, or vulcanizing equipment to retread tires, whether or not the tire casing is provided by the purchaser.
- 4) By way of illustration and not limitation, the following activities will generally not be considered to be manufacturing:
- A) The use of machinery or equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate;
  - B) The use of machinery or equipment in research and development of new products or production techniques, machinery or equipment;
  - C) Except as provided in subsection (h)(4)(B), the~~The~~ use of

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machinery or equipment to store, convey, handle or transport materials or parts or sub-assemblies prior to their entrance into the production cycle;

- D) The use of machinery or equipment to store, convey, handle or transport finished articles of tangible personal property to be sold or leased after completion of the production cycle;
- E) The use of machinery or equipment to transport work in process, or semifinished goods, between plants;
- F) The use of machinery or equipment in managerial, sales, or other nonproduction, nonoperational activities including disposal of waste, scrap or residue, inventory control, production scheduling, work routing, purchasing, receiving, accounting, fiscal management, general communications, plant security, sales, marketing, product exhibition and promotion, or personnel recruitment, selection or training;
- G) The use of machinery or equipment to prevent or fight fires or to protect employees, such as protective equipment face masks, helmets, gloves, coveralls, and goggles or for safety, accident protection or first aid, even though the machinery or equipment may be required by law;
- H) The use of machinery or equipment for general ventilation, heating, cooling, climate control or general illumination, not required by the manufacturing process;
- I) The use of machinery or equipment in the preparation of food and beverages by a retailer for retail sale, i.e., restaurants, vending machines, food service establishments, ~~etc.~~;
- J) The use of machinery or equipment used in the last step of the retail sale. Examples are paint mixing equipment used by a hardware store, embroidery or monogramming machines used by tee-shirt retailers and a sewing machine used to hem garments sold by a clothing store.

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- 5) An item of machinery or equipment that initially is used primarily in manufacturing or assembling and having been so used for less than one-half of the useful life is converted to primarily nonexempt uses will become subject to tax at the time of the conversion, allowing for reasonable depreciation on the machinery or equipment. ~~The tax will be collected on the portion of the price of the machinery or equipment that was excluded from tax at the time the sale or purchase was made.~~
- e) Product Use
- 1) The statute requires that the product produced as a result of the manufacturing or assembling process be tangible personal property for sale or lease. Accordingly, a manufacturer or assembler who uses any significant portion of the output of its machinery or equipment, either for internal consumption or any other nonexempt use, or a lessor who leases otherwise exempt machinery and equipment to such a manufacturer or assembler, will not be eligible to claim the exemption on that machinery and equipment. No apportionment of production capacity between output for sale or lease and output for self-use will be permitted and no partial exemption for any item of machinery and equipment will be allowed.
- 2) The production of articles of tangible personal property for sale, a portion of which is diverted by the manufacturer of the property to use as sales samples or as the subjects of quality control testing that renders the articles unfit for sale, will nevertheless be deemed to be production for sale, provided this diversion represents only a small portion of the production of the articles of tangible personal property or of the sale of those articles.
- 3) Machinery and equipment used in the performance of a service, such as dry cleaning, is not used in the production of tangible personal property for sale and is thus taxable. However, a manufacturer or assembler who uses machinery and equipment to produce goods for sale or lease by itself or another, or to perform assembly or fabricating work for a customer who retains the manufacturer or assembler only for its services, will not be liable for tax on the machinery and equipment it uses as long as the goods produced either for itself or another are destined for sale or lease, rather than for use and consumption.
- f) Sales to Lessors of Manufacturers

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- 1) For this exemption to apply, the purchaser need not itself employ the exempt machinery or equipment in manufacturing. If the purchaser leases that machinery or equipment to a lessee-manufacturer who uses it in an exempt manner, the sale to the purchaser-lessor will be exempt from tax. A supplier may exclude these sales from its taxable gross receipts provided the purchaser-lessor provides to the supplier a properly completed exemption certificate and this Section would support an exemption if the sale were made directly to the lessee-manufacturer.
  - 2) Should a purchaser-lessor subsequently lease the machinery or equipment to a lessee who does not use it in a manner that would qualify directly for the exemption, the purchaser-lessor will become liable for the tax, allowing for reasonable depreciation on the machinery or equipment~~from which it was previously exempted.~~
- g) Exemption Certificates
- 1) The user of such machinery or equipment and tools shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction and submit the certificate to the retailer. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit. The Department shall prescribe the form of the certificate. If the user has an active registration or resale number, that number may be given in lieu of the prescribed certificate.
  - 2) If a manufacturer or lessor purchases at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must prepare and retain in its files, the completed exemption certificate. The exemption certificate shall be available to the Department for inspection or audit.
  - 3) A vendor who makes sales of machinery or equipment to a manufacturer or lessor of a manufacturer must collect Use Tax, and will owe Retailers' Occupation Tax, on that sale unless the purchaser certifies the exempt nature of the purchase to the vendor as set out in this subsection (g). The ST-587 Equipment Exemption Certificate must be submitted in lieu of taxes at the time the taxes are due.

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- 4) In the case of a vendor who makes sales of qualifying machinery or equipment to a contractor who will incorporate it into real estate so that he, the contractor, would be the taxable user (see Sections 130.1940 and 130.2075 of this Part), the purchasing contractor should provide the vendor with a certification that the machinery or equipment will be transferred to a manufacturer as manufacturing machinery or equipment in the performance of a construction contract for the manufacturer. The purchasing contractor should include the manufacturer's name and registration number on the certification when claiming the exemption.
- h) Beginning July 1, 2017, the manufacturing machinery and equipment exemption includes machinery and equipment used primarily in graphic arts production. "Graphic arts production" means the production of tangible personal property for wholesale or retail sale or lease by means of printing, including ink jet printing, by one or more of the processes described in Groups 323110 through 323122 of Subsector 323, Groups 511110 through 511199 of Subsector 511, and Group 512230 of Subsector 512 of the North American Industry Classification System (NAICS) published by the U.S. Office of Management and Budget, 1997 edition. Graphic arts production does not include the transfer of images onto paper or other tangible personal property by means of photocopying or final printed products in electronic or audio form, including the production of software or audiobooks. Persons engaged primarily in the business of printing or publishing newspapers or magazines that qualify as newsprint and ink, by one or more of the processes described in Groups 511110 through 511199 of subsector 511 of the NAICS published by the U.S. Office of Management and Budget, 1997 edition, are deemed to be engaged in graphic arts production. [35 ILCS 120/2-30]
- 1) Subsections (a) through (g) apply fully to graphic arts production, except when the specific provisions of subsection (h) are broader than the provisions of subsections (a) through (g). When the provisions are broader, the provisions of subsection (h) control. For example, subsection (h)(4)(B) provides that equipment used in certain activities performed during prepress or preliminary processes would be considered equipment used in graphic arts production and would qualify for the exemption. In contrast, subsection (d)(4)(C) provides that machinery or equipment used in certain activities prior to entrance into the production cycle would generally not be considered manufacturing and would not qualify for the exemption. Subsection (h)(4)(B) controls.

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- 2) The manufacturing machinery and equipment exemption applies to qualifying machinery and equipment used in graphic arts production processes, as those processes are described in the NAICS and includes repair and replacement parts, both new and used, and including equipment that is manufactured on special order to be used primarily in graphic arts production.
- 3) Manufacturing includes printing by methods of engraving, letterpress, lithography, gravure, flexography, screen, quick and digital printing. It also includes the printing of manifold business forms, blankbooks, looseleaf binders, books, periodicals and newspapers. Included in graphic arts production are prepress services described in Subsector 323122 of the NAICS (e.g., the creation and preparation of negative or positive film from which plates are produced, plate production, cylinder engraving, typesetting and imagesetting). Also included are trade binding and related printing support activities set forth in Subsector 323121 of the NAICS (e.g., tradebinding, sample mounting and postpress services, such as book or paper bronzing, edging, embossing, folding, gilding, gluing, die cutting, finishing, tabbing and indexing).
- 4) By way of illustration and not limitation, the following activities will generally be considered graphic arts production:
  - A) Digital Printing and Quick Printing. This means the printing of graphical text or images by a process utilizing digital technology. It also includes the printing of what is commonly known as "digital photography" (e.g., use of a qualifying integrated computer and printer system to print a digital image). The exemption extends only to machinery and equipment, including repair and replacement parts, used in the act of production. Accordingly, no other type or kind of tangible personal property will qualify for the exemption, even though it may be used primarily in the graphic arts business.
  - B) Prepress or Preliminary Processes. Prepress or preliminary processes include the steps required to transform an original into a state that is ready for reproduction by printing. Prepress or preliminary processes include typesetting, film production, color separation, final photocomposition (e.g., image assembly and

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imposition (stripping)) and platemaking. Prepress or preliminary processes include the manipulation of images or text in preparation for printing for the purpose of conforming those images to the specific requirements of the printing process being utilized. For example, the images must be conformed for a specific signature layout and formatted to a specific paper size. In addition, colors must be calibrated to the specific type of paper or printing process utilized, so that they conform to customer specifications. Prepress or preliminary processes do not, however, include the creation or artistic enhancement of images that will later be reproduced in printed form by a graphic arts process. For example, the creation of an advertisement pursuant to customer direction, or enhancement of a photograph received from a customer by adding a border, text or rearranging the placement of images in the photograph, is not the performance of a qualifying prepress or preliminary process. Prepress or preliminary processes can be performed at the printing facility, a separate prepress or preliminary facility, the customer's location, or other location. The following are examples of equipment used in qualifying prepress or preliminary activities:

- i) Large scale, fixed-position cameras used to photograph two dimensional copy to produce negatives or positives used in the production of plates; film processors; scanners; impositioners; RIP (raster image processor) equipment; proofing equipment; imagesetters, plate processors, helioklischographs and computer-to-plate and computer-to-press equipment.
- ii) Computers that qualify include computers used primarily to receive, store and manipulate images to conform them to the requirements of a specific printing process that will later be performed. Computers used in connection with what is commonly referred to as "digital photography" will qualify if used primarily to format the graphic image that will be printed (e.g., used to format the size and layout of images to be printed). If the computers are primarily used, however, to apply background colors, borders or other artistic enhancements, or to view and select particular

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digital images to be printed, they will not qualify for the exemption.

- iii) Digital cameras do not qualify if they are used primarily to create an original image that will later be reproduced by a graphic arts process.
- iv) Servers used primarily to transfer images and text to qualifying equipment qualify, but do not qualify if used primarily in a nonexempt activity (for example, servers used to maintain an in-house email system).
- v) Scanners used primarily to input previously created images or text that will be reproduced by a graphic arts process qualify for the exemption.

C) Transfer of Images or Text from Computers, Plates, Cylinders or Blankets to Paper or Other Stock to be Printed. This process begins when paper is introduced on the press. Examples of qualifying equipment used in this activity include printing plates, printing presses, blankets and rollers, automatic blanket washers, scorers and dies, folders, punchers, stackers, strappers used in the pressroom for signatures, dryers, chillers and cooling towers. Laser or ink jet printers used to print on paper or other stock are also included in this exemption.

- i) Equipment used primarily to handle or convey printed materials between production stations in an integrated on-line graphic arts process is included in the exemption (e.g., a forklift or bindery cart will qualify for the exemption if it is primarily used to convey book covers that have been printed and cut to binding and finishing equipment).
- ii) Computer equipment used primarily to operate exempt graphic arts equipment also qualifies for the exemption.
- iii) Equipment, such as transformers, used primarily to provide power to qualifying printing presses or bindery lines, qualifies for the exemption. Similarly, heating and cooling

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machinery or equipment used to produce an environment necessary for the production of printed material qualifies for the exemption. For example, humidity-control equipment used to reduce static during the printing process qualifies for the exemption.

D) Activities Involving the Binding, Collating or Finishing of the Graphic Arts Product. Equipment used in these activities includes, for instance, binders, packers, gatherers, joggers, trimmers, selectronic equipment, blow-in card feeders, inserters, stitchers, gluers, spiral binders, addressing machines, labelers and ink-jet printers.

i) Machinery or equipment used to convey materials to packaging areas after the graphic arts product has been printed, bound and finished qualifies for the exemption. That equipment includes, for instance, conveyor systems, hoists or other conveyance mechanisms used to direct the final printed product into packaging areas.

ii) Machinery or equipment used to package materials after the graphic arts product has been printed, bound and finished qualifies for the exemption. Packaging equipment includes, for instance, cartoning systems, palletizers, stretch wrappers, strappers, shrink tunnels and similar equipment.

5) By way of illustration and not limitation, the following activities will generally not be considered to be graphic arts production:

A) The use of machinery or equipment primarily to produce graphic arts items not for wholesale, retail sale, or lease (e.g., items produced for internal consumption or items produced and distributed without charge).

B) The use of machinery and equipment (e.g., fork lifts, roll clamps and roll grabbers) to convey raw materials to the press.

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- C) The use of machinery or equipment to convey materials to final storage or shipping areas. That equipment includes, for instance, fork lifts used primarily to place the packaged printed product into final storage or shipping areas.
- D) The use of machinery or equipment to gather information, track jobs or perform data-related functions prior to a qualifying prepress activity (e.g., computers used primarily to edit or create text, data or other copy). That equipment includes items such as inventory tracking devices and bar-code readers.
- E) The use of machinery or equipment used primarily to photocopy printed matter. A copier that is capable of printing images or text transmitted to it in digital form may qualify if used primarily in that manner. However, a copier that produces photocopies by means of xerographic technology is subject to tax.
- F) The use of machinery or equipment in managerial, sales or other nonproduction, nonoperational activities, including inventory control, production scheduling, purchasing, receiving, accounting, physical management, general communications, plant security, marketing, or personnel recruitment, selection or training. Waste disposal equipment (e.g., equipment used to contain and recapture paper dust) does not qualify for the exemption.
- G) The use of machinery and equipment to prevent or fight fires or to protect employees, such as protective masks, respirators, first-aid kits, gloves, coveralls and goggles, or for safety, accident protection or first-aid, even though that machinery or equipment may be required by law.
- H) The use of machinery or equipment for general ventilation, heating, cooling, climate control or general illumination, except when the machinery or equipment is used to produce an environment necessary for the production of printed material.
- 6) Machinery or equipment that initially is used primarily in graphic arts production and having been so used for less than one-half of the useful life and is converted to primarily nonexempt uses will become subject to the

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tax at the time of the conversion, allowing for reasonable depreciation on the item of machinery or equipment.

- 7) Sales to Lessors of Graphic Arts Equipment. The statute provides for the purchase of graphic arts machinery and equipment by lessors who will lease that machinery and equipment for use in graphic arts production. Therefore, if the purchaser of the machinery or equipment leases the machinery and equipment to a lessee who uses it in an exempt manner, the sale to the purchaser-lessor will be exempt from tax. A supplier may exclude these sales from his or her taxable gross receipts provided that the purchaser-lessor provides to him or her a properly completed exemption certificate and the information contained in the certificate would support an exemption if the sale were made directly to the lessee. Should a purchaser-lessor subsequently lease the machinery or equipment to a lessee who does not primarily use it in an exempt manner, at the time the machinery and equipment is converted to primarily nonexempt uses, the purchaser-lessor is liable for tax at the time of conversion, allowing for reasonable depreciation on the machinery or equipment.
- 8) Exemption Certification. Purchasers wishing to claim the manufacturing machinery and equipment exemption shall prepare a certificate of exemption as provided in subsection (g).

- i) **Opinions and Rulings**  
Informal ruling and opinion letters issued by the Department regarding the coverage and applicability of this exemption to specific devices will be maintained by the Department in Springfield. They will be available for public inspection and may be copied or reproduced at taxpayer's expense. Trade secrets or other confidential information in these letters will be deleted prior to release to public access files.

(Source: Amended at 43 Ill. Reg. 5069, effective April 17, 2019)

## SUBPART E: RETURNS

**Section 130.501 Monthly Tax Returns – When Due – Contents**

- a) Except as provided in Section 130.502, 130.510 and 130.2045, on or before the twentieth day of each calendar month, every person engaged in the business of

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selling tangible personal property at retail in this State during the preceding calendar month shall file a return with the Department for ~~thesueh~~ preceding month, stating the name of the seller, ~~;~~ his or her residence address and the address of his or her principal place of business, and the address of the principal place of business (if that is a different address) from which he or she engaged in the business of selling tangible personal property at retail in this State. On and after January 1, 2018, except for returns for motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, with respect to retailers whose annual gross receipts average \$20,000 or more, all returns required to be filed pursuant to the Act shall be filed electronically. Retailers who demonstrate that they do not have access to the Internet or demonstrate hardship in filing electronically may petition the Department to waive the electronic filing requirement. [35 ILCS 120/3]

- b) In addition, the return shall disclose the following:
- 1) Total Receipts for the Month from Sales of Tangible Personal Property and Services. Real estate builders and construction contractors, who are also retailers, and who assume the responsibility for accounting for the tax on building materials ~~which~~ they purchase, must include, in total receipts, not only their receipts from "over-the-counter" resales of ~~thosesueh~~ materials, but also their cost prices of ~~thesueh~~ materials ~~thatwhich~~ they convert into real estate (see Section 130.2075 ~~of this Part~~). This may be accomplished in the case of a construction contractor by including his or her receipts from construction contracts in total receipts and by deducting ~~thosesueh~~ receipts from total receipts only to the extent to which ~~thosesueh~~ receipts exceed the cost price to the contractor of the tangible personal property ~~thatwhich~~ he or she incorporates into real estate as a construction contractor.
  - 2) Deductions Allowed by Law  
The taxpayer should include in his or her total receipts, but should deduct before computing the amount of the tax:
    - A) taxes collected from sales of the following:
      - i) general merchandise retail sales~~;~~
      - ii) general merchandise service sales~~;~~

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- iii) food, drugs and medical appliances retail sales;
- iv) food, drugs and medical appliances service sales;
- B) receipts from sales of tangible personal property for purposes of resale in any form as tangible personal property (see Subparts B and N ~~of this Part~~);
- C) receipts from sales ~~that~~~~which~~ are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F ~~of this Part~~);
- D) cash refunds for returned merchandise (see Section 130.401 ~~of this Part~~);
- E) receipts from the sales of newspapers and magazines (see Section 130.2105 ~~of this Part~~);
- F) State motor fuel taxes collected;
- G) the exempt percentage of the receipts from sales of gasohol (see Section 130.320 ~~of this Part~~);
- H) receipts from sales of any kind to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or any not-for-profit corporation, society, association, foundation, institution or organization ~~that~~~~which~~ has no compensated officers or employees and ~~that~~~~which~~ is organized and operated primarily for the recreation of persons 55 years of age and older (see Section 130.2005 ~~of this Part~~);
- I) receipts from sales of any kind to a governmental body (see Section 130.2080 ~~of this Part~~);
- J) receipts from nontaxable sales of service;
- K) any other deduction allowed by law, such as receipts from isolated

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or occasional sales (see Subpart A ~~of this Part~~); ~~federal~~ Federal taxes that are imposed at the level of the retail sale, but not ~~federal~~ Federal excise taxes on manufacturers, etc. (see Section 130.445 ~~of this Part~~), etc.;

- L) total of all deductions allowed by law.
- 3) Total ~~receipts that~~ Receipts which are obtained by subtracting deductions from total receipts.
- 4) The Amount of Tax Due
  - A) An allowance to reimburse the taxpayer for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. The minimum discount, over the entire period of any given calendar year, for any single taxpayer (if the taxpayer incurs that much tax liability) shall be \$5.00 for ~~that~~ such calendar year. This allowance is available when the tax is remitted with a return that is filed when due under the Act, but is not available in any case in which the tax is paid late (with or without a return, and whether ~~or not~~ formally assessed by the Department ~~or not~~); in the case of retailers who report and pay the tax on a transaction by transaction basis, ~~the~~ such discount shall be taken with each ~~such~~ tax remittance instead of when ~~the~~ such retailer files his ~~or her~~ periodic return. Retailers required to file returns electronically pursuant to the Act who fail to file their returns electronically may not take the discount allowed to reimburse retailers for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request.
  - B) Balance of Tax Due:
    - i) The return should also show the amount of penalty (if any) that is due, the total of the tax and penalty due, and such other reasonable information as the Department may require.
    - ii) *If a total amount of less than \$1 is payable, refundable or*

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creditable, ~~thesuch~~ amount shall be disregarded if it is less than 50 cents and shall be increased to \$1 if it is 50 cents or more. Any amount ~~thatwhich~~ is required to be shown or reported on any return or other document under ~~thethis~~ Act shall, if ~~thesuch~~ amount is not a whole-dollar amount, be increased to the nearest whole-dollar amount in any case ~~in whichwhere~~ the fractional part of a dollar is 50 cents or more, and decreased to the nearest whole-dollar amount ~~whenwhere~~ the fractional part of a dollar is less than 50 cents (Section 3 of the Act).

- iii) The Department may require returns to be filed on a quarterly basis. If so required, a return for each calendar quarter shall be filed on or before the last day of the calendar month following the end of ~~thesuch~~ calendar quarter. The taxpayer shall also file a return with the Department for each of the first two months of each calendar quarter, on or before the last day of the following calendar month, stating:
- ~~The name of the seller;~~
  - ~~The address of the principal place of business from which he or she engages in the business of selling tangible personal property at retail in this Statestate;~~
  - ~~The total amount of taxable receipts received by him or her during the preceding calendar month or quarter from sales of tangible personal property by him or her during ~~thesuch~~ preceding calendar month or quarter, including receipts from charge and ~~time~~ sales, but less all deductions allowed by law;~~
  - ~~The amount of credit provided in Section 2d of thethis Act;~~
  - ~~The amount of tax due;~~
  - ~~The amount of penalty due, if any; and~~

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- *Such other reasonable information as the Department may require. (Section 3 of the Act)*

- c) Returns must be signed by the taxpayer. If a taxpayer fails to sign a return within 30 days after proper notice and demand for signature by the Department, the return shall be considered valid and any amount shown to be due on the return shall be deemed assessed.

(Source: Amended at 43 Ill. Reg. 5069, effective April 17, 2019)

## SUBPART G: CERTIFICATE OF REGISTRATION

**Section 130.701 General Information on Obtaining a Certificate of Registration**

- a) It shall be unlawful for any person to engage in the business of selling tangible personal property at retail in this State without a certificate of registration from the Department.
- b) Every person who engages in the business of selling tangible personal property at retail in this State must procure a certificate of registration (and sub-certificate of registration when required) from the Department.
- c) For information with respect to penalties for violating this requirement, see Subpart I ~~of this Part~~.
- d) The application to register must be made on a form prescribed and furnished by the Department for that purpose. Upon request therefor, made to the Department of Revenue, an application form will be furnished. Each application shall be signed and verified. The application shall contain an acceptance of responsibility by the person or persons who will be responsible for filing returns and payment of the taxes due under the Act. Applications to register may be submitted electronically on the Department's website at [www.tax.illinois.gov](http://www.tax.illinois.gov).
- e) **Special Requirements Pertaining to Vending Machines**  
If the applicant will sell tangible personal property at retail through vending machines, his or her application to register shall indicate the number of vending machines to be so operated; and through December 31, 2011, he or she shall notify the Department by January 31 of the number of vending machines that he

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or she was using in his or her business of selling tangible personal property at retail on the preceding December 31. Beginning January 1, 2012, persons who add additional vending machines must contact the Department to request additional sub-certificates of registration, as well as inform the Department of the total number of vending machines from which retail sales are being made. Additional sub-certificates of registration may be requested on the Department's website at [www.tax.illinois.gov](http://www.tax.illinois.gov).

- f) Posting Bond or Other Security
  - 1) Every applicant for a certificate of registration shall, within 30 days after he or she commences to engage in the business of selling tangible personal property at retail, furnish a bond from a surety company authorized to do business in the State of Illinois, or a bond signed by 2 personal sureties who have filed, with the Department, sworn statements disclosing net assets equal to at least 3 times the amount of the bond to be required of the applicant, or a bond secured by an assignment of a bank account or certificate of deposit, stocks or bonds, conditioned upon the applicant paying to the State of Illinois all moneys becoming due under the Retailers' Occupation Tax Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under the Retailers' Occupation Tax Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution.
  - 2) Maximum Amount of Bond or Other Security
    - A) The Department shall fix the amount of such security in each case, taking into consideration the amount of money expected to become due from the applicant under the Retailers' Occupation Tax Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under the Retailers' Occupation Tax Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution. The amount of security required by the Department shall be such as, in its opinion, will protect the State of Illinois against failure to pay the amount which may become due from the

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applicant under the Retailers' Occupation Tax Act and under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the applicant under the Retailers' Occupation Tax Act will permit the applicant to engage in business without registering separately under such other law, ordinance or resolution, but the amount of the security required by the Department shall not exceed three times the amount of the applicant's average monthly tax liability, or \$50,000, whichever amount is lower.

- B) No certificate of registration under the Retailers' Occupation Tax Act shall be issued by the Department until the applicant provides the Department with satisfactory security as provided for in this subsection (f).
- 3) Exception from Security Requirements for Prior Continuous Compliance Taxpayers  
Any taxpayer who has, as verified by the Department, faithfully and continuously complied with the condition of his or her bond or other security under the provisions of the Act for a period of 3 consecutive years shall be considered to be a Prior Continuous Compliance taxpayer. Every Prior Continuous Compliance taxpayer shall be exempt from all requirements under the Act concerning the furnishing of security as a condition precedent to his being authorized to engage in the business of selling tangible personal property at retail in this State. This exemption shall continue for each such taxpayer until he or she may be determined by the Department to be delinquent in the filing of any returns, or is determined by the Department (either through the Department's issuance of a final assessment that has become final under the Act, or by the taxpayer's filing of a return that admits tax that is not paid to be due) to be delinquent or deficient in the paying of any tax under the Retailers' Occupation Tax Act or under any other State tax law or municipal or county tax ordinance or resolution under which the certificate of registration that is issued to the registrant under the Retailers' Occupation Tax Act will permit the registrant to engage in business without registering separately under such other law, ordinance or resolution, at which time that taxpayer shall become subject to all the financial responsibility requirements of the Act and, as a condition of being allowed to continue to engage in the business of selling tangible personal property

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at retail, shall be required to post bond or other acceptable security with the Department covering liability that the taxpayer may thereafter incur. Any taxpayer who fails to pay an admitted or established liability under the Act may also be required to post bond or other acceptable security with this Department guaranteeing the payment of the admitted or established liability.

- g) Issuance of Certificate of Registration  
Upon receipt of the application for certificate of registration in proper form, and upon approval by the Department of the security furnished by the applicant, the Department shall issue to the applicant a certificate of registration that shall permit the person to whom it is issued to engage in the business of selling tangible personal property at retail in this State.
- h) *No certificate of registration issued prior to July 1, 2017 to a taxpayer who files returns required by ~~the~~this Act on a monthly basis, or renewed prior to July 1, 2017 by a taxpayer who files returns required by the Act on a monthly basis, shall be valid after the expiration of 5 years from the date of its issuance or last renewal. No certificate of registration issued on or after July 1, 2017 to a taxpayer who files returns required by the Act on a monthly basis or renewed on or after July 1, 2017 by a taxpayer who files returns required by the Act on a monthly basis shall be valid after the expiration of 1 year from the date of its issuance or last renewal. The expiration date of a sub-certificate of registration shall be that of the certificate of registration to which the sub-certificate relates. Prior to July 1, 2017, a~~A~~ certificate of registration shall be automatically renewed, subject to revocation as provided by the Act, for an additional 5 years from the date of its expiration unless otherwise notified by the Department. On and after July 1, 2017, a certificate of registration shall automatically be renewed, subject to revocation as provided by the Act, for an additional 1 year from the date of its expiration unless otherwise notified by the Department as provided by this subsection.~~A certificate of registration issued under the Act more than 5 years before the effective date of the amendatory Act of 1989 shall expire and be subject to the renewal provisions of this Section on the next anniversary of the date of issuance of the certificate which occurs more than 6 months after the effective date of the Amendatory Act of 1989. A certificate of registration issued less than 5 years before the effective date of this Amendatory Act of 1989 shall expire and be subject to the renewal provisions of this Section on the 5<sup>th</sup> anniversary of the issuance of the certificate.~~*

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- i) ~~Where a taxpayer to whom a certificate of registration is issued under the Act is in default to the State of Illinois for delinquent returns or for moneys due under the Act or any other State tax law or municipal or county ordinance administered or enforced by the Department, the Department shall, not less than 120 days before the expiration of the certificate of registration, give notice to the taxpayer to whom the certificate was issued of the account period of the delinquent returns, the amount of tax, penalty and interest due and owing from the taxpayer, and that the certificate of registration shall not be automatically renewed upon its expiration date unless the taxpayer, on or before the date of expiration, has filed and paid the delinquent returns or paid the defaulted amount in full. Beginning January 1, 2015, ~~when~~where a taxpayer to whom a certificate of registration is issued under the Act is in default to the State of Illinois for delinquent returns or for moneys due under the Act or any other State tax law or municipal or county ordinance administered or enforced by the Department, the Department shall, not less than 60 days before the expiration of the certificate of registration, give notice to the taxpayer to whom the certificate was issued of the account period of the delinquent returns, the amount of tax, penalty and interest due and owing from the taxpayer, and that the certificate of registration shall not be automatically renewed upon its expiration date unless the taxpayer, on or before the date of expiration, has filed and paid the delinquent returns or paid the defaulted amount in full.~~
- j) *The Department may, in its discretion, approve renewal by an applicant who is in default if, at the time of application for renewal, the applicant files all of the delinquent returns or pays to the Department the percentage of the defaulted amount as may be determined by the Department and agrees in writing to waive all limitations upon the Department for collection of the remaining defaulted amount to the Department over a period not to exceed 5 years from the date of renewal of the certificate; however, no renewal application submitted by an applicant who is in default shall be approved if the immediately preceding renewal by the applicant was conditioned upon the installment payment agreement described in this Section. The payment agreement shall be in addition to, and not in lieu of, the security required by this Section of a taxpayer who is no longer considered a continuous compliance taxpayer. The execution of the payment agreement as provided in the Act shall not toll the accrual of interest at the statutory rate. (Section 2a of the Act)*

(Source: Amended at 43 Ill. Reg. 5069, effective April 17, 2019)

## DEPARTMENT OF REVENUE

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- 1) Heading of the Part: Hotel Operators' Occupation Tax Act
- 2) Code Citation: 86 Ill. Adm. Code 480
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
480.115	Amendment
480.120	Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-795
- 5) Effective Date of Rules: April 17, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 8804; June 1, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. Only grammatical and technical changes were made. 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? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking removes obsolete language and makes technical changes.
- 16) Information and questions regarding these adopted rules shall be directed to:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Debra M. Boggess  
Associate Counsel  
Legal Services Office  
Illinois Department of Revenue  
101 West Jefferson  
Springfield IL 62794

217/782-2844

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

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 86: REVENUE

## CHAPTER I: DEPARTMENT OF REVENUE

## PART 480

## HOTEL OPERATORS' OCCUPATION TAX ACT

## Section

480.101	Nature, Rate and Scope of the Tax
480.105	Definitions
480.110	Registration and Returns
480.115	Books and Records
480.120	Penalties, Interest and Procedures
480.125	Claims to Recover Erroneously Paid Tax

**AUTHORITY:** Implementing the Hotel Operators' Occupation Tax Act [35 ILCS 145] and authorized by Section 2505-795 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505/795].

**SOURCE:** Adopted July 6, 1962; codified at 8 Ill. Reg. 8611; amended at 13 Ill. Reg. 10693, effective June 16, 1989; amended at 16 Ill. Reg. 3578, effective February 25, 1992; amended at 21 Ill. Reg. 2383, effective February 3, 1997; amended at 21 Ill. Reg. 13654, effective September 29, 1997; amended at 24 Ill. Reg. 17814, effective November 28, 2000; amended at 39 Ill. Reg. 1849, effective January 16, 2015; amended at 43 Ill. Reg. 5109, effective April 17, 2019.

**Section 480.115 Books and Records**

- a) General Requirements  
*Every operator shall keep separate books or records of his or her business as an operator so as to show the rents and occupancies taxable under ~~the~~The Hotel Operators' Occupation Tax Act separately from his or her transactions that are not taxable under that Act. If any such operator fails to keep ~~such~~ separate books or records, he or she shall be liable to tax at the rate designated in Section 3 of ~~the~~The Hotel Operators' Occupation Tax Act upon the entire proceeds from his hotel.*
- b) Preservation and Retention of Records
  - 1) Books and records and other papers reflecting gross receipts received during any period with respect to which the Department is authorized to

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issue proposed assessments as provided by the Act shall be preserved until the expiration of ~~that~~ period unless the Department, in writing, shall authorize their destruction or disposal prior to ~~that~~ expiration. (See 86 Ill. Adm. Code 130.825).)

- 2) In determining the period for which the Department is authorized to issue a proposed assessment, the following material (with necessary adaptations because of the time when ~~the~~The Hotel Operators' Occupation Tax became effective) from Sections 4 and 5 of the Retailers' Occupation Tax Act [35 ILCS 120](Ill. Rev. Stat. 1979, ch. 120, par. 440 et seq.) (which ~~Sections~~ are incorporated by reference into Section 7 of ~~the~~The Hotel Operators' Occupation Tax Act) must be considered.
- 3) Except in case of willful failure or refusal to file a return, or except in case of a fraudulent return, or except with the consent of the person to whom the proposed assessment is to be issued, ~~no proposed assessment shall be issued on and after January 1, 1965, covering gross receipts received during any month or period of time prior to January 1, 1962, and no proposed assessment shall be issued on and after July 1, 1965, covering gross receipts received prior to July 1, 1962, and thereafter~~ no proposed assessment shall be issued on and after each January 1 and July 1 covering gross receipts received during any month or period of time more than 3 years prior to ~~that~~ January 1 and July 1, respectively:
  - A) Provided, however, that:
    - i) the foregoing limitations upon the issuance of a proposed assessment shall not apply to the issuance of a proposed assessment with respect to any ~~prior~~ period of time ~~prior thereto~~ in cases ~~in which~~where the Department has, within the period of limitation then provided, notified the person making the return of a proposed assessment even though ~~that~~ return had not been corrected by the Department in the manner required by the Act prior to the issuance of ~~the~~ notice; and
    - ii) ~~B) provided that~~ the foregoing limitations upon the issuance of a proposed assessment shall not apply to the issuance of any such assessment with respect to any ~~prior~~ period of

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time prior ~~thereto~~ in cases ~~in which~~ ~~where~~ the Department has, within the period of limitation then provided, notified a person of the amount of tax computed even though the Department had not determined the amount of tax due from ~~that~~ ~~such~~ person in the manner required by the Act prior to the issuance of ~~the~~ ~~such~~ notice; but in no case shall the amount of any such proposed assessment for any period otherwise barred by the Act exceed for ~~that~~ ~~such~~ period the amount shown in the Notice of Proposed Assessment ~~theretofore issued~~.

- ~~B~~ ~~E~~) If, when a tax or penalty under the Act becomes due and payable, the person alleged to be liable ~~is~~ ~~therefor~~ ~~shall be~~ out of the State, the proposed assessment may be issued, within the times limited by the Act, after ~~that person enters his coming into~~ or ~~returns~~ ~~return~~ to the State; and if, after the tax or penalty under the Act becomes due and payable, the person alleged to be liable ~~therefor~~ departs from and remains out of the State, the time of ~~that person's~~ ~~his~~ absence is no part of the time limited for the issuance of the proposed assessment; but ~~these~~ ~~the foregoing~~ provisions concerning absence from the State shall not apply to any case in which, at the time ~~when~~ a tax or penalty becomes due under the Act, the person allegedly liable ~~therefor~~ is not a resident of this State.
- c) Preservation of Books During Pendency of Assessment Proceedings  
However, if a Notice of Proposed Assessment has been issued, and if the questions raised ~~by that Notice~~ ~~thereby~~ have not been completely disposed of, books and records reflecting receipts received during the period covered by ~~the~~ ~~such~~ proposed assessment must be preserved until the termination of all proceedings before the Department and before any court upon review.
- d) Department Authorization to Destroy Records Sooner than Would Otherwise be Permissible  
In all cases, the Department may, in writing, authorize the destruction of books and records and other papers prior to the expiration of the periods of time during which the taxpayer, except for ~~the~~ ~~such~~ written authorization from the Department, is required to keep ~~the~~ ~~his~~ books and records.

(Source: Amended at 43 Ill. Reg. 5109, effective April 17, 2019)

## DEPARTMENT OF REVENUE

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**Section 480.120 Penalties, Interest and Procedures**

All civil penalties, provisions concerning interest and procedures (such as the making of assessments, the venue and mode of conducting hearings, subpoenas, matters pertaining to judicial review and other procedural subjects), together with statutes of limitation, are the same under ~~the~~The Hotel Operators' Occupation Tax Act as under the Retailers' Occupation Tax Act (~~Ill. Rev. Stat. 1983, ch. 120, pars. 440 et seq.~~). For information concerning criminal penalties, see Section 8 of ~~the~~The Hotel Operators' Occupation Tax Act.

(Source: Amended at 43 Ill. Reg. 5109, effective April 17, 2019)

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: The Administration and Operation of the Teachers' Retirement System
- 2) Code Citation: 80 Ill. Adm. Code 1650
- 3) 

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
1650.320	Amendment
1650.350	Amendment
1650.1010	Amendment
1650.1050	Amendment
1650.3300	New Section
1650.3310	New Section
1650.3320	New Section
1650.3330	New Section
- 4) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/16].
- 5) Effective Date of Rules: April 22, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted rules, including any material incorporated by reference, is on file in the Teachers' Retirement System's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 43 Ill. Reg. 1500; February 1, 2019
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various punctuation and grammatical changes recommended by JCAR were made in the final version.
- 12) Have all the changes agreed upon by the Agency and JCAR been as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Sections 1650.320 and 1650.350 have been updated to clarify days of service for absence from duty, e-learning, sick leave bank, and non-vacation leave, and also incorporates non-substantive wording and format corrections.

Sections 1650.1010 and 1650.1050 have been updated to reflect the System's current web page address and to accept last 4 digits of the SSN or member ID on trustee election ballot signature cards, and also incorporates non-substantive wording and format corrections.

New Subpart S, Sections 1650.3300 – 3330, describe the System's administration of the buyout programs established by PA 100-857.

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

Cynthia M. Fain, Senior Legal Counsel  
Teachers' Retirement System  
2815 West Washington, P.O. Box 19253  
Springfield IL 62794-9253

217/814-2041

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

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

## SUBTITLE D: RETIREMENT SYSTEMS

## CHAPTER III: TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## PART 1650

THE ADMINISTRATION AND OPERATION OF THE  
TEACHERS' RETIREMENT SYSTEM

## SUBPART A: REPORTS BY BOARD OF TRUSTEES

## Section

1650.10 Annual Financial Report (Repealed)

## SUBPART B: BASIC RECORDS AND ACCOUNTS

## Section

1650.110 Membership Records  
1650.120 Claims Records (Repealed)  
1650.130 Individual Accounts (Repealed)  
1650.140 Ledger and Accounts Books (Repealed)  
1650.150 Statistics (Repealed)  
1650.160 Confidentiality of Records  
1650.180 Filing and Payment Requirements  
1650.181 Early Retirement Incentive Payment Requirements (Repealed)  
1650.182 Waiver of Additional Amounts Due  
1650.183 Definition of Employer's Normal Cost

## SUBPART C: FILING OF CLAIMS

## Section

1650.201 Disability Benefits – Application Procedure; Effective Date  
1650.202 Disability Benefits – Definitions  
1650.203 Disability Retirement Annuity – Definitions  
1650.204 Gainful Employment – Consequences  
1650.205 Medical Examinations and Investigation of Disability Claims  
1650.206 Physician Certificates  
1650.207 Disability Due to Pregnancy  
1650.208 Disability Payments  
1650.209 Computation of Annual Salary When Member Has Different Semester Salary

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF ADOPTED AMENDMENTS

	Rates (Repealed)
1650.210	Claim Applications
1650.211	Disability Recipient Eligible to Receive an Age or Disability Retirement Annuity
1650.220	Reclassification of Disability Claim (Repealed)
1650.221	When Member Becomes Annuitant
1650.222	Death Out of Service
1650.230	Medical Examinations and Investigations of Claims (Repealed)
1650.240	Refunds; Canceled Service; Repayment
1650.250	Death Benefits
1650.260	Evidence of Age
1650.270	Reversionary Annuity – Evidence of Dependency
1650.271	Evidence of Parentage
1650.272	Eligible Child Dependent By Reason of a Physical or Mental Disability
1650.280	Evidence of Marriage
1650.290	Offsets

## SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section	
1650.301	Early Retirement Without Discount – Return to Teaching from a Break in Service
1650.310	Effective Date of Membership
1650.315	Verifying Service Credit
1650.320	Method of Calculating Service Credits
1650.325	Method of Calculating Service Credit for Recipients of a Disability Benefit or Occupational Disability Benefit
1650.330	Duplicate Service Credit
1650.335	Unreported Regular Service Credit and Earnings
1650.340	Service Credit for Leaves of Absence
1650.341	Service Credit for Involuntary Layoffs
1650.345	Service Credit for Periods Away From Teaching Due to Pregnancy
1650.346	Service Credit for Periods Away From Teaching Due to Adoption
1650.350	Service Credit for Unused Accumulated Sick Leave Upon Retirement
1650.351	Employer Contribution for Excess Sick Leave
1650.355	Purchase of Optional Service – Required Minimum Payment
1650.356	Payroll Deduction Program (Repealed)
1650.357	Employer Payment of Member's Optional Service and/or Upgrade Contribution Balance (Repealed)
1650.360	Settlement Agreements and Judgments
1650.370	Calculation of Average Salary (Renumbered)

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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- 1650.380 Definition of Actuarial Equivalent (Repealed)
- 1650.390 Independent Contractors
- 1650.391 Optional 2.2 Upgrade of Earned and Credited Service
- 1650.392 2.2 Upgrade of Optional Service Not Credited at Initial Upgrade

## SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

## Section

- 1650.410 Return of Contributions for Duplicate or Excess Service
- 1650.415 Return of Optional Increase in Retirement Annuity Contributions
- 1650.416 Optional Increase in Retirement Annuity – 1% Contribution Reduction
- 1650.417 Mandatory Distributions Pursuant to Section 401(a)(9) of the Internal Revenue Code
- 1650.420 Interest on Deficiencies (Repealed)
- 1650.430 Installment Payments (Repealed)
- 1650.440 Small Deficiencies, Credits or Death Benefit Payments (Repealed)
- 1650.450 Compensation Recognized As "Salary"
- 1650.451 Reporting of Conditional Payments
- 1650.460 Calculation of Average Salary
- 1650.470 Rollover Distributions
- 1650.480 Rollovers to the System
- 1650.481 Employer Contribution Required for Salary Increases in Excess of 6% or 3%
- 1650.482 Contracts and Collective Bargaining Agreements – Loss of Exemption from Employer Contributions
- 1650.483 Employer Contributions for Salary Increases in Excess of 6% or 3% and Excess Sick Leave – Exemption from Contributions
- 1650.484 Members Not Covered by Collective Bargaining Agreements or Employment Contracts
- 1650.485 Employer Contributions for Salary Increases in Excess of 6% or 3% – Receipt of Bill
- 1650.486 Employer Payment of Member's Optional Service, Refund and/or Upgrade Contribution Balance

## SUBPART F: ANNUITANTS AND BENEFICIARIES

## Section

- 1650.505 Beneficiary (Repealed)
- 1650.510 Re-entry Into Service (Repealed)
- 1650.511 Separation from Service

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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1650.512	Verification of Compliance with Post-Retirement Employment Limitations
1650.520	Suspension of Benefits
1650.530	Power of Attorney
1650.540	Conservators/Guardians
1650.550	Presumption of Death
1650.560	Benefits Payable on Death
1650.561	Valid Beneficiary Designations
1650.570	Survivors' Benefits
1650.571	Payment of Monthly Survivor Benefits to a Trust
1650.575	Full-time Student – Receipt of Survivors Benefits Until Age 22
1650.580	Evidence of Eligibility
1650.590	Comptroller Offset
1650.595	Overpayments

## SUBPART G: ATTORNEY GENERALS' OPINION

Section	
1650.605	Policy of the Board Concerning Attorney Generals' Opinion (Repealed)

## SUBPART H: ADMINISTRATIVE REVIEW

Section	
1650.610	Staff Responsibility
1650.620	Right of Appeal
1650.630	Form of Written Request
1650.635	Presiding Hearing Officer – Duties and Responsibilities
1650.640	Prehearing Procedure
1650.641	Claims Hearing Committee Hearing Packet
1650.650	Hearing Procedure
1650.660	Rules of Evidence (Repealed)

## SUBPART I: AMENDMENTS TO BYLAWS AND RULES

Section	
1650.710	Amendments

## SUBPART J: RULES OF ORDER

Section

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## NOTICE OF ADOPTED AMENDMENTS

1650.810 Parliamentary Procedure

## SUBPART K: PUBLIC RECORD REQUESTS

## Section

1650.910 Summary and Purpose (Repealed)  
1650.920 Definitions (Repealed)  
1650.930 Submission of Requests  
1650.940 Form and Content of FOIA Requests (Repealed)  
1650.950 Appeal of a Denial (Repealed)  
1650.960 Executive Director's Response to Appeal (Repealed)  
1650.970 Response to FOIA Requests (Repealed)  
1650.980 Inspection of Records at System Office  
1650.990 Copies of Public Records  
1650.995 Materials Immediately Available

## SUBPART L: BOARD ELECTION PROCEDURES

## Section

1650.1000 Nomination of Candidates  
1650.1001 Elections Date/Election Day – Defined  
1650.1010 Petitions  
1650.1020 Eligible Voters  
1650.1030 Election Materials  
1650.1040 Marking of Ballots  
1650.1050 Return of Ballots  
1650.1060 Observation of Ballot Counting  
1650.1070 Certification of Ballot Counting  
1650.1080 Challenges to Ballot Counting  
1650.1090 Special Election to Fill Un-Expired Term of Elected Trustee

## SUBPART M: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

## Section

1650.1110 Definitions  
1650.1111 Requirements for a Valid Qualified Illinois Domestic Relations Order  
1650.1112 Requirements for a Valid QILDRO Calculation Order  
1650.1113 Required Forms  
1650.1114 Filing a QILDRO or a Calculation Order with the System

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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- 1650.1115 Benefits Affected by a QILDRO
- 1650.1116 Effect of a Valid QILDRO
- 1650.1117 QILDROs Against Persons Who Became Members Prior to July 1, 1999
- 1650.1118 Alternate Payee's Address
- 1650.1119 Electing Form of Payment
- 1650.1120 Automatic Annual Increases
- 1650.1121 Reciprocal Systems QILDRO Policy Statement (Repealed)
- 1650.1122 Providing Benefit Information for Divorce Purposes
- 1650.1123 Suspension and Expiration of a QILDRO
- 1650.1124 Income Tax Reporting
- 1650.1125 Lump-Sum Death Benefit Allocation to Alternate Payee

## SUBPART N: PAYROLL DEDUCTION PROGRAM

## Section

- 1650.1200 Payroll Deduction Program Guidelines (Repealed)
- 1650.1201 Employer Responsibility Under the Payroll Deduction Program (Repealed)
- 1650.1202 Payroll Deduction Agreements – Suspensions and Terminations (Repealed)
- 1650.1203 Payroll Deduction Program – Full Time Employment Defined (Repealed)
- 1650.1204 Payroll Deduction Program – Disability Defined (Repealed)
- 1650.1205 Employer Payment of Member's Optional Service, Refund and/or Upgrade Contribution Balance (Repealed)

## SUBPART O: RETIREMENT BENEFITS

## Section

- 1650.2900 Excess Benefit Arrangement

SUBPART P: COMPETITIVE SELECTION PROCEDURES  
FOR INVESTMENT SERVICES

## Section

- 1650.3000 Summary and Purpose
- 1650.3005 Definitions
- 1650.3010 Public Markets Manager Database
- 1650.3015 Emerging Investment Managers
- 1650.3017 Candidate Profile for Investment Manager Searches
- 1650.3020 Public Market Searches
- 1650.3025 Small and Mid Cap Equity Searches

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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1650.3030	Private Market and Commingled Fund Searches
1650.3032	Co-Investment Opportunities
1650.3035	Private Market Real Estate Separate Account Searches
1650.3040	Consultant Searches
1650.3045	Evaluation by Investment Committee

## SUBPART Q: PLAN QUALIFICATION

## Section

1650.3100	Summary and Purpose
1650.3105	Exclusive Benefit Rule
1650.3110	USERRA (Uniformed Services Employment and Reemployment Rights Act (38 USC 4301-4335)) Compliance
1650.3115	Required Minimum Distributions
1650.3120	Federal Contribution and Benefit Limitations
1650.3125	Mortality Tables and Interest Rates

## SUBPART R: TIER II MEMBERS AND ANNUITANTS

## Section

1650.3200	Definitions
1650.3220	Automatic Increase in Tier II Disability Benefits
1650.3221	Tier II Disability Retirement Annuity Final Average Salary
1650.3222	Tier II Disability Retirement Annuity Calculation
1650.3230	Contributions for Tier II Members with Reciprocal Earnings

SUBPART S: BUYOUT PROGRAMS

<u>1650.3300</u>	<u>General Provisions</u>
<u>1650.3310</u>	<u>Accelerated Annual Increase Buyout Program</u>
<u>1650.3320</u>	<u>Accelerated Pension Benefit Buyout Program</u>
<u>1650.3330</u>	<u>QILDRO Administration with Buyout Programs</u>

AUTHORITY: Implementing and authorized by Articles 1 and 16 of the Illinois Pension Code [40 ILCS 5/Arts. 1 and 16]; Freedom of Information Act [5 ILCS 140]; Internal Revenue Code (26 USC 1 et seq.); Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Filed June 20, 1958; emergency rules adopted at 2 Ill. Reg. 49, p. 249, effective November 29, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 9, p. 1, effective March

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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3, 1979; codified at 8 Ill. Reg. 16350; amended at 9 Ill. Reg. 20885, effective December 17, 1985; amended at 12 Ill. Reg. 16896, effective October 3, 1988; amended at 14 Ill. Reg. 18305, effective October 29, 1990; amended at 15 Ill. Reg. 16731, effective November 5, 1991; amended at 17 Ill. Reg. 1631, effective January 22, 1993; amended at 18 Ill. Reg. 6349, effective April 15, 1994; emergency amendment at 18 Ill. Reg. 8949, effective May 24, 1994, for a maximum of 150 days; emergency modified at 18 Ill. Reg. 12880; amended at 18 Ill. Reg. 15154, effective September 27, 1994; amended at 20 Ill. Reg. 3118, effective February 5, 1996; emergency amendment at 21 Ill. Reg. 483, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 2422, effective January 31, 1997; amended at 21 Ill. Reg. 4844, effective March 27, 1997; emergency amendment at 21 Ill. Reg. 17159, effective December 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 7243, effective April 9, 1998; emergency amendment at 22 Ill. Reg. 7314, effective April 9, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 9374, effective May 14, 1998, for a maximum of 150 days; emergency rule modified in response to JCAR Objection at 22 Ill. Reg. 11640; emergency amendment at 22 Ill. Reg. 13151, effective June 29, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 15620, effective August 17, 1998; amended at 22 Ill. Reg. 19079, effective October 1, 1998; amended at 22 Ill. Reg. 22090, effective December 1, 1998; amended at 23 Ill. Reg. 3079, effective February 23, 1999; amended at 24 Ill. Reg. 2440, effective January 27, 2000; amended at 24 Ill. Reg. 10300, effective June 26, 2000; amended at 25 Ill. Reg. 203, effective December 22, 2000; amended at 26 Ill. Reg. 2758, effective February 11, 2002; amended at 26 Ill. Reg. 11476, effective July 11, 2002; amended at 27 Ill. Reg. 1668, effective January 17, 2003; amended at 27 Ill. Reg. 9209, effective May 28, 2003; amended at 28 Ill. Reg. 10055, effective June 29, 2004; amended at 29 Ill. Reg. 1546, effective January 14, 2005; amended at 29 Ill. Reg. 13244, effective August 9, 2005; amended at 30 Ill. Reg. 194, effective December 23, 2005; amended at 30 Ill. Reg. 472, effective December 21, 2005; amended at 30 Ill. Reg. 11728, effective June 23, 2006; amended at 30 Ill. Reg. 17525, effective October 18, 2006; amended at 31 Ill. Reg. 10688, effective July 13, 2007; amended at 32 Ill. Reg. 4073, effective February 28, 2008; amended at 32 Ill. Reg. 7979, effective May 6, 2008; amended at 32 Ill. Reg. 13534, effective August 6, 2008; amended at 33 Ill. Reg. 4401, effective March 3, 2009; amended at 33 Ill. Reg. 15863, effective November 2, 2009; amended at 34 Ill. Reg. 4900, effective March 22, 2010; amended at 34 Ill. Reg. 7787, effective May 21, 2010; amended at 35 Ill. Reg. 2413, effective January 21, 2011; amended at 35 Ill. Reg. 2788, effective January 25, 2011; amended at 35 Ill. Reg. 3781, effective February 18, 2011; amended at 35 Ill. Reg. 19541, effective November 18, 2011; amended at 36 Ill. Reg. 7688, effective May 4, 2012; amended at 36 Ill. Reg. 18914, effective December 14, 2012; amended at 37 Ill. Reg. 5150, effective April 4, 2013; amended at 38 Ill. Reg. 21239, effective October 21, 2014; amended at 39 Ill. Reg. 5259, effective March 20, 2015; amended at 39 Ill. Reg. 14989, effective October 30, 2015; amended at 40 Ill. Reg. 14099, effective September 28, 2016; amended at 41 Ill. Reg. 718, effective January 11, 2017; amended at 41 Ill. Reg. 14256, effective November 8, 2017; amended at 42 Ill.

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Reg. 13666, effective June 29, 2018; amended at 42 Ill. Reg. 22238, effective November 20, 2018; amended at 43 Ill. Reg. 5115, effective April 22, 2019.

## SUBPART D: MEMBERSHIP AND SERVICE CREDITS

**Section 1650.320 Method of Calculating Service Credits**

- a) No more than one year's service credit shall be granted for total service rendered between July 1 of one year through June 30 of the following year.
- b) If the service rendered on a full-time basis, substitute basis, or part-time basis after June 30, 1990 is less than 170 days between July 1 of one year through June 30 of the following year, then credit for service shall be at a ratio of the actual number of days of service to 170 days.
- c) Service credit for service rendered on a permanent and continuous part-time basis prior to July 1, 1990, between July 1 of one year through June 30 of the following year, shall be at the ratio of creditable earnings to the annual salary rate. Provided, however, that for service after June 30, 1959, if ~~that~~ such ratio equals or exceeds the ratio of 170 days to the days in the legal school term, one year of service credit shall be granted.
- d) If service prior to July 1, 1990 is rendered partially on a full-time basis and partially on a permanent and continuous part-time basis between July 1 of one year through June 30 of the following year, then credit for service shall be at the ratio of creditable earnings to the annual salary rate. Provided, however, that for service after June 30, 1959, if ~~that~~ such ratio equals or exceeds the ratio of 170 days to the days in the legal school term, one year of service credit shall be granted.
- e) Whenever the actual number of days of service is unavailable because of lack of employer records, the number of days the System uses to grant service credit shall be equal to the actual number of hours for which the member was paid, divided by four.
- f) Days of service shall include any weekday, Monday through Friday, for which periodic payment is made to the member for:
  - 1) Service rendered ~~that~~ which requires teacher certification under the School

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Code;

- 2) Attendance, during the work week, at teacher's institutes, workshops and parent/teacher conferences scheduled in the school calendar;
  - 3) Legal school holidays;
  - 4) Vacation, sick or personal leave days (except when ~~thesuch~~ payment is for severance pay);
  - 5) Sabbatical leaves meeting the requirements of Section 24-6.1 of the School Code [105 ILCS 5/24-6.1];~~or~~
  - ~~6) Suspension.~~
  - ~~67) AbsenceAdministrative absence defined as an absence from duty administratively authorized for investigative purposes without the loss of pay and benefits and without use of accrued time for up to a maximum of one year or until the resignation date, whichever occurs first; or charge to leave.~~
  - ~~7) Service rendered on e-learning days authorized by Section 10-20.56 of the School Code [105 ILCS 5].~~
- g) A day of service may be credited for Saturday service if ~~thatsuch~~ day would otherwise qualify as a day of service and the service was required due to a lawful day of attendance.
- h) ~~Days of service do not include days for which the member was paid while on a board-approved leave of absence. However, the member may be eligible to purchase optional service credit under the provisions of Section 1650.340.~~

(Source: Amended at 43 Ill. Reg. 5115, effective April 22, 2019)

**Section 1650.350 Service Credit for Unused Accumulated Sick Leave Upon Retirement**

- a) To be creditable for retirement purposes, sick leave days must actually be available for use by a member in the event of illness. Service credit is not available and shall not be computed for sick leave days added to the record of a

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member for the purpose of increasing a member's retirement service credit. To determine if any sick leave days granted by an employer in excess of the member's normal annual sick leave allotment during a member's final years of employment are actually available for use and reportable to the System as service credit, the System shall apply the following formula:

- 1) from the date upon which the sick leave days were granted, the number of days remaining in the school term or the member's employment agreement, whichever is greater, until termination shall be determined;
  - 2) from the resulting number of days the System shall subtract the number of sick leave days previously accrued by the member; and
  - 3) the difference is the maximum number of sick leave days that may be reported in addition to those days previously accrued, provided that the employer will allow the member to use ~~thosesueh~~ days in the event of illness prior to termination.
- b) Unused and uncompensated sick leave days are not eligible for service credit at retirement when the member receives compensation for ~~thosesueh~~ days. Effective July 1, 1998, if a member receives payment for accumulated sick leave days that is also reportable to the System as creditable earnings, no service credit shall be available for the days so compensated.
- c) For purposes of calculating a retirement annuity, the System shall not grant service credit for any days withdrawn by the member from a sick leave bank in excess of the days deposited ~~in the sick leave bank therein~~ and unused by the member.
- d) Accumulated business, personal, or other non-vacation leave days are governed by the same standards set forth in subsections (a) and (b) ~~above~~ for sick leave days, but only if they were actually available for use by a member in the event of illness.
- e) Accumulated, unused vacation days are not creditable with the System.

(Source: Amended at 43 Ill. Reg. 5115, effective April 22, 2019)

## SUBPART L: BOARD ELECTION PROCEDURES

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**Section 1650.1010 Petitions**

- a) All petitions shall be in the form adopted by the System. Petition forms may be obtained from the System's Website ([trsil.org](http://trsil.org)~~trs.illinois.gov~~) or in hard copy, upon request.
- b) A valid petition nominating a candidate for a vacant teacher position or a vacant annuitant position on the System's Board of Trustees shall meet the following requirements:
  - 1) The petition must bear the requisite number of original signatures of individuals eligible to nominate the candidate pursuant to ~~subsection (a) or (b) of~~ Section 1650.1000(a) or (b). A valid petition may consist of multiple pages and may contain blank signature lines; however, all valid signatures ~~on the petition~~ ~~thereon~~ must be original signatures.
  - 2) The petition shall bear the notarized signature of the individual who circulated the petition for signatures, verifying that the signatures ~~contained thereon~~ were signed in that individual's presence ~~and~~; are genuine, and that, to the best of the circulating individual's knowledge, the persons who signed the petition were eligible to do so as provided in ~~subsection (a) or (b) of~~ Section 1650.1000(a) or (b).
  - 3) Petitions shall be filed with the Board's secretary during the following time periods:
    - A) For a regular election, not less than 90 nor more than 120 days prior to the election day.
    - B) For a special election as provided in Section 1650.1090, beginning with the Board's secretary's announcement that a special election will be held and no later than the petition-filing deadline announced by the Board's secretary.
  - 4) Petitions filed after the prescribed petition-filing period are invalid and will be returned to the party submitting the petition for filing.
  - 5) Petitions filed before the prescribed petition-filing period will be returned

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to the party submitting the petition for filing, but may be refiled within the prescribed petition-filing period.

- c) The Board's secretary shall determine the validity of petitions for regular elections not less than 75 days prior to the election day, and for special elections not less than 20 days prior to the election day.
- d) Any individual may, upon reasonable notice to the System, examine the petitions that have been filed with the System with respect to the election to take place; provided, however, ~~that~~ in order to protect the signing teachers' and annuitants' privacy and confidentiality, the examination shall only take place subject to the following limitations:
  - 1) Petitions may only be examined at the System's offices after the validity of the petitions has been verified by the Board's secretary as provided in subsection (c) ~~of this Section~~;
  - 2) Petitions ~~shall~~ may not be removed from the System's offices, copied or duplicated by any means; and
  - 3) Petitions, including any information in the petition, shall not be subject to production or disclosure under the ~~provisions of the~~ Illinois Freedom of Information Act (FOIA) [5 ILCS 140].

(Source: Amended at 43 Ill. Reg. 5115, effective April 22, 2019)

**Section 1650.1050 Return of Ballots**

- a) Written Ballots
  - 1) For written ballots, upon receipt of the election materials specified ~~above~~ in Section 1650.1030, the eligible voter shall:
    - A1) Mark his or her ballot in accordance with Section 1650.1040;
    - B2) Write his or her signature, address, and member ID or the last four digits of his or her social security number on the signature card;
    - C3) Detach the completed ballot and signature card along the

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perforated lines;

D4) Place the completed ballot into the envelope marked "For Ballot Only";

E5) Place the completed signature card and the ballot envelope into the return envelope; and

F6) Attach postage, seal and mail, via U.S. mail or express delivery service, the return envelope in time to, so as to ensure that it will reach the System at or prior to 10:00 a.m. on the election day.

2) Written ballots not returned in the "For Ballot Only" envelope are invalid and will not be counted.

- b) Ballots must be received at the System at or prior to 10:00 a.m. on the election day. Ballots received after 10:00 a.m. on the election day are invalid and will not be counted.
- c) All eligible voters must return their ballots to the System individually via electronic mail, U.S. mail or express delivery service. Ballots returned to the System in bulk, via hand delivery, or delivery other than as specified in this subsection, are invalid and will not be counted.
- ~~d)~~ ~~Ballots not returned in the "For Ballot Only" envelope are invalid and will not be counted.~~
- de) Ballots that do not conform to all instructions accompanying the ballot are invalid and will not be counted.

(Source: Amended at 43 Ill. Reg. 5115, effective April 22, 2019)

SUBPART S: BUYOUT PROGRAMSSection 1650.3300 General Provisions

The following terms, phrases, and requirements shall apply to the System's administration of the buyout programs established under Sections 16-190.5 and 16-190.6 of the Code.

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a) Definitions

"Accelerated Annual Increase Buyout" or "AAI Buyout" means the accelerated pension benefit payment for a reduction in annual retirement annuity and survivor's annuity increases provided in Section 16-190.6 of the Code.

"Accelerated Pension Benefit Buyout" or "APB" means the accelerated pension benefit payment in lieu of any pension benefit provided for in Section 16-190.5 of the Code.

"Buyout Payment" means an accelerated pension benefit payment issued under Section 16-190.5 or 16-190.6 of the Code.

"Buyout Programs" means the provisions of Section 16-190.5 allowing for member election of an accelerated pension benefit payment in lieu of any pension benefit, and the provisions of Section 16-190.6 allowing for member election of an accelerated pension payment for a reduction in annual retirement annuity and survivor's annuity increases.

"Code" means the Pension Code [40 ILCS 5].

"Effective Date of the Election" means the date the System receives the member's election to receive a buyout payment in the form prescribed by the System.

"Election Window" means a period of time designated by start and end dates determined by the System during which an eligible member may elect the buyout.

"Factor" refers to actuarial assumptions as determined by the System's actuaries pursuant to Section 16-176 of the Code specifically developed to calculate buyout payments in accordance with Sections 16-190.5 and 16-190.6.

"Terminated", as used in Section 16-190.5, means an inactive member who has separated from service with a TRS-covered employer for at least four consecutive months, as provided in Section 16-151 of the Code.

"Valid Election" means the System has received the member's buyout application form prescribed by the System.

b) Assumptions, Information and Payments

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- 1) For purposes of calculating buyout payments and administering the buyout programs in a reasonable and efficient manner within the constraints imposed by the Code, the System will apply uniform assumptions as determined by the System for all eligible members using the TRS rate of return for discounting future benefit streams and the member's actual age, but irrespective of individual demographic characteristics such as marital status, gender, dependents, etc.
  - 2) The System will use its best efforts to provide accurate and sufficient information to allow an eligible member to make an informed decision whether to elect either of the buyout programs. The member is solely responsible for his or her decision and is encouraged to seek personal financial, legal or other professional advice as necessary and appropriate given individual circumstances. In no event will the System bear any liability for the member's buyout decision.
  - 3) All buyout payments will be funded from the State Pension Obligation Acceleration Bond Fund (see Sections 16-190.5(f) and 16-190.6(d-5) of the Code). The System will administer buyout payments as long as bond proceeds are available (see Section 7.7 of the General Obligation Bond Act [30 ILCS 330]). To protect the System's tax-qualified status as contemplated in Sections 16-190.5(h) and 16-190.6(f), under no circumstances, including unavailability or depletion of bond proceeds, will trust assets of the System be used for any buyout payment.
  - 4) If bond proceeds from the State Pension Obligation Acceleration Bond Fund are depleted or otherwise unavailable to fund buyout payments, the buyout election will be cancelled and any benefits or refunds due the member or member's designated beneficiaries will be calculated according to Sections 1 and 16 of the Code that would apply in the absence of the buyout election.
- c) Rollover Distributions
- 1) All buyout payments will be issued in accordance with Section 1650.470.
  - 2) Notwithstanding the language contained in 40 ILCS 5/16-190.5(e) and 16-190.6(d), in order for the System to maintain its tax-qualified status as

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contemplated in Sections 16-190.5(h) and 16-190.6(f), the member may elect to have a portion of the buyout payment paid to an eligible retirement plan in a direct rollover and to have the remainder paid as a direct distribution to the member.

(Source: Added at 43 Ill. Reg. 5115, effective April 22, 2019)

**Section 1650.3310 Accelerated Annual Increase Buyout Program**

- a) In accordance with Section 16-190.6(b) of the Code, to be eligible for the AAI buyout, a member's retirement date for TRS benefit purposes and the effective date of the AAI buyout election must both occur within the effective dates of the buyout program, January 1, 2019 through June 30, 2021.
- b) The System will notify each eligible member, when applying for a retirement benefit, of the AAI buyout. It is the member's responsibility to comply with all instructions and requirements to achieve a valid election.
- c) A member's election of the AAI buyout becomes irrevocable when the member becomes an annuitant as defined in Section 1650.221.
- d) The AAI buyout payment will be calculated as follows:
  - 1) Calculate the member's monthly retirement benefit under the applicable provisions of Article 16 of the Code. If the member has elected a reversionary annuity under Section 16-136, calculate the monthly benefit after the reversionary reduction.
  - 2) Multiply the result by the 70% of Difference in Monthly Benefit Factor.
- e) Under Section 16-138(2) of the Code, the amount payable upon the death of the annuitant will be reduced by the amount of any buyout payment issued to the annuitant.
- f) The annual increases for a reversionary annuity under Section 16-136 for beneficiaries of a member who received an AAI buyout payment will be calculated pursuant to Section 16-190.6(b-6). If the reversionary beneficiary pre-deceases the annuitant, the buyout payment will not be adjusted.

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- g) A member currently receiving, or who has ever received, a disability retirement annuity under Section 16-149.2 of the Code is not eligible to elect the AAI buyout.
- h) If the System determines after issuance that an AAI buyout payment was more than should have been paid by an amount greater than \$100, the System shall assert a claim for the overpayment in accordance with Section 1650.595 against future benefits to be paid the annuitant or his or her beneficiaries.
- i) If the System determines after issuance that an AAI buyout payment was less than should have been paid by an amount greater than \$100, the System shall request additional funds from the State Pension Obligation Acceleration Bond Fund to process an additional buyout payment for the difference. To protect the System's tax-qualified status (see Section 16-190.6(f)), under no circumstances, including unavailability or depletion of bond proceeds, will trust assets of the System be used for any additional buyout payment.

(Source: Added at 43 Ill. Reg. 5115, effective April 22, 2019)

**Section 1650.3320 Accelerated Pension Benefit Buyout Program**

- a) Each year of the APB program, the System will notify all known eligible terminated members about the buyout and instructions for electing the APB buyout and the dates of the applicable election window, unless the member was notified in a prior year. It is the member's responsibility to comply with all TRS instructions and requirements to achieve a valid election. A member may not revoke the election after the close of the applicable election window.
- 1) During the first year of the program, i.e., calendar year 2019, eligible members receiving an offer will have 180 days from the date of the notification to elect the buyout. An otherwise eligible member who fails to elect the APB during that year's election window must contact the System to be included in any subsequent year's election window.
- 2) During the second year of the program, i.e., calendar year 2020, eligible members receiving an offer will have 180 days from the date of the notification to elect the buyout. An otherwise eligible member who fails to elect the APB during that year's election window must contact the System to be included in the subsequent year's election window.

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- 3) During the third year of the program, i.e., January 1 through June 30, 2021, eligible members receiving an offer will have 90 days from the date of the notification to elect the buyout.
  - 4) If the actual amount of APB buyout payment is less than the amount of the offer by a factor of 10% or more, the member may withdraw the election before the applicable election window closes and revert to the provisions of Article 16 that would apply in the absence of the APB buyout election.
- b) The APB buyout payment will be calculated as follows:
- 1) Calculate the member's monthly retirement benefit under the applicable provisions of Article 16 at the member's earliest retirement age based on the member's service credit as of June 30 of the applicable calendar year. If the member is eligible for an actuarial benefit under Section 16-133(a)(A), the retirement benefit will be calculated as of June 30 of the same calendar year as the applicable election window.
  - 2) Multiply the result by the applicable 60% of Monthly Benefit Factor.
- c) A member's APB election will be canceled prior to issuance of the buyout payment and any benefits or refunds due the member or the member's designated beneficiaries will be calculated according to the provisions of Article 16 that would apply in the absence of the buyout election, when any of the following events occur:
- 1) The member has not complied with all requirements to constitute a valid election by the expiration of the APB program on June 30, 2021.
  - 2) The member dies after electing the APB but prior to issuance of the buyout payment.
  - 3) A Required Minimum Distribution (RMD) is payable to the member in accordance with federal law.
  - 4) The System determines the member is ineligible to participate in the buyout program.

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- 5) The member withdrew the election as provided in this Section.
- d) The calculation of the APB buyout payment becomes final once payment is issued and will not be adjusted for any reason.

(Source: Added at 43 Ill. Reg. 5115, effective April 22, 2019)

**Section 1650.3330 QILDRO Administration with Buyout Programs**

- a) The System will administer Qualified Illinois Domestic Relations Orders (QILDROs) issued in accordance with Section 1-119 of the Code as follows with respect to the buyout programs. The definitions and other provisions of Subpart M are applicable unless otherwise provided in this Subpart S.
- b) A member's buyout election is a prohibited election requiring the alternate payee's written consent, in accordance with Section 1-119(j)(1), if the alternate payee would be entitled to receive a share of the buyout payment under the most recent valid QILDRO or Calculation Order on file with the System as provided in this Section. If the alternate payee does not provide the written consent within the time established by the System, or if the System does not receive an amended QILDRO when required by this Section by the expiration of the applicable buyout program, the buyout election will be cancelled and any benefits or refunds due the member or the member's designated beneficiaries will be calculated according to the provisions of Article 16 that would apply in the absence of the buyout election, and the QILDRO will be administered as if the member did not elect the buyout.
- c) AAI Buyouts
  - 1) If an alternate payee is eligible to share in the member's AAI buyout payment under this Section, the alternate payee's share will be determined from the "partial member's refund" (see Section 1-119 of the Code, Subpart M of this Part, and Section VI (Partial Refund) of the QILDRO form adopted by the System).
  - 2) If QILDRO Section III (Monthly Retirement Benefit) is blank, the member's AAI buyout election may proceed without alternate payee consent, and the alternate payee will not share in the buyout payment.

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- 3) If QILDRO Section III (Monthly Retirement Benefit) is completed but Section IV (Post-Retirement Increases) does not allocate a share to the alternate payee, the member's AAI buyout election may proceed without alternate payee consent, and the alternate payee will not share in the buyout payment.
- 4) If QILDRO Section III (Monthly Retirement Benefit) is completed and QILDRO Section IV (Post-Retirement Increases) allocates a share to the alternate payee, alternate payee consent to the member's AAI buyout election is required.
- 5) If QILDRO Section III (Monthly Retirement Benefit) is completed and Section IV (Post-Retirement Increases) allocates a share to the alternate payee and the alternate payee has consented to the member's AAI buyout election, the alternate payee is entitled to share in the AAI buyout payment in the amount indicated in Section VI (Partial Refund). If Section VI is blank, an amended QILDRO must be submitted to the System that includes a completed Section VI.

d) APB Buyouts

- 1) If an alternate payee is eligible to share in the member's APB buyout payment as provided in this Section, the alternate payee's share will be determined from the "refund upon termination" or "termination refund" (see Section 1-119, Subpart M of this Part, and Section V (Termination Refund) of QILDRO form).
- 2) If QILDRO Section III (Monthly Retirement Benefit) is blank, the member's APB buyout election may proceed without alternate payee consent, and the alternate payee will not share in the buyout payment.
- 3) If QILDRO Section III (Monthly Retirement Benefit) is completed, alternate payee consent to the member's APB buyout election is required.
- 4) If QILDRO Section III (Monthly Retirement Benefit) is completed and the alternate payee has consented to the member's APB buyout election, the alternate payee is entitled to share in the APB buyout payment in the amount indicated in Section V (Termination Refund). If Section V is

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[blank, an amended QILDRO must be submitted to the System that includes a completed Section V.](#)

(Source: Added at 43 Ill. Reg. 5115, effective April 22, 2019)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of April 16, 2019 through April 22, 2019. These rulemakings are scheduled for the May 14, 2019 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>
5/31/19	<u>Department of Insurance</u> , Internal Security Standards and Fidelity Bonds (50 Ill. Adm. Code 3501)	11/9/18 42 Ill. Reg. 19595	5/14/19
5/31/19	<u>Department of Insurance</u> , Required Procedures for Group Inland Marine Insurance (50 Ill. Adm. Code 2302)	2/1/19 43 Ill. Reg. 1476	5/14/19
5/31/19	<u>Department of Insurance</u> , Filing Policy and Endorsements Form (50 Ill. Adm. Code 753)	2/1/19 43 Ill. Reg. 1463	5/14/19
6/1/19	<u>Financial and Professional Regulation</u> , Rules for Administration of the Compassionate Use of Medical Cannabis Pilot Program (68 Ill. Adm. Code 1290)	12/14/18 42 Ill. Reg. 22333	5/14/19
6/1/19	<u>Financial and Professional Regulation</u> , Illinois Dental Practice Act (68 Ill. Adm. Code 1220)	10/26/18 42 Ill. Reg. 19144	5/14/19
6/5/19	<u>Illinois Student Assistance Commission</u> , General Provisions (23 Ill. Adm. Code 2700)	2/8/19 43 Ill. Reg. 1743	5/14/19

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6/5/19	<u>Illinois Student Assistance Commission</u> , Monetary Award Program (MAP) (23 Ill. Adm. Code 2735)	2/8/19 43 Ill. Reg. 1755	5/14/19
6/5/19	<u>Illinois Student Assistance Commission</u> , Community Behavioral Health Care Professional Loan Repayment Program (23 Ill. Adm. Code 2753)	2/8/19 43 Ill. Reg. 1763	5/14/19
6/5/19	<u>Illinois Student Assistance Commission</u> , Nurse Educator Loan Repayment Program (23 Ill. Adm. Code 2758)	2/8/19 43 Ill. Reg. 1771	5/14/19

## CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

## NOTICE OF PUBLIC INFORMATION

## NOTICE OF CAMPAIGN CONTRIBUTION VIOLATION OF PROCUREMENT CODE

1. Statutory Authority: Section 50-37 of the Illinois Procurement Code, 30 ILCS 500/50-37, prohibits business entities with contracts and solicitations worth in excess of \$50,000 in combined annual value pending with a given officeholder responsible for awarding the contracts from making campaign contributions to campaign committees established to promote the candidacy of the officeholder or any other declared candidate for that office. The prohibition also extends to contributions made by various affiliated persons and businesses of a business entity that is subject to the prohibition. Section 50-37 requires that notice of violation of the prohibition and the penalty imposed is to be published in the *Illinois Register*.
2. Name of Contributor: Mr. Daniel Levin, an affiliated person of The Habitat Company, LLC.; Mrs. Frederique Hartog-Levin, an affiliated person of The Habitat Company, LLC; Ms. Sheila Byrne, an affiliated person of The Habitat Company, LLC.
3. Date of Violation: Mr. Daniel Levin - August 20, 2018; December 1, 2017; February 9, 2018; February 21, 2018; March 6, 2018; March 14, 2018; Mrs. Frederique Hartog-Levin – September 30, 2014; September 30, 2014; December 1, 2017; Ms. Sheila Byrne – January 12, 2018.
4. Description of Violation: On August 20, 2018 Mr. Daniel Levin, an affiliated person of the business entity The Habitat Company, LLC, made a contribution of \$5000.00 to the JB for Governor campaign, a campaign committee established to support the election of JB Pritzker to public office. Mr. Daniel Levin, an affiliated person of the business entity The Habitat Company, LLC also made contributions to the Kennedy for Illinois campaign, on December 1, 2017 for \$25,000; February 9, 2018 for \$50,000; February 21, 2018 for \$50,000; March 6, 2018 for \$20,000 and March 14, 2018 for \$10,000. Mrs. Frederique Hartog-Levin, an affiliated person of The Habitat Company, LLC, made a contribution of \$5,000 on September 30, 2014 to the Taxpayers for Quinn campaign, a contribution of \$500 on September 30, 2014 to Sheila Simon for Illinois campaign, and a contribution of \$25,000 on December 1, 2017 to the Kennedy for Illinois campaign. Sheila Byrne, an affiliated person of the business entity The Habitat Company, LLC made a contribution of \$250 on January 12, 2018 to the Kennedy for Illinois campaign.
5. Summary of Action Taken by the Agency: Section 50-37 provides that State contracts with a business entity that violates the campaign contribution prohibition are voidable at the discretion of the chief procurement officer. The Chief Procurement Officers for the Capital Development Board and for Public Institutions of Higher Education have notified

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FDC of the apparent violation, reviewed responsive material provided by FDC, and have considered the value, status, and necessity of the contracts. In addition, the Officers have taken into consideration the recognition by Mr. Meeks of the violation and his understanding of the necessity to avoid such situations in the future. We find that voiding affected contracts, bids or proposals would not be in the best interest of the State.

As required by Section 50-37(e) of the Procurement Code, Brady for Senate, Inc., is required to pay to the State an amount equal to the value of the contribution within 30 days of the publication of this notice.

**ILLINOIS ADMINISTRATIVE CODE**  
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