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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

Issue#	Rules Due Date	Date of Issue
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

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Video Gaming (General)
- 2) Code Citation: 11 Ill. Adm. Code 1800
- 3) Section Number: 1800.340 Proposed Action:
New Section
- 4) Statutory Authority: Implementing and authorized by Section 78 (a) of the Video Gaming Act.
- 5) A Complete Description of the Subjects and Issues Involved: Under existing Video Gaming Act rules, and in contrast to the rules governing riverboat and casino gambling, there is no current requirement for Illinois Gaming Board ("IGB" or "Board") approval of the transfer of ownership interests of a terminal operator. Instead, a licensed terminal operator merely has a continuing duty to report sales of ownership interests to the IGB within 21 days after they occur [11 Ill. Adm. Code 1800.220 (Continuing Duty to Report Information)]. Thus, for a period of three weeks following such a sale, the IGB – the State regulator tasked with protecting the safety and integrity of Illinois gaming – is not entitled to any information whatsoever about, and has no ability to intervene in, a sale involving one of its licensees. Such tardy and after-the-fact disclosures create an emergency under IAPA Section 5-45 (a) by impairing public confidence and trust in the credibility and integrity video gaming operations – a statutory requirement under Section 2 (b) of the Illinois Gambling Act [230 ILCS 10/2 (b) as incorporated into the Video Gaming Act by Section 80 of that act [230 ILCS 40/80]. The urgency of closing this gaping loophole is magnified by recent news reports of alleged illegality in the industry.

The present rule rectifies the situation by generally providing that an ownership interest in a terminal operator may only be transferred with leave of the Board, thereby bringing needed transparency, disclosure, oversight, and accountability to the process. First, the rule's pre-transfer disclosure requirement precludes a terminal operator licensee or owner facing probable disciplinary Board action (including license revocation, suspension or nonrenewal) from evading liability from wrongdoing by effectuating a quick ownership or assets transfer without Board knowledge or approval. Without the present rule, such a person, who has acted unethically and in violation of statutory and administrative requirements, can still earn a potentially large profit derived from the license or ownership. Further, the current lack of a prior disclosure requirement regarding transfers of terminal operator ownership and assets means that a person holding an interest in a terminal operator has the opportunity to unload the interest even before the Board is cognizant that a disciplinary situation exists. The current absence of real time Board

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oversight over terminal operator ownership and asset sales deprives the public of confidence that video gaming business in Illinois operates in an ethical or transparent manner. The present rule, by imposing a prior disclosure requirement upon terminal operator licensees and owners, will enhance public confidence in the integrity of video gaming by providing assurance that those who violate video gaming law will not profit from unethical or illegal conduct.

Second, unregulated transfers of terminal operator ownership and assets will tend to diminish economic competition. Section 25 (i) of the Video Gaming Act [230 ILCS 40/25 (i)] declares that "[t]he Board shall not allow a terminal operator to operate video gaming terminals if the Board determines such operation will result in undue economic concentration". To further the implementation of this statutory directive, the Board has adopted 11 Ill. Adm. Code 1800.440 (Undue Economic Concentration), which establishes criteria for evaluating whether a situation of undue economic concentration exists, and gives the Board "authority to place any restrictions or qualifications on the terms of a terminal operator license that it deems necessary to prevent or eliminate undue economic concentration, including, but not limited to, setting a limit on the maximum amount of use agreements a terminal operator may have" [11 Ill. Adm. Code 1800.440 (d)].

If the Board lacks advance knowledge of terminal operator ownership and asset transfers, it cannot effectively limit these transfers so as to prevent undue economic concentration. This is a real and pressing concern. During State Fiscal Year (FY) 2018, the five largest terminal operators (out of a current total of 75) had combined Net Terminal Income (NTI) amounting to 56.0% of the total NTI of all Illinois terminal operators. The share of total NTI held by these top five terminal operators has been rapidly increasing, as shown below:

<u>Fiscal Year</u>	<u>Percentage of total NTI held by the five largest terminal Operators</u>
2017	49.2%
2016	46.6%
2015	45.1%
2014	40%

If the IGB is provided with advance notification of terminal operator asset transfers, it can act to curb the increasing levels of economic concentration in the industry under its

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present statutory and regulatory authority. But without such notification, the Board cannot effectively address the concentration trend and protect economic competition in the industry.

Third, the Board's current lack of timely information regarding ownership transfers and asset sales also raises major related concerns pertaining to the financial stability of many terminal operators. Deprived of prior notice, the Board cannot act to prevent sales of use agreements (in which a terminal operator agrees to install and maintain video gaming terminals in a licensed video gaming location) to those terminal operators whose financial circumstances may be precarious and that are therefore unable to handle the additional financial requirements that the sales will bring upon them. Without financial stability within the key terminal operator sector of the video gaming industry, video gaming in Illinois will prove incapable of completely fulfilling its statutory purpose of "assisting economic development and promoting Illinois tourism" [230 ILCS 10/2 (a).]

This rule will provide needed transparency and consistency with respect to terminal operator transactions and ensure that ethical standards are maintained. The very foundation of gaming regulation is knowledge of who holds ownership of gaming interests. Without it, the pyramid of effective regulation tumbles. The present rule will provide both the Board and general public with this knowledge and the accountability and confidence that flow from it.

The rulemaking contains the following specific provisions:

Subparagraph (a) provides that an ownership interest in a licensed terminal operator may only be transferred with leave of the Board unless all material terms of the prospective transaction were fully disclosed to the Board on or before November 7, 2019. Leave of the Board is also required for the transfer of any ownership interest in a business entity (other than a publicly traded company) that has an interest in a licensed terminal operator unless all material terms of the prospective transaction were disclosed to the Board on or before November 7, 2019.

Under subsection (a), the type of information that must be provided to the Board in connection with the acquisition of an ownership interest depends on whether it is a terminal operator or another type of business entity that is seeking to acquire a terminal operator interest. A business entity other than a terminal operator that is seeking to acquire an interest in a terminal operator of less than 100% must complete either a Business Entity or a Personal Disclosure form as appropriate, as well as any other information specifically requested by the Board. If the business entity seeks 100%

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ownership of a terminal operator, it must complete a terminal operator application. A licensed terminal operator seeking to acquire ownership in another licensed terminal operator must provide any information requested by the Board.

The subsection requires the Board to investigate persons acquiring an ownership interest in a licensed terminal operator, with the costs of the investigation to be borne by the person seeking to acquire the ownership interest.

The Board shall grant leave for a transfer of ownership interest only after it is satisfied that the transaction:

Does not adversely affect public confidence and trust in gaming;

Does not pose a threat to the public interests of the State or to the security and integrity of video gaming; and

Does not discredit or tend to discredit the gaming industry or the State of Illinois.

The subsection establishes standards to guide the Board in deciding whether to grant a transfer of ownership interest among terminal operators. In making this determination, the Board shall consider:

Licensing criteria contained in the Video Gaming Act;

Section 1800.420 of the video gaming rules (Qualifications for Licensure); and

Undue economic concentration.

If the Board denies a transfer of ownership interests, the Board shall issue a Notice of Denial and the denied entity may request a hearing under Subpart F (Denials of Applications for Licensure).

Subsection (b) deals with the transfer of video gaming assets. It provides that, except for equipment, no video gaming asset, including the right to place video gaming terminals at a licensed establishment, may be assigned or transferred to another terminal operator without prior approval from the Administrator.

Subsection (c) establishes standards to be followed by the Administrator in denying a licensed terminal operator's request to transfer or assign a video gaming asset to another

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licensed terminal operator. The Administrator shall issue such a denial only if the Administrator finds that the request is not in the best interest of gaming in the State. In making this determination, the Administrator shall consider all relevant factors, including but not limited to:

Undue economic concentration;

Integrity of the State's video gaming industry; and

Status of licensee with the Board.

Subsection (d) requires the Administrator to notify the parties in writing whenever he or she denies a request to transfer or assign a video gaming asset.

Finally, subsection (e) provides that following a denial by the Administrator of a request to transfer or assign a video gaming asset, the terminal operator may only transfer or assign the asset with leave from the Board.

- 6) Published studies and reports, and underlying sources of data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? Yes
- 8) Does the 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>
1800.110	Amendment	43 Ill. Reg. 9209, August 30, 2019
1800.250	Amendment	43 Ill. Reg. 9209, August 30, 2019
1800.260	Amendment	43 Ill. Reg. 9209, August 30, 2019
1800.420	Amendment	43 Ill. Reg. 9209, August 30, 2019
1800.430	Amendment	43 Ill. Reg. 9209, August 30, 2019
1800.540	Amendment	43 Ill. Reg. 9209, August 30, 2019
1800.580	Amendment	43 Ill. Reg. 9209, August 30, 2019
1800.1810	New Section	43 Ill. Reg. 9209, August 30, 2019
1800.1910	New Section	43 Ill. Reg. 9312, September 6, 2019

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1800.1920	New Section	43 Ill. Reg. 9312, September 6, 2019
1800.1930	New Section	43 Ill. Reg. 9312, September 6, 2019
1800.1940	New Section	43 Ill. Reg. 9312, September 6, 2019
1800.2010	New Section	43 Ill. Reg. 12767, November 1, 2019
1800.2020	New Section	43 Ill. Reg. 12767, November 1, 2019
1800.2030	New Section	43 Ill. Reg. 12767, November 1, 2019
1800.2040	New Section	43 Ill. Reg. 12767, November 1, 2019
1800.2050	New Section	43 Ill. Reg. 12767, November 1, 2019
1800.2060	New Section	43 Ill. Reg. 12767, November 1, 2019

- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under 30 ILCS 805.
- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit comments in writing concerning this proposed rulemaking not later than 45 days after publication of this Notice in the *Illinois Register* to:

Agostino Lorenzini
General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago IL 60601

fax: 312/814-7253
Agostino.lorenzini@igb.illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: The rulemaking will affect terminal operators licensed under the Video Gaming Act that qualify as small businesses..
- B) Reporting, bookkeeping or other procedures required for compliance: The rulemaking requires the Illinois Gaming Board to record all proposed sales of terminal operator ownership interests and assets.
- C) Types of professional skills necessary for compliance: No new professional skills will be required.

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- 14) Small business impact analysis:
- A) Types of businesses subject to the proposed rule:
- 55 Management of Companies and Enterprises
- B) Categories that the Agency reasonably believes the rulemaking will impact, including:
- i. hiring and additional staffing
- viii. record keeping
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized in a regulatory agenda.

The full text of the Proposed Amendment is identical to that of the Emergency Rule found in this issue of the *Illinois Register* on page 13464.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Special Waste Hauling
- 2) Code Citation: 35 Ill. Adm. Code 809
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
809.103	Amendment
809.501	Amendment
- 4) Statutory Authority: Implementing Section 56.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/56.2 and 5/27].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments are intended to allow Illinois transporters of State-regulated non-hazardous special waste to obtain and use functionally identical manifests to track such waste while avoiding the significant costs and burdens associated with utilization of United States Environmental Protection Agency's e-Manifest system.
- 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: These proposed amendments do not create or enlarge a State Mandate as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments must be filed with the Clerk of the Board. Public comments should reference Docket R19-18 and be addressed to:

Clerk's Office

POLLUTION CONTROL BOARD

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Illinois Pollution Control Board
JRTC 100 W. Randolph St., Suite 11-500
Chicago IL 60601

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at pcb.illinois.gov.

Interested persons may request copies of the Board's opinion and order in R19-18 by calling the Clerk's office at 312/814-3620 or may download copies from the Board's Web site at pcb.illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Generators, haulers and disposal facilities of State-regulated special waste
 - B) Reporting, bookkeeping or other procedures required for compliance: Use of paper manifest to track waste and annual reporting to the Illinois Environmental Protection Agency
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 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 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 809
SPECIAL WASTE HAULING

SUBPART A: GENERAL PROVISIONS

Section	
809.101	Authority, Policy and Purposes
809.102	Severability
809.103	Definitions
809.104	Incorporations by Reference
809.105	Public Records

SUBPART B: SPECIAL WASTE HAULING PERMITS

Section	
809.201	Special Waste Hauling Permits – General
809.202	Applications for Special Waste Hauling Permit – Contents
809.203	Applications for Special Waste Hauling Permit – Signatures and Authorization
809.204	Applications for Special Waste Hauling Permit – Filing and Final Action by the Agency
809.205	Special Waste Hauling Permit Conditions
809.206	Special Waste Hauling Permit Revision
809.207	Transfer of Special Waste Hauling Permits
809.208	Special Waste Hauling Permit Revocation
809.209	Permit No Defense
809.210	General Exemption from Special Waste Hauling Permit Requirements
809.211	Exemptions for Special Waste Transporters
809.212	Duration of Special Waste Hauling Permits
809.213	Compliance with Federal Requirements

SUBPART C: DELIVERY AND ACCEPTANCE

Section	
809.301	Requirements for Delivery of Special Waste to Transporters

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809.302 Requirements for Acceptance of Special Waste from Transporters

SUBPART D: PERMIT AVAILABILITY AND SYMBOLS

Section

809.401 Permit Availability

809.402 Special Waste Symbols

SUBPART E: MANIFESTS, RECORDS AND REPORTING

Section

809.501 Manifests, Records, Access to Records, Reporting Requirements and Forms

SUBPART F: DURATION OF SPECIAL WASTE HAULER
PERMITS AND TANK NUMBERS

Section

809.601 Duration of Special Waste Hauler Permits and Tank Numbers (Repealed)

SUBPART G: EMERGENCY CONTINGENCIES FOR SPILLS

Section

809.701 General Provision

SUBPART H: EFFECTIVE DATES

Section

809.801 Compliance Date

809.802 Exceptions (Repealed)

SUBPART I: HAZARDOUS (INFECTIOUS) HOSPITAL WASTE

Section

809.901 Definitions (Repealed)

809.902 Disposal Methods (Repealed)

809.903 Rendering Innocuous by Sterilization (Repealed)

809.904 Rendering Innocuous by Incineration (Repealed)

809.905 Recordkeeping Requirements for Generators (Repealed)

809.906 Defense to Enforcement Action (Repealed)

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SUBPART J: REQUIREMENTS FOR HAULERS PREVIOUSLY PERMITTED
UNDER THE UNIFORM PROGRAM

Section

- 809.910 Uniform State Hazardous Waste Transportation Registration and Permit Program (Repealed)
- 809.911 Application for a Uniform Permit (Repealed)
- 809.912 Application for Uniform Registration (Repealed)
- 809.913 Payment of Processing and Audit Fees (Repealed)
- 809.914 Payment of Apportioned Mile Fees (Repealed)
- 809.915 Submittal of Fees (Repealed)
- 809.916 Previously Permitted Transporters (Repealed)
- 809.917 Uniform Registration and Uniform Permit Conditions (Repealed)
- 809.918 Uniform Registration and Uniform Permit Revision (Repealed)
- 809.919 Transfer of Uniform Registration and Uniform Permits (Repealed)
- 809.920 Audits and Uniform Registration and Uniform Permit Revocation (Repealed)
- 809.921 Permit No Defense (Repealed)
- 809.1001 Transporters Previously Permitted Under Uniform Hazardous Waste Transportation Permit and Registration Program

809.APPENDIX A Old Rule Numbers Referenced (Repealed)

AUTHORITY: Implementing Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01, 22.2 and 27] (see P.A. 90-219).

SOURCE: Adopted in R76-10, 33 PCB 131, at 3 Ill. Reg. 13, p. 155, effective March 31, 1979; emergency amendment in R76-10, 39 PCB 175, at 4 Ill. Reg. 34, p. 214, effective August 7, 1980, for a maximum of 150 days; emergency amendment in R80-19, 40 PCB 159, at 5 Ill. Reg. 270, effective January 1, 1981, for a maximum of 150 days; amended in R77-12(B), 41 PCB 369, at 5 Ill. Reg. 6384, effective May 28, 1981; amended in R80-19, 41 PCB 459, at 5 Ill. Reg. 6378, effective May 31, 1981; codified in R81-9, 53 PCB 269, at 7 Ill. Reg. 13640, effective September 30, 1983; recodified in R84-5, 58 PCB 267, from Subchapter h to Subchapter i at 8 Ill. Reg. 13198; amended in R89-13A at 14 Ill. Reg. 14076, effective August 15, 1990; amended in R91-18 at 16 Ill. Reg. 130, effective January 1, 1992; amended in R95-11 at 20 Ill. Reg. 5635, effective March 27, 1996; amended in R98-29 at 23 Ill. Reg. 6842, effective July 1, 1999; amended in R00-18 at 24 Ill. Reg. 14747, effective September 25, 2000; amended in R06-20(A) at 34 Ill. Reg. 3317, effective February 25, 2010; amended in R06-20(B) at 34 Ill. Reg. 17398,

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effective October 29, 2010; amended in R12-13 at 36 Ill. Reg. 12332, effective July 18, 2012; amended in R13-08 at 37 Ill. Reg. 1206, effective January 15, 2013; amended in R19-18 at 44 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 809.103 Definitions

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

"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

"Btu" or "British thermal unit" means the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste or special waste into or on any land or water so that such waste or special waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters. [415 ILCS 5/3.08] (See "Waste", "Special Waste".)

"Garbage" is waste resulting from the handling, processing, preparation, cooking, and consumption of food, and wastes from the handling, processing, storage and sale of produce. [415 ILCS 5/3.200] (See "Waste".)

"Hazardous waste" means a waste, or combination of wastes, which because of quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential threat to human health or to the environment when improperly treated, stored, transported or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) or pursuant to agency guidelines consistent with the requirements of the Act and Board regulations. Potentially infectious medical waste is not a hazardous waste, except for those potentially infectious medical wastes identified by characteristics or listing as hazardous under Section 3001 of

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the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations. [415 ILCS 5/3.220]

"Hazardous waste transporter" means any person who transports hazardous waste as defined in Section ~~3.2203-15~~ of the Act.

"Industrial process waste" means any liquid, solid, semi-solid or gaseous waste, generated as a direct or indirect result of the manufacture of a product or the performance of a service, which poses a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. "Industrial process waste" includes but is not limited to spent pickling liquors, cutting oils, chemical catalysts, distillation bottoms, etching acids, equipment cleanings, paint sludges, incinerator ashes, core sands, metallic dust sweepings, asbestos dust, hospital pathological wastes and off-specification, contaminated or recalled wholesale or retail products. Specifically excluded are uncontaminated packaging materials, uncontaminated machinery components, general household waste, landscape waste and construction or demolition debris. [415 ILCS 5/3.235]

"Manifest" means the form prescribed by the Agency or USEPA and used for identifying name, quantity, and the origin, routing, and destination of special waste during its transportation from the point of generation to the point of disposal, treatment, or storage, as required by the Act, this Part, 35 Ill. Adm. Code: Subtitle G, or by the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) or regulations ~~thereunder~~.

"Nonhazardous special waste" means any special waste, as defined in this Section, that has not been identified, by characteristics or listing, as hazardous ~~under pursuant to~~ section 3001 of the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) or ~~under pursuant to~~ Board regulations.

"On-site" means on the same or geographically contiguous property under the control of the same person even if such contiguous property is divided by a public or private right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way that the person controls, and to which the public does not have access, is also considered on-site property.

"Permitted disposal site" means a sanitary landfill or other type of disposal site,

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including but not limited to a deep well, a pit, a pond, a lagoon or an impoundment that has a current, valid operating permit issued by the Agency and a supplemental permit issued by the Agency specifically permitting the site to accept a special waste tendered for disposal.

"Permitted storage site" means any site used for the interim containment of special waste prior to disposal or treatment that has a current, valid operating permit issued by the Agency and a supplemental permit issued by the Agency specifically permitting the site to accept a special waste tendered for storage.

"Permitted treatment site" means any site used to change the physical, chemical or biological character or composition of any special waste, including but not limited to a processing center, a reclamation facility or a recycling center that has a current, valid operating permit issued by the Agency and a supplemental permit issued by the Agency specifically permitting the site to accept a special waste tendered for treatment.

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

"Pollution control waste" means any liquid, solid, semi-solid or gaseous waste generated as a direct or indirect result of the removal of contaminants from the air, water or land, and which pose a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. "Pollution control waste" includes but is not limited to water and wastewater treatment plant sludges, baghouse dusts, scrubber sludges and chemical spill cleanings. [415 ILCS 5/3.335]

"Reclamation" means the recovery of material or energy from waste for commercial or industrial use.

"Refuse" means any garbage or other discarded materials, with the exception of radioactive materials discarded in [compliance accordance](#) with the provisions of the Radiation Protection Act [420 ILCS 40] and Radioactive Waste Storage Act [420 ILCS 35]. (See "Waste".)

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"Septic tank pumpings" means the liquid portions and sludge residues removed from septic tanks.

"Site" means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations under the Act. [415 ILCS 5/3.460]

"Solid waste" (see "Waste").

"Special waste" means any of the following:

Potentially infectious medical waste;

Hazardous waste, as determined in conformance with RCRA hazardous waste determination requirements set forth in 35 Ill. Adm. Code 722.111, including a residue from burning or processing hazardous waste in a boiler or industrial furnace unless the residue has been tested in accordance with 35 Ill. Adm. Code 726 and proven to be nonhazardous;

Industrial process waste or pollution control waste, except:

Any such waste certified by its generator, pursuant to Section 22.48 of the Act, not to be any of the following:

A liquid, as determined using the paint filter test set forth in 35 Ill. Adm. Code 811.107(m)(3)(A);

Regulated asbestos-containing waste materials, as defined under the National Emission Standards for Hazardous Air Pollutants in 40 CFR 61.141;

Polychlorinated biphenyls (PCBs) regulated pursuant to 40 CFR 761;

An industrial process waste or pollution control waste subject to the waste analysis and recordkeeping requirements of 35 Ill. Adm. Code 728.107 under the land disposal restrictions of 35 Ill. Adm. Code 728; and

POLLUTION CONTROL BOARD

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A waste material generated by processing recyclable metals by shredding and required to be managed as a special waste under Section 22.29 of the Act;

Any empty portable device or container, including but not limited to a drum, in which a special waste has been stored, transported, treated, disposed of, or otherwise handled, provided that the generator has certified that the device or container is empty and does not contain a liquid, as determined using the paint filter test set forth in 35 Ill. Adm. Code 811.107(m)(3)(A). "Empty portable device or container" means a device or container in which removal of special waste, except for a residue that shall not exceed one inch in thickness, has been accomplished by a practice commonly employed to remove materials of that type. An inner liner used to prevent contact between the special waste and the container shall be removed and managed as a special waste; or

As may otherwise be determined under Section 22.9 of the Act.
[415 ILCS 5/3.475]

"Special waste hauling vehicle" means any self-propelled motor vehicle, except a truck tractor without a trailer, used to transport special waste in bulk or packages, tanks, or other containers.

"Special waste transporter" means any person who transports special waste from any location.

"Spill" means any accidental discharge of special waste.

"Storage" means the interim containment of special waste prior to disposal or treatment.

"Tank" means any bulk container placed on or carried by a vehicle to transport special waste, including wheel mounted tanks.

"Treatment" means any method, technique or process, including neutralization designed to change the physical, chemical or biological character or composition of any special waste so as to neutralize that waste or so as to render that waste nonhazardous, safer for transport, amenable for recovery, amenable for storage

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or reduced in volume. "Treatment" includes any activity or processing designed to change the physical form or chemical composition of hazardous waste to render it nonhazardous. [415 ILCS 5/3.505] Treatment also includes reclamation, re-use and recycling of special waste.

"Truck" means any unitary vehicle used to transport special waste.

"Truck tractor" means any motor vehicle used to transport special waste that is designed and used for drawing other devices and not so constructed as to carry a load other than a part of the weight of the device and load so drawn.

"Uniform permit" means the permit issued by a base state under Part II of the uniform application.

"Uniform registration" means the annual registration issued by a base state under Part I of the uniform application, if the base state has a registration requirement.

"Waste" means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.135 of the Act, or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or byproduct materials as defined by the Atomic Energy Act of 1954, as amended (42 USC 2011 et seq.) or any solid or dissolved material from any facility subject to The Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto. [415 ILCS 5/3.535]

"Washwater", as used in this Part, means a mixture of water, nonhazardous cleaning compounds, and residue that results from cleaning surfaces and equipment and that is collected separately from sewage.

"Wastewater", as used in this Part, means stormwater, surface water, groundwater or nonhazardous washwater that has been contaminated with used oil but has not been mixed with sewage, industrial waste or any other waste.

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(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART E: MANIFESTS, RECORDS AND REPORTING

Section 809.501 Manifests, Records, Access to Records, Reporting Requirements and Forms

- a) Any person who delivers special waste to a permitted special waste transporter ~~must~~shall complete a ~~uniform hazardous waste~~ manifest to accompany the special waste from delivery to the destination of the special waste. The following are exceptions to this requirement:
- 1) The generator or transporter is not required to complete a manifest for used oil that is defined by and managed in ~~compliance~~accordance with 35 Ill. Adm. Code 739.
 - 2) The generator or transporter is not required to complete a manifest for the following used oil mixtures, provided that the generator or transporter complies with the informational requirements of 35 Ill. Adm. Code 739.146(a) and 35 Ill. Adm. Code 809.501(b):
 - A) Mixtures of used oil as defined by and managed in ~~compliance~~accordance with 35 Ill. Adm. Code 739 and hazardous waste, both generated and mixed by a conditionally exempt small quantity generator of hazardous waste, provided that the mixture contains more than 50 percent used oil by either volume or weight;
 - B) Mixtures of used oil as defined by and managed in ~~compliance~~accordance with 35 Ill. Adm. Code 739 and characteristic hazardous waste, with a Btu per pound content greater than 5,000 prior to being mixed with the used oil, when:
 - i) the characteristic has been extinguished in the resultant mixture;
 - ii) both the used oil and the characteristic hazardous waste have been generated and mixed by the same generator; and

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- iii) the mixture contains more than 50 percent used oil by either volume or weight;
 - C) Mixtures of used oil as defined by and managed in accordance with 35 Ill. Adm. Code 739 and fuel or other fuel products; and
 - D) Used oil as defined by and managed in ~~compliance~~ with 35 Ill. Adm. Code 739 contaminated by or mixed with nonhazardous wastewater, when the used oil and the nonhazardous wastewater are generated by the same generator, and when the mixture results from use or unintentional contamination.
- b) The generator ~~must~~ include in the manifest the following:
- 1) The name of the generator of the special waste and generator number;
 - 2) Information stating when and where the special waste was generated;
 - 3) The name of the person from whom delivery is accepted and the name of the site from which delivered;
 - 4) The name and permit number of the transporter;
 - 5) The date of delivery; and
 - 6) The classification and quantity of the special waste delivered to the transporter.
- c) ~~The~~ For hazardous waste, the manifest will consist of forms prescribed by USEPA for the Uniform Hazardous Waste Manifest and will be distributed in ~~compliance~~ with those requirements. For nonhazardous special waste, the manifest will consist of forms prescribed by the Agency, provided that the forms must comply with the requirements of Section 22.01 of the Act and may be purchased from a third party. The person who delivers special waste to a special waste transporter ~~must~~ retain the designated parts of the manifest as a record. The remaining parts of the manifest ~~must~~ accompany the special waste shipment. At the destination, the manifest ~~must~~ be signed by the person who accepts special waste from a special waste transporter, acknowledging receipt of the special waste.

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- d) A permitted site that receives special waste for disposal, storage or treatment of special waste must be designated on the manifest as the final destination point. Any subsequent delivery of the special waste or any portion or product thereof to a special waste transporter ~~must~~ be conducted under a manifest initiated by the permitted disposal, storage or treatment site.
- e) In all cases, the special waste transporter ~~must~~ deliver the designated parts of the complete, signed manifest to the person who accepts delivery of special waste from the transporter. The special waste transporter ~~must~~ retain the designated part of the complete, signed manifest as a record of delivery to a permitted disposal, storage or treatment site. In addition, at the end of each month, or longer if approved by the Agency, the owner and the operator of the permitted disposal, storage or treatment site who accepts special waste from a special waste transporter ~~must~~ send the designated part of the completed manifest to the person who delivered the special waste to the special waste transporter.
- f) Every generator who delivers special waste to a special waste transporter, every person who accepts special waste from a special waste transporter and every special waste transporter ~~must~~ retain their respective parts of the special waste manifest as a record of all special waste transactions. These parts ~~must~~ be retained for three years and will be made available at reasonable times for inspection and photocopying by the Agency.

BOARD NOTE: The manifest requirements of 35 Ill. Adm. Code 722, 724 and 725 relative to RCRA hazardous wastes are not affected by this subsection.

- g) Every in-State facility that accepts nonhazardous special waste from a special waste transporter ~~must~~ file a report, on forms prescribed or provided by the Agency, summarizing all such activity during the preceding calendar year. Such reports should, at a minimum, include the information specified in subsection (h) ~~of this Section~~ and be received by the Agency no later than February 1. This subsection is applicable to all nonhazardous special wastes that are delivered to a special waste transporter on or after January 1, 1991.
- h) Every annual report required to be filed with the Agency by a person accepting nonhazardous special waste from a special waste transporter pursuant to subsection (g) ~~of this Section~~ ~~must~~ include the following information:

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- 1) The IEPA identification number, name and address of the facility;
- 2) The period (calendar year) covered by the report;
- 3) The IEPA identification number, name and address of each nonhazardous special waste generator from which the facility received a nonhazardous special waste during the period;
- 4) A description and the total quantity of each nonhazardous special waste the facility received from off-site during the period. This information ~~must~~shall be listed by IEPA identification number of each generator;
- 5) The method of treatment, storage or disposal for each nonhazardous special waste; and
- 6) A certification signed by the owner or operator of the facility or the owner's or operator's authorized representative.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Cigarette Tax Act
- 2) Code Citation: 86 Ill. Adm. Code 440
- 3) Section Number: 440.10 Proposed Action: Amendment
- 4) Statutory Authority: 35 ILCS 130/8
- 5) A Complete Description of the Subjects and Issues Involved: Section 440.10 is amended to implement changes to the Cigarette Tax Act made by PA 101-31. PA 101-31, effective July 1, 2019, increased the tax on cigarettes from 99 mills per cigarette to 149 mills per cigarette (\$1.98 per package of 20 cigarettes to \$2.98 per package of 20 cigarettes). Pursuant to Section 2 of the Cigarette Tax Act, all moneys received by the Department under the Cigarette Tax Act and the Cigarette Use Tax Act from the additional 50 mills per cigarette tax are payable into the Capital Projects Fund. A floor tax requires a distributor to pay the additional tax to the extent that the volume of affixed and unaffixed stamps in the distributor's possession on July 1, 2019 exceeds the average monthly volume of cigarette stamps purchased by the distributor in calendar year 2018.
- 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: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Richard S. Wolters

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield IL 62794

217/782-2844

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Distributors of cigarettes are affected.
 - B) Reporting, bookkeeping or other procedures required for compliance: Basic accounting and computer skills
 - C) Types of professional skills necessary for compliance: Basic accounting and computer skills
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed rule:
 - 42 Wholesale Trade
 - B) Categories that the Agency reasonably believes the rulemaking will impact, including:
 - ii. regulatory requirements;
 - iii. record keeping;
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2019

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

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

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

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

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SOURCE: Filed and effective June 17, 1958; amended at 6 Ill. Reg. 2831 and 2834, effective March 3, 1982; codified at 8 Ill. Reg. 17912; amended at 13 Ill. Reg. 10678, effective June 16, 1989; amended at 14 Ill. Reg. 6794, effective April 19, 1990; amended at 15 Ill. Reg. 117, effective December 24, 1990; emergency amendment at 23 Ill. Reg. 9541, effective July 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14748, effective December 8, 1999; amended at 24 Ill. Reg. 9903, effective June 23, 2000; emergency amendment at 24 Ill. Reg. 10752, effective July 6, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 17793, effective November 28, 2000; amended at 25 Ill. Reg. 933, effective January 8, 2001; emergency amendment at 26 Ill. Reg. 9021, effective June 10, 2002, for a maximum of 150 days; emergency expired November 5, 2002; amended at 27 Ill. Reg. 1618, effective January 15, 2003; emergency amendment at 27 Ill. Reg. 10524, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; amended at 28 Ill. Reg. 3906, effective February 13, 2004; amended at 32 Ill. Reg. 17575, effective October 27, 2008; amended at 39 Ill. Reg. 14719, effective October 22, 2015; amended at 42 Ill. Reg. 23174, effective November 29, 2018; amended at 43 Ill. Reg. 8898, effective July 30, 2019; amended at 44 Ill. Reg. _____, effective _____.

Section 440.10 Nature and Rate of Tax

- a) ~~Through June 30, 2019, the~~The cigarette tax is imposed at the rate of 99 mills per cigarette upon any person who exercises the privilege of engaging in business as a retailer of cigarettes in this State, ~~and is at the rate of 5½ mills per cigarette sold or otherwise disposed of in the course of that business in this State. Beginning July 1, 2019, the tax is imposed upon any person who exercises the privilege of engaging in business as a retailer of cigarettes in this State at the rate of 149 mills per cigarette sold or otherwise disposed of in the course of business in this State, or \$2.98 per package of 20 cigarettes. The proceeds from this tax are paid into the General Revenue Fund of the State Treasury.~~
- b) ~~In addition, the Cigarette Tax Act [35 ILCS 130] (the Act), imposes a tax upon any person engaged in business as a retailer of cigarettes in this State at the rate of ½ mill per cigarette sold or otherwise disposed of in the course of that business in this State on and after January 1, 1947, and shall be paid into the Service Recognition Bond, Interest and Retirement Fund until that Fund contains sufficient money to retire all bonds payable from that Fund. Thereafter, the proceeds from the ½ mill tax were to be paid (until July 1, 2005) into the Fair and Exposition Authority Reconstruction Fund, or as thereafter provided in Section 29 of the Act.~~

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- e) ~~Effective December 1, 1985, in addition to any other taxes imposed by the Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes in this State at a rate of 4 mills per cigarette sold or otherwise disposed of in the course of that business in this State. Of this additional tax, \$9,000,000 of the moneys received under the Act shall be paid each month into the Common School Fund. (Section 2(a) of the Act)~~
- d) ~~Effective July 2, 1989, in addition to any other tax imposed by the Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 5 mills per cigarette sold or otherwise disposed of in the course of such business in this State (Section 2(a) of the Act).~~
- e) ~~Effective July 14, 1993, in addition to any other tax imposed by the Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 7 mills per cigarette sold or otherwise disposed of in the course of such business in this State (Section 2(a) of the Act).~~
- f) ~~Effective December 15, 1997, in addition to any other tax imposed by the Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 7 mills per cigarette sold or otherwise disposed of in the course of such business in this State. All of the monies received from this additional tax shall be paid into the Common School Fund. (Section 2(a) of the Act)~~
- g) ~~Effective July 1, 2002, in addition to any other tax imposed by the Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 20 mills per cigarette sold or otherwise disposed of in the course of such business in this State.~~
- h) ~~The total of these rates is 29 mills per cigarette, or 58¢ on a package of 20 cigarettes, except that, beginning July 1, 2002, the total of these rates is 49 mills per cigarette or 98¢ on a package of 20 cigarettes through June 23, 2012. Beginning June 24, 2012, in addition to any other tax imposed by the Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 50 mills per cigarette sold or otherwise disposed of in the course of such business in this State (Section 2(a) of the Act). Beginning June 24, 2012, the total of these rates is 99 mills per cigarette or \$1.98 for a package of 20 cigarettes.~~
- b~~i~~) The impact of these taxes is declared by the Cigarette Tax Act [35 ILCS 130] (Act) to be imposed upon the retailer, with the taxes being required to be prepaid

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or pre-collected by the distributor for the purpose of convenience and facility only, and the amount of the tax shall be added to the price of the cigarettes sold by the distributor. Collection of the tax shall be evidenced by a stamp or stamps affixed to each original package of cigarettes, as provided in the Act and in this Part.

- cj) It shall be the duty of each distributor to collect the tax from the retailer at or before the time of the sale, to affix the required stamps and to remit the tax collected from retailers to the Department of Revenue (Department). Any distributor who shall fail to properly collect and pay the tax imposed by the Act shall be liable for the tax.
- dk) The amount of the cigarette tax imposed by the Act shall be separately stated, apart from the price of the goods, by both distributors and retailers, in all advertisements, bills and sales invoices.
- el) The taxes so imposed are in addition to all other occupation or privilege taxes imposed by the State of Illinois, political subdivisions of the State or by any municipal corporation.
- fj) Out of the 149 mills per cigarette tax imposed by subsection (a), the revenues received from 4 mills shall be paid into the Common School Fund each month, not to exceed \$9,000,000 per month. Out of the 149 mills per cigarette tax imposed by subsection (a), all of the revenues received from 7 mills shall be paid into the Common School Fund each month. Out of the 149 mills per cigarette tax imposed by subsection (a), 50 mills per cigarette each month shall be paid into the Healthcare Provider Relief Fund.
- g) All moneys received by the Department under the Act, the Cigarette Use Tax Act [35 ILCS 135] , and the Tobacco Products Tax Act of 1995 [35 ILCS 143] from the additional tax of 50 mills per cigarette imposed by P.A. 101-0031 shall be paid each month into the Capital Projects Fund.
- m) *All moneys received by the Department under the Act and the Cigarette Use Tax Act from the additional tax of 50 mills per cigarette imposed by PA 97-688 shall be paid each month into the Healthcare Provider Relief Fund (Section 2(a) of the Act).*
- hn) Distributions

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1) Cigarettes

~~All~~ Except for the distributions provided for in subsections (b) and (m), all of the moneys received by the Department pursuant to the Act and the Cigarette Use Tax Act, other than the moneys that are dedicated to the Common School Fund, Healthcare Provider Relief Fund, and Capital Projects Fund pursuant to subsections (f) and (g), shall be distributed each month as follows: first, there shall be paid into the General Revenue Fund an amount that, when added to the amount paid into the Common School Fund for that month, equals \$29,200,000; then, from the moneys remaining, if any amounts required to be paid into the General Revenue Fund in previous months remain unpaid, those amounts shall be paid into the General Revenue Fund; then from the moneys remaining, \$5,000,000 per month shall be paid into the School Infrastructure Fund; then, if any amounts required to be paid into the School Infrastructure Fund in previous months remain unpaid, those amounts shall be paid into the School Infrastructure Fund; then the moneys remaining, if any, shall be paid into the Long-Term Care Provider Fund.

2) Little Cigars

~~Moneys~~ Except for the distributions provided for in subsection (g), moneys collected from the tax imposed on little cigars under Section 10-10 of the Tobacco Products Tax Act of 1995 shall be included with the moneys collected under the Cigarette Tax Act and the Cigarette Use Tax Act when making distributions to the Common School Fund, the Healthcare Provider Relief Fund, the General Revenue Fund, the School Infrastructure Fund, and the Long-Term Care Provider Fund under Section 2 of the Cigarette Tax Act. (Section 2(a) of the Act)

- i) Any distributor having cigarettes in his or her possession on July 1, 2019 to which tax stamps have been affixed, and any distributor having stamps in his or her possession on July 1, 2019 that have not been affixed to packages of cigarettes before July 1, 2019, is required to pay the additional tax that begins on July 1, 2019 imposed by P.A. 101-0031 to the extent that the volume of affixed and unaffixed stamps in the distributor's possession on July 1, 2019 exceeds the average monthly volume of cigarette stamps purchased by the distributor in calendar year 2018. This payment, less the discount provided in Section 2(l) of the Act, is due when the distributor first makes a purchase of cigarette stamps on or after July 1, 2019 or on the first due date of a return under the Act occurring

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on or after July 1, 2019, whichever occurs first. Those distributors may elect to pay the additional tax on packages of cigarettes to which stamps have been affixed and on any stamps in the distributor's possession that have not been affixed to packages of cigarettes in their possession on July 1, 2019 over a period not to exceed 12 months from the due date of the additional tax by notifying the Department in writing. The first payment for distributors making such election is due when the distributor first makes a purchase of cigarette tax stamps on or after July 1, 2019 or on the first due date of a return under the Act occurring on or after July 1, 2019, whichever occurs first. Distributors making such an election are not entitled to take the discount provided in Section 2(l) of the Act on such payments. (Section 2(l) of the Act)

- j) Any retailer having cigarettes in his or her possession on July 1, 2019 to which tax stamps have been affixed is not required to pay the additional 50 mill tax that begins on July 1, 2019 imposed by P.A. 101-0031. (Section 2 of the Act)

(Source: Amended at 44 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Driver Education
- 2) Code Citation: 23 Ill. Adm. Code 252
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
252.10	Amendment
252.20	Amendment
- 4) Statutory Authority: 105 ILCS 5/27-24.1 and 27-24.2
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rules are in response to PAs 101-183 and 101-450. PA 101-183 adds language to the Driver Education Act of the School Code to allow for a distance learning program that permits driver education course instruction via the internet, email, or any other method outside of the traditional classroom.

PA 101-450 also adds language to the Driver Education Act of the School Code to require a school district that elects to contract with a commercial driving school to ensure that the teacher meets the State Board of Education's educator licensure and endorsement requirements and requires the district to follow the same evaluation and observation requirements that apply to non-tenured teachers. These requirements do not apply to a contract with a Certified Driver Rehabilitation Specialist.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 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:

Azita Kakvand
Illinois State Board of Education
100 North First Street
Springfield IL 62777-0001

217/782-6510
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) This rulemaking was not included on the most recent Regulatory Agenda: This rulemaking was not anticipated at the time the Regulatory Agenda was filed.

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 g: SPECIAL COURSES OF STUDY

PART 252

DRIVER EDUCATION

Section

252.10	Definitions
252.20	Administration and Procedures
252.25	Eligibility of Students
252.30	The Terms of Reimbursement for Public School Participation in the Course
252.40	Driver Education Personnel Requirements
252.50	Commercial Schools (Transferred)
252.APPENDIX A	Driver Education – Commercial Driver Training School Contract Reporting Form

AUTHORITY: Implementing and authorized by Sections 27-24 through 27-24.10 of the Driver Education Act [105 ILCS 5].

SOURCE: Adopted September 4, 1975; codified at 8 Ill. Reg. 1585; emergency amendment at 9 Ill. Reg. 15558, effective October 1, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 12922, effective July 22, 1986; Section 252.50 transferred to 92 Ill. Adm. Code 1060.240 (Secretary of State) pursuant to Section 5-80(d) of the Illinois Administrative Procedure Act [5 ILCS 100/5-80(d)] and Section 6-411 of the Illinois Driver License Law [625 ILCS 5/6-411] at 11 Ill. Reg. 1631; amended at 18 Ill. Reg. 16307, effective October 25, 1994; amended at 22 Ill. Reg. 7577, effective April 17, 1998; amended at 26 Ill. Reg. 10476, effective July 1, 2002; amended at 28 Ill. Reg. 15481, effective November 22, 2004; amended at 29 Ill. Reg. 15936, effective October 3, 2005; amended at 32 Ill. Reg. 10922, effective July 7, 2008; amended at 33 Ill. Reg. 15273, effective October 20, 2009; amended at 34 Ill. Reg. 3018, effective February 18, 2010; amended at 37 Ill. Reg. 6639, effective May 2, 2013; amended at 39 Ill. Reg. 6705, effective April 27, 2015; amended at 42 Ill. Reg. 8946, effective May 16, 2018; amended at 44 Ill. Reg. _____, effective _____.

Section 252.10 Definitions

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"Behind-The-Wheel Instruction" is that part of the driver education course that consists of individual practice driving with a driver education instructor who meets the requirements of Section 252.40 and provides learning experiences for the student as an operator of a dual-control car in traffic on public highways.

"Classroom Instruction" is that part of the driver education course consisting of learning experiences centered in the classroom. The preferred instruction method is face-to-face interaction in a traditional classroom setting; however, a school district may provide for a distance learning program~~instruction may be provided electronically via other means and shall be provided~~ in accordance with Section 252.20(c)(2).

"Declaration of Intent" is a student's application for enrollment in a driver education course.

"Distance Learning Program" means a program of study in which all participating teachers and students do not physically meet in the classroom and instead use the Internet, email, or any other method other than the classroom to provide instruction.

"Driver Education Act" or "Act" means 105 ILCS 5/27-24 through 27-24.10.

"Driver Education Course", as used in this Part, is any driver education course approved by the State Superintendent as meeting at least the minimum requirements of the Driver Education Act and this Part and consists of all those learning experiences provided by a school or school district for the purpose of helping students learn to use motor vehicles safely and efficiently. Driver education courses must include classroom and behind-the-wheel instruction as a unified course (see Section 252.20(c)(1)).

"Dual-Control Car" is a motor vehicle that has special safety and instructional equipment in addition to the regular legally prescribed equipment, which shall consist of a second foot brake positioned for use by the instructor, an outside rearview mirror on the right side of the vehicle, and a sign identifying the vehicle as a driver education car (see 625 ILCS 5/6-410).

"Eligible Student" is a student who meets the conditions of Section 27-24.2 of the ActSchool Code for enrollment in a driver education course.

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"Enrollment", for purposes of an approved driver education course, means the period of time beginning 30 days prior to the time a student begins classroom instruction through the conclusion of the driver education course.

"Observation Time" refers to that time during which a student is riding in the back seat of a dual-control car observing instructions of the teacher and procedures and techniques of the driver who is participating in behind-the-wheel instruction.

"School Code" or "Code" means 105 ILCS 5.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 252.20 Administration and Procedures

- a) Availability of the Course – Any public school district maintaining grades 9 through 12 must provide the driver education course for any legal resident of the district between the ages of 15 and 21 years who requests the course, provided the resident is eligible as set forth in Section 27-24.2 of the ~~School~~ Code. All eligible students who reside in a school district must be provided an equal opportunity to enroll in driver education. ~~School and school~~ districts are obligated to make the driver education course available within a reasonable length of time after each individual's declaration of intent is made. A "reasonable length of time" shall be determined based on the student's individual needs and the school district's ability to meet those needs, provided that the course must be offered within 12 months after the declaration of intent.
- 1) Public school districts that include high schools must provide the driver education course for all eligible students of the district who attend a nonpublic school that does not offer the course.
 - 2) Nonpublic schools may offer a driver education course at their own expense.
 - 3) Public school districts that include high schools must provide the driver education course for all eligible Illinois students, regardless of the district of their residence, who attend a nonpublic school located within that school district's boundaries when application is made by the administrators of the nonpublic school. The application shall constitute a declaration of intent by the affected student or students. *By April 1 the nonpublic school*

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shall notify the district offering the course of the names and district numbers of the nonresident students desiring to take ~~the such~~ course the next school year. The district offering the course shall notify the district of residence of those students affected by April 15. [105 ILCS 5/27-24.4]

- 4) An eligible student may elect to enroll in a driver education course at a commercial driver training school at his or her expense.
- b) When to Offer the Course – The classroom portion of the course shall be during the school day and may be offered at other times (i.e., before or after school, in the evenings or on weekends). The school district shall determine when to offer the behind-the-wheel portion of the course during the regular school year, which may be during the school day, at times other than during the school day, or through a combination of both options; however, this subsection (b) shall not authorize a school district to offer behind-the-wheel instruction only during the summer. (Also see subsection (c)(2).)
- 1) Enrollment in a driver education course must be closed at the inception of the course, except as provided in subsection (b)(2). Another course may be started when enrollment warrants.
 - 2) A student who transfers to a new school after the inception of the driver education course at that school may be allowed to enroll in the course under the following conditions.
 - A) The driver education course in which the student was enrolled at the previous school offered 30 clock hours of classroom instruction and 6 clock hours of behind-the-wheel instruction.
 - B) The length of time the student previously participated in the driver education course (prior to his or her transfer) is sufficient to allow the student to complete the course at the new school within the time during which it is offered.
 - C) The new school has received verification, either by mail or in an electronic format, of the student's previous participation in the driver education course (i.e., length of time in the course, grades received). The verification shall be placed in the student's temporary school record as defined in 23 Ill. Adm. Code 375.10

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(Definitions).

- 3) *A high school student may be allowed to commence the classroom instruction part of the driver education course prior to reaching age 15 if the student will be eligible to complete the entire course within 12 months after being allowed to commence classroom instruction. [~~See Section 105 ILCS 5/27-24.2] of the School Code.~~*
- c) Course Organization – Driver education courses must be organized according to the standards established in the ~~Driver Education~~ Act and this Part.
- 1) The classroom and the behind-the-wheel instruction shall be aligned to the course content standards set forth at 92 Ill. Adm. Code 1060.181 (Teen Accreditation Classroom and Behind-the-Wheel Requirements).
 - 2) The classroom and the behind-the-wheel instruction each must be scheduled regularly throughout a period of not less than six complete weeks (four weeks allowable in summer courses and for schools using block scheduling). A school district may provide a portion of classroom instruction through a distance learning program. A school district's decision to allow a student to take a portion of the driver education course through a distance learning program must be determined on a case-by-case basis and must be approved by the school's administration, including the student's driver education teacher, and the student's parent or guardian. Under no circumstances may the student take the entire driver education course through a distance learning program.~~Per the qualifying provisions set forth in Section 14-13.01 of the School Code, students who are eligible for home or hospital instruction shall be provided classroom instruction as defined in Section 252.10. Students who are not eligible for home or hospital instruction or not identified as being chronically or habitually truant per the provisions of Section 26-2a of the School Code shall be afforded classroom instruction on a case-by-case basis in accordance with the student's unique circumstances and school district policy. Under no circumstances shall the entire course be provided electronically.~~
 - 3) Behind-the-wheel instruction shall not begin until the student has started classroom instruction; however, a student may be enrolled in both portions of the course on a concurrent basis.

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- 4) At least one but not more than three student observers must be in the car during behind-the-wheel instruction. At least one hour of observation time is required for each hour of behind-the-wheel instruction. This subsection (c)(4) does not apply when a student's Individualized Education Program stipulates that the student receive behind-the-wheel instruction separately.
- d) Dual-Control Cars – The instructor shall occupy the front passenger seat. The driver education car is to be used for instructional purposes. A school district may not use the driver education car for purposes other than those designated by agreement or contract.
- e) Contracting – In fulfilling the requirements of the ~~Driver Education~~ Act, a public school district must either offer the course in its own school or must provide the course for its students, and any other legal residents of the school district who request the course, through a joint agreement with another public school district or through the provisions of cooperative school district programs. *A school district may contract with a commercial driver training school approved by the Secretary of State to provide both the classroom instruction part and the behind-the-wheel part or either one separately.* ~~[105 ILCS 5/(See Section 27-24.4] of the School Code.]~~ *[105 ILCS 5/(See Section 27-24.4] of the School Code.]* If a school district elects to contract with an SOS approved commercial driver training school, the school district shall submit the Driver Education – Commercial Driver Training School Contract Reporting form to the State Board. (See Appendix A.) Each instructor employed by the commercial driver training school serving public school students under the age of 18 must meet the personnel requirements of Section 252.40.
 - 1) A public school district may contract for the provision of the behind-the-wheel portion of the course for students who have physical limitations that would require the use of a specially equipped car or for students who require other specialized instruction (e.g., vision or hearing impairments, cognitive disabilities) provided that:
 - A) the facility is approved by the Illinois Secretary of State (SOS) as meeting all of the requirements of ~~Chapter 6, Article IV of the Illinois Vehicle Code~~ *[625 ILCS 5/Ch. 6, Art. IV]* and ~~of~~ rules promulgated by SOS (~~see~~ 92 Ill. Adm. Code 1030 (Issuance of Licenses));

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- B) each instructor providing instruction to the public school district's students is certified as a Driver Rehabilitation Specialist by the ADED – the Association for Driver Rehabilitation Specialists (see <http://www.aded.net/>, 200 First Avenue NW, Suite 505, Hickory NC 28601); and
- C) the facility conducts an evaluation of the student's physical and cognitive abilities to determine the individualized course of instruction.
- 2) Subject to the limitations set forth in Section 24-24.2 of the ~~School~~ Code, a district that provides driver education through a contract with a commercial driver training school shall:
- A) post the contract with the commercial driver training school on its website or, if it does not maintain a website, make the contract available upon request;
- B) notify the State Board of Education within 15 calendar days of an instructor leaving the program or a new instructor being assigned. The notice shall include the instructor's name, birth date and driver's license number, and the personal identification number assigned by the State Board; ~~and~~
- C) maintain a record of all materials related to the commercial driving school contract, which shall be made available to parents and guardians upon request; (~~see~~ See Section 27-24.2 of the ~~School~~ Code); and
- D) except for a Certified Driver Rehabilitation Specialist, ensure the teacher meets the educator licensure and endorsement requirements of Article 21B of the Code. The teacher shall follow the same evaluation and observation requirements that apply to non-tenured teachers under Article 24A of the Code. The teacher evaluation must be conducted by a school administrator employed by the school district and must be submitted annually to the district superintendent and all school board members for oversight purposes.

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(Source: Amended at 44 Ill. Reg. _____, effective _____)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED 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>Proposed Actions:</u>
1650.180	Amendment
1650.205	Amendment
1650.340	Amendment
1650.351	Amendment
1650.520	Amendment
1650.550	Amendment
1650.1113	Amendment
1650.1119	Amendment
1650.3300	Amendment
1650.3310	Amendment
1650.3320	Amendment
1650.3330	Amendment
- 4) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16].
- 5) A Complete Description of the Subjects and Issues Involved: Twelve employer services and member services rules are being amended. The updates pertain to employer reporting, sick leave allotment, disability medical exams and options service, pending felony forfeiture, presumption of death, QILDRO, and buyout programs.
- 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

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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- 11) Statement of Statewide Policy Objective: This rulemaking 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: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Cynthia Fain
Senior Legal Counsel
Teachers' Retirement System
2815 W Washington
PO Box 19253
Springfield IL 62794-9243

217/814-2041
- 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: This rulemaking was referenced in the July 2018 Regulatory Agenda.

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

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED 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 PROPOSED 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	Establishing Salary and Assessing Contributions for Optional 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 Out-of-System Service and 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

NOTICE OF PROPOSED AMENDMENTS

- 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)
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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
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SUBPART J: RULES OF ORDER

Section

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED 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

1650.3300	General Provisions
1650.3310	Accelerated Annual Increase Buyout Program
1650.3320	Accelerated Pension Benefit Buyout Program
1650.3330	QILDRO Administration with Buyout Programs

AUTHORITY: Implementing and authorized by Articles 1 and 16 of the Illinois Pension Code [40 ILCS 5]; 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].

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; amended at 43 Ill. Reg. 10791, effective September 23, 2019; amended at 44 Ill. Reg. _____, effective _____.

SUBPART B: BASIC RECORDS AND ACCOUNTS

Section 1650.180 Filing and Payment Requirements

- a) All employers are required to forward member and employer contributions and amounts required under Article 16 of the Illinois Pension Code [40 ILCS 5/16-158(e)] (Code) to the System after the close of each pay period or bi-monthly, if a State Institution, and to file an annual report of earnings with the System on or before August 15 of each year. The annual report will no longer be required after monthly reporting is implemented as provided in this Section. Failure to forward contributions or to file reports shall result in additional amounts due as prescribed by Section 16-155 of the Illinois Pension Code (~~the Act~~) [40 ILCS 5/16-155].
- b) Effective July 1, 2020, all employers must file reports with the System including demographic, enrollment and earnings information, together with contributions required under Article 16 of the Code, on either a pay-period or monthly frequency. After choosing to report on a pay-period or monthly frequency with the first report submitted after July 1, 2020, all future reports must conform to the same filing frequency. If monthly reporting is chosen, all payrolls occurring within the month must be included in a single monthly report.
- c) Reports and contributions due for the month must be remitted to the System by the 10th day of the following month. Late contributions and filings will be assessed penalties prescribed by Section 16-155 of the Code, as determined by the System.
- db) The employer's ~~annual report of earnings~~ shall be properly completed and shall report service, creditable earnings, and contributions in accordance with applicable laws and rules. The exact statutory amount of contributions must be:
- 1) deducted from the member's pay; and/or
 - 2) paid on behalf of the member, based on the member's earnings each pay period. Any report failing to materially conform with this requirement shall be returned to the employer and shall not be deemed received until

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~~properly corrected and returned to the System.~~

- ~~ee)~~ Employers are required to file the report via the System's employer portal. All contributions and payments must be remitted to the System via electronic means.~~web-based annual automated reporting system.~~
- f) Contributions for work performed during the fiscal year are due to the System by July 10 of the following fiscal year. Effective July 1, 2020, employers cannot accelerate the payment of contributions (i.e., send more than the statutory contribution rate) in order to meet the July 10 deadline. Rather, the employer must remit all contributions corresponding with each payroll occurring within that month. To be allowed to remit the appropriate contributions to TRS by the July 10 deadline, employers must report all payrolls that will cover the work performed during the fiscal year ended June 30, even if the members will be paid in July and August. The contributions due are based on the statutory rates in effect for the fiscal year of the report.
- ~~d)~~ ~~All contributions and payments required to be remitted to the System by participating employers shall be forwarded to the System via electronic means.~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART C: FILING OF CLAIMS

Section 1650.205 Medical Examinations and Investigation of Disability Claims

- a) A member applying for or receiving benefits pursuant to Section 40 ILCS 5/16-149, 16-149.1 or 16-149.2 of the Code shall furnish the System medical records, earnings statements, Social Security benefit or claim information, federal and state tax returns, and any other information deemed relevant by the System to process the member or annuitant's disability claim.
- b) A member or annuitant shall submit to an independent medical examination at the discretion of the System. The cost of independent medical examinations shall be borne by the System.
- c) In order to verify continued eligibility to receive disability benefits under the provisions of Section 40 ILCS 5/16-149 or 16-149.1 of the Code, a member shall provide to the System at least annually written certifications by two state licensed

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and practicing physicians verifying that the member remains disabled and is unable to perform the duties of the position he or she held at the time his or her disability commenced. The physicians' examinations must have occurred within the 90 days prior to the re-examination due date. Certifications shall be accompanied by a medical report fully explaining the basis for the physician's conclusion that the member remains disabled. However, this requirement may be waived, at the System's discretion, if it is determined that the member's medical condition or prognosis is irreversible or terminal and will result in a permanent inability to return to his or her former position.

- d) When a disability or occupational benefit terminates and a member elects to retire on a disability retirement annuity, the member shall submit to medical examinations, unless the member's last examinations within the preceding six months substantiate a continuing disability, in which case no new medical examinations are required.
- e) An annuitant in receipt of a disability retirement annuity who becomes eligible for an age retirement annuity shall submit to medical examinations to retain disability retirement annuity status, unless the annuitant's last examinations within the preceding six months substantiate a continuing disability, in which case no new medical examinations are required.
- f) Failure of a member or an annuitant to submit to medical examinations or to provide information required pursuant to Section 40-ILCS 5/16-149, 16-149.1 or 16-149.2 of the Code will result in a suspension of benefit payments.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section 1650.340 Service Credit for Out-of-System Service and Leaves of Absence

- a) Granting Out-of-System Service
 - 1) For purposes of granting out-of-system service as provided in Section 16-127(b)(2) of the Code, once the statutory minimum service requirement has been met, the member may purchase the portion of out-of-system service available at the time of purchase based on total creditable service years, provided one of the following conditions are met:

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- A) If a refund from the other system is available to the member, that refund must be taken prior to the purchase of the out-of-system service; or
- B) If the member is unable to take a refund from the other system, the member must be ineligible for a benefit from that system.
- 2) The member may purchase additional qualifying out-of-system service, after the initial purchase, on a periodic basis as determined by the System to a maximum of 2/5 of the total creditable service of the member or 10 years, whichever is less.
- ~~b~~a) For purposes of granting service credit for an approved leave of absence as provided in Section 16-127(b)(5)(i) of the Code, the statutory return-to-teaching requirement is met when the member returns to teaching service creditable under this System or the State Universities Retirement System for the period of the leave or one year, whichever is less. A leave of absence is creditable as an approved leave if:
- 1) The member did not resign prior to the effective date of the leave; or
- 2) The employer promised renewed employment at the end of the leave; and
- A) The employer took official action to approve the request for leave; or
- B) The leave qualifies as a leave under the Family and Medical Leave Act (29 USC 2601), as certified by the employer.
- ~~b~~) ~~For purposes of this Section, a leave of absence is creditable as an approved leave if: the member did not resign, the employer promised renewed employment at the end of the leave, and the employer took official action to approve the request for leave, or the leave qualifies as a leave under the Family and Medical Leave Act, as certified by the employer.~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1650.351 Employer Contribution for Excess Sick Leave

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- a) The phrase "normal annual sick leave allotment" shall mean the amount of annual sick leave granted by a TRS employer ~~to its teachers~~ under a collective bargaining agreement, contract or employment policies, including any business, personal or other non-vacation leave days that may be used as sick leave.
- b) ~~The normal annual sick leave allotment for a TRS employer's administrators shall be the same as that for its teachers as defined in subsection (a).~~
- be) If an employer grants sick leave days in excess of the normal annual sick leave allotment as defined in subsection (a) in the last four school years prior to retirement, the employer is subject to the employer contribution provided in Section 40 ILCS 5/16-128(d-10) of the Code.
- ce) The employer contribution required in Section 40 ILCS 5/16-128(d-10) shall be computed as follows:
- The member's highest salary rate reported by the granting employer during the four-year sick leave review period in subsection (c) x the total normal cost rate (the employer's normal cost as defined in Section 1650.183 plus the member contribution required under Section 40 ILCS 5/16-152 of the Code) applicable to the last fiscal year of contributing service x the portion of sick leave service credit attributed to sick days in excess of the normal annual allotment granted by that specific employer = employer's contribution.
- de) If more than one employer in the last four school years prior to retirement grants sick leave days in excess of the normal annual sick leave allotment, the contribution from each employer will be determined from sick leave days granted earliest to latest.
- ef) An award of sick days as part of a retirement incentive shall not constitute a normal annual sick leave allotment.; ~~however, for members who earned sick days through the normal annual allotment granting process but were denied the use of such sick days by a limit on accumulation imposed by his or her employer, those days may be reinstated subject to the provisions of Section 1650.350(a) without charge to the employer if the reinstatement is made before January 1, 2007.~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

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SUBPART F: ANNUITANTS AND BENEFICIARIES

Section 1650.520 Suspension of Benefits

- a) Monthly benefit payments may be suspended when four monthly warrants remain uncashed. The System shall notify the benefit recipient in writing of the suspension. To remove the suspension of benefits, the System may require the recipient to provide a valid depository agreement authorizing funds to be electronically deposited into the recipient's bank account in lieu of paper warrants.
- b) Recipients of a non-occupational disability benefit, occupational disability benefit, disability retirement annuity, or monthly survivor benefit who fail to return documentation of continued eligibility within the specified time period shall have their monthly benefit payment suspended. Upon receipt of the required documentation and upon determination of continued eligibility, these and subsequent payments shall be made.
- c) To guard against unauthorized overpayment, the System may suspend benefits or refunds during the pendency of felony charges against a member when a conviction could result in forfeiture of benefits under Section 16-199 of the Code.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1650.550 Presumption of Death

- a) Whenever any member, annuitant, or beneficiary has been so out of communication with the System that the fact of his or her being alive cannot be ascertained, he or she shall be presumed to be dead. In the event this presumption of death shall be removed by proof that he or she is alive, benefits shall be paid or resumed from the date of the last payment.
- b) Whenever any inactive member reaches age ~~75~~70 and has not been in communication with the System for longer than 20 years, he or she shall be presumed dead and the member's account shall be terminated with no interest credited. In the event this presumption shall be removed by proof the member is alive or deceased, his or her account shall be reinstated with interest and included in the System's next required minimum distribution process in accordance with Section 1650.417, Section 1-116.1 of the Code, and Internal Revenue Code Section 401(a)(9).

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(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART M: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section 1650.1113 Required Forms

- a) A QILDRO, a Consent to Issuance of QILDRO, a Calculation Order, or a Notice of Confidential Information Within Court Filing must be in the form adopted by the System as of the valid receipt date.
- b) The forms adopted by the System are available on the System's web site, trsil.org or trs.illinois.gov, or upon request.
- c) A QILDRO, a Consent Form, a Calculation Order, or a Notice of Confidential Information Within Court Filing that is not in the form adopted by the System as of the receipt date is invalid.
- d) Re-typed forms and obsolete forms will be returned, unprocessed, to the sender.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1650.1119 Electing Form of Payment

- a) A member's election either to receive or forego a proportional annuity under [Section 20 of](#) the Retirement Systems Reciprocal Act [40 ILCS 5/20] is not a prohibited election under Section 1-119(j)(1) of the [CodeAct](#) [~~40 ILCS 5/1-119(j)(1)~~].
- b) A member's election to take a refund is not a prohibited election under Section 1-119(j)(1) of the [CodeAct](#). However, a member's election to roll over a refund payment does not affect the alternate payee's right to payment of the amount designated in the QILDRO.
- c) A member's election of a form of payment of annuity that reduces the member's total benefit, while still allowing full payment to the alternate payee under a QILDRO at the date of the election, is not a prohibited election under Section 1-119(j)(1) of the [CodeAct](#).

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- d) A member's failure to elect a 2.2 upgrade, or failure to make all upgrade contributions in a timely fashion, is not a prohibited election under Section 1-119(j)(1) of the CodeAct.
- e) A dependent beneficiary's election to receive monthly survivor benefits is not a prohibited election under Section 1-119(j)(1) of the CodeAct.
- f) A member's election of the Accelerated Annual Increase (AAI) provided in Section 16-190.6 of the Code, or the Accelerated Pension Benefit (APB) provided in Section 16-190.5 of the Code, is a prohibited election under Section 1-119(j)(1) of the Code, if so provided in Section 1650.3330.
- g) The System may, in its sole discretion, hold a proposed election until clarification is obtained from a court of competent jurisdiction as to whether the proposed election is a prohibited election under Section 1-119(j)(1) of the CodeAct ~~[40 ILCS 5/1-119(j)(1)]~~. It shall be the duty of the member or alternate payee to obtain such clarification upon request of the System.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART S: BUYOUT PROGRAMS

Section 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.

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.

"Article 16" means Article 16 of the Pension Code (Teachers' Retirement System of the State of Illinois).

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"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 of not less than 90 days 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 and any other System-required documentation.

- b) Assumptions, Information and Payments
- 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.

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- 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 [ArticlesSections](#) 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 [Sections 40 ILCS 5/16-190.5\(e\) and 16-190.6\(d\) of the Code](#), in order for the System to maintain its tax-qualified status as 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: Amended at 44 Ill. Reg. _____, effective _____)

Section 1650.3310 Accelerated Annual Increase Buyout Program

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- 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 predeceases the annuitant, the buyout payment will not be adjusted.
- 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.

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- 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: Amended at 44 Ill. Reg. _____, effective _____)

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. The System will notify that member if the termination refund payable under Section 16-151 of the Code exceeds the amount of the APB buyout payment calculated by the System in accordance with this Section. 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 ~~each the first~~ year of the program, ~~i.e., calendar year 2019~~, eligible members receiving an offer will ~~be notified of the window 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.~~
 - 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.~~

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- ~~2)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 as determined by the System, based on the member's service credit, age at separation, and current age as of June 30 of the ~~same~~applicable calendar year as the start date of the applicable election window. If the member is eligible for an actuarial benefit under Section 16-133(a)(A), the retirement benefit will be calculated as of the member's retirement age as determined by the System, or as of June 30 of the same calendar year as the start date of the applicable election window, whichever is later.
 - 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 ~~the issue date~~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.
 - 5) The member withdrew the election as provided in this Section.

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- d) The calculation of the APB buyout payment becomes final ~~as of the~~ as of the ~~payment~~ issue date is issued and will not be adjusted for any reason.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

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 of the effective date of the election as defined in Section 1650.3300(a), 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 and corresponding provision of any Calculation Order (Section (3)(c) or Section (4)(C) form adopted on file with the System on the date payment is vouchered (see Section 1650.1116(f) by the System).

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- 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.
 - 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 the QILDRO and corresponding provision of any Calculation Order (Section (3)(b) or Section (4)(B) on file with the System on the date payment is vouchered (see Section 1650.1116(f) 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.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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- 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 blank, an amended QILDRO must be submitted to the System that includes a completed Section V.~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Development, Annual Review, Coordination of Chemical Safety Contingency Plans
- 2) Code Citation: 29 Ill. Adm. Code 610
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
610.10	Amendment
610.20	Amendment
610.30	Amendment
610.40	Amendment
610.50	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 5 of the Illinois Chemical Safety Act [430 ILCS 45/5] and Section 5 of the Illinois Emergency Management Agency Act [20 ILCS 3305/5].
- 5) Effective Date of Rules: November 6, 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 amendments, 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. 6700; June 7, 2019
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

Section 610.20 changed "and/or" to "and the"

Section 610.20 changed "Facility" definition back to the original definition
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENTS

- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: IEMA is proposing amendments to Part 610 to update the rule to current practice and eliminate obsolete provisions.
- 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 Amendments begins on the next page:

ILLINOIS EMERGENCY MANAGEMENT AGENCY

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TITLE 29: EMERGENCY SERVICES, DISASTERS, AND CIVIL DEFENSE
 CHAPTER I: ILLINOIS EMERGENCY MANAGEMENT AGENCY
 SUBCHAPTER f: CHEMICAL SAFETY

PART 610
 DEVELOPMENT, ANNUAL REVIEW, COORDINATION
 OF CHEMICAL SAFETY CONTINGENCY PLANS

Section

610.10	Purpose
610.20	Definitions
610.30	Categories and Jurisdictions <u>jurisdictions</u> of Local Response Agencies <u>local response agencies</u>
610.40	Communications and Coordination <u>coordination</u>
610.50	Required Notifications <u>Notice to the Emergency Services and Disaster Agency</u>

AUTHORITY: Implementing Section 5 of the Illinois Chemical Safety Act [430 ILCS 45/5] and authorized by Section 5 of the Illinois Emergency Management Agency Act [20 ILCS 3305/5].

SOURCE: Adopted at 10 Ill. Reg. 10121, effective May 22, 1986; amended at 43 Ill. Reg. 13420, effective November 6, 2019.

Section 610.10 Purpose

- a) ~~This Part establishes~~These rules establish the ~~specific~~ coordination activities ~~that should~~which shall take place between business and a local ~~geographical~~ jurisdiction's emergency preparedness ~~planning~~ and ~~emergency~~ response agencies as they relate to the initial development and annual review of chemical safety contingency plans and procedures. They are designed to ensure that a local ~~geographical~~ jurisdiction's ~~emergency preparedness~~planning and response personnel and business representatives are fully knowledgeable of each organization's capabilities and are prepared to respond to the release of chemical substances into the environment. Although ~~this Part promotes~~these rules promote the development of local governmental chemical safety planning and response capabilities, ~~it is~~they are in no way designed to inhibit or in any way discourage the use of local intergovernmental mutual aid ~~pacts or~~ agreements.
- b) In addition, ~~this Part prescribes~~these rules prescribe the method ~~and procedures~~ for providing notice to the Illinois Emergency ~~Management~~Services and Disaster

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Agency required under Section 4 of the Illinois Chemical Safety Act [\[430 ILCS 45/4\]](#)(~~ILL. Rev. Stat. 1985, ch. 111½, pars. 951 et. seq.~~).

(Source: Amended at 43 Ill. Reg. 13420, effective November 6, 2019)

Section 610.20 Definitions

"Act" means the Illinois Chemical Safety Act [\[430 ILCS 45\]](#)(~~P.A. 84-852 effective September 23, 1985~~).

~~"Agency" means the Illinois Environmental Protection Agency.~~

~~"Business" means any individual, partnership, corporation or association in the State engaged in a business operation that has 5 or more full-time employees, or 20 or more part-time employees, and that is properly assigned or included in the Standard Industrial Classifications (SIC) identified in Section 3 of the Act or any facility not covered by the above SIC codes that is subject to the provisions of section 302 of the federal Emergency Planning and Community Right-to-Know Act of 1986 and that is found by the Illinois Environmental Protection Agency to use, store or manufacture a chemical substance in a quantity that poses a threat to the environment or public health.~~

~~"Business" means any individual, partnership, corporation, or association in the State engaged in a business operation which has five or more full-time employees, or 20 or more part-time employees, and which is properly assigned or included within one of the following standard industrial classifications (SIC), as designated in the standard industrial classification manual prepared by the Federal Office of Management and Budget (The Act, Section 2(b)).~~

2295	COATED FABRICS, NOT RUBBERIZED;
2491	WOOD-PRESERVING;
2641	PAPER COATING AND GLAZING;
2812	ALKALIES AND CHLORINE;
2813	INDUSTRIAL GASES;
2819	INDUSTRIAL INORGANIC CHEMICALS, NOT ELSEWHERE CLASSIFIED;
2821	PLASTIC MATERIALS, SYNTHETIC RESINS, AND NON-VULCANIZABLE ELASTOMERS;
2834	PHARMACEUTICAL PREPARATIONS;

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2842	SPECIALTY CLEANING, POLISHING AND SANITATION PREPARATIONS;
2851	PAINTS, VARNISHES, LACQUERS, ENAMELS, AND ALLIED PRODUCTS;
2865	CYCLIC (COAL TAR) CRUDES, AND CYCLIC INTERMEDIARIES, DYES AND ORGANIC PIGMENTS (LAKES AND TONERS);
2869	INDUSTRIAL ORGANIC CHEMICALS, NOT ELSEWHERE CLASSIFIED;
2873	NITROGENOUS FERTILIZER;
2874	PHOSPHATIC FERTILIZERS;
2879	PESTICIDES AND AGRICULTURAL CHEMICALS, NOT ELSEWHERE CLASSIFIED;
2891	ADHESIVES AND SEALANTS;
2892	EXPLOSIVES;
2911	PETROLEUM REFINING;
2952	ASPHALT FELTS AND COATINGS;
2999	PRODUCTS OF PETROLEUM AND COAL, NOT ELSEWHERE CLASSIFIED;
3079	MISC. PLASTICS PRODUCTS;
3111	LEATHER TANNING AND FINISHING;
3333	PRIMARY SMELTING AND REFINING OF ZINC;
3471	ELECTROPLATING, PLATING, POLISHING, ANODIZING AND COLORING;
4953	REFUSE SYSTEMS;
5085	INDUSTRIAL SUPPLIES;
5161	CHEMICALS AND ALLIED PRODUCTS;
5171	PETROLEUM BULK STATIONS AND TERMINALS (The Act, Section 2(b)).

~~For purposes of these regulations the SIC Code which a business uses for determining its coverage under the Illinois Unemployment Insurance Act (Ill. Rev. Stat. 1985, ch. 48, pars. 570, et. seq.) shall be the SIC Code for determining the applicability of the Act.~~

"Authorized ~~official~~Official" means the emergency services and disaster agency coordinator or the chairperson of the local emergency planning committee~~mayor~~ of a city or municipality, chairman of the county board, president of a village, or their designee as identified in local disaster preparedness plans prepared pursuant

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~~to Part 205 of 29 Illinois Administrative Code.~~

~~"Chemical substance" means any "toxic substance" as defined by the Toxic Substances Disclosure to Employees Act, (Ill. Rev. Stat. 1985 ch. 48, pars. 1401, et. seq.) and any "hazardous substance" as defined by the Environmental Protection Act (Ill. Rev. Stat. 1985 ch. 111½ pars. 1004, et. seq) (The Act, Section 2(b)).~~

~~"IEMA/ESDA" means the Illinois Emergency Management Services and Disaster Agency.~~

~~"Emergency Services and Disaster Agency" or "ESDA" means the agency by this name, by the name Emergency Management Agency, or by any other name that is established by ordinance within a political subdivision to coordinate the emergency management program within that political subdivision and with private organizations, other political subdivisions, and the State and federal governments.~~

~~"Evacuation" means the withdrawal of any member of the general public from an area threatened by exposure to chemical substances, as recommended by an authorized official of a local geographic jurisdiction.~~

~~"Facility" means the buildings and all real property contiguous thereto, and the equipment at a single location used for the conduct of business [430 ILCS 45/3](The Act, Section 2(b)).~~

~~"Local emergency preparedness planning agency (LEPPA)" means any local agency or department designated either verbally or in writing by the principal executive officer, to discharge the responsibility of developing local emergency preparedness plans and procedures.~~

~~"Local geographical jurisdiction" means city, village or incorporated town or alternatively the county for unincorporated areas.~~

~~"Local emergency planning committee" or "LEPC" means the committee that is appointed for an emergency planning district under section 301 of the federal Emergency Planning and Community Right-to-Know Act of 1986.~~

~~"Local emergency response agency (LERA)" means any local agency or~~

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~~department designated either verbally or in writing by the principal executive officer, to discharge the responsibility of responding to an accident involving chemical substances.~~

~~"Principal executive officer" means the chairman of the county board in the county, mayor of a city or incorporated town, president of a village, or in their absence or disability, the interim successor as established pursuant to the "Emergency Interim Executive Succession Act (Ill. Rev. Stat. 1985, ch. 102, pars. 102, et. seq.) as amended.~~

~~"Public" means any individual not employed by, or authorized to be within the area under the control of, the person responsible for the chemical substance; the exclusion of employees from this definition applies only during actual hours of employment.~~

~~"Release" means any sudden spilling, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping, or disposing beyond the boundaries of a facility (The Act, Section 2(b)).~~

~~"Significant release" means any release which is so designated by the Agency or the ESDA based upon an inspection at the site of an emergency incident, or any release which results in any evacuation, hospitalization, or fatalities of the public (The Act, Section 2(b)).~~

(Source: Amended at 43 Ill. Reg. 13420, effective November 6, 2019)

Section 610.30 Categories and Jurisdictionsjurisdictions of Local Response Agencieslocal response agencies

- a) Numerous local ~~geographical jurisdictional~~ agencies and departments may be directly involved in hazardous material planning and response activities. ESDAs, LEPCs, Volunteer and paid fire departments, emergency medical services, law enforcement police, county sheriff's departments, emergency services, and public health departments are local organizations most commonly involved in planning for, and responding to, chemical emergencies. ~~At the county or municipal governmental level, it is not uncommon for one organization to be designated as the lead local emergency preparedness planning agency, while another may be designated as the lead local emergency response agency. Authority for assigning job duties and responsibilities as they relate to emergency preparedness planning~~

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~~and response ultimately lies with the principal executive officer of a local geographical jurisdiction.~~

- b) Representative of businesses subject to the provisions of the Act should contact the ESDA and LEPC~~principal executive officer of the county~~local geographical jurisdiction in which the facility is located to coordinate emergency planning and response for their facility. Businesses shall submit a copy of their chemical safety contingency plan to the ESDA and LEPC and other appropriate local agencies and departments that are included in the plan or needed for response. Contact information for ESDAs and LEPCs can be found on IEMA's website at <https://www2.illinois.gov/iema/pages/default.aspx>.

AGENCY NOTE: Businesses located in the City of Chicago should contact the City of Chicago LEPC. to obtain the names of the appropriate local emergency preparedness planning and emergency response agencies. Businesses may formally request in writing that the principal executive officer provide such information. If the principal executive officer has not provided businesses with the names of the appropriate local emergency response and planning agencies within 15 working days following receipt of the written request for such information, then businesses shall prior to July 1, 1986, submit a copy of the Chemical Safety Contingency Plan to the principal executive officer of the local geographical jurisdiction in which the facility is located and shall notify the local fire department, hospital, police department and emergency services agency of such action. Also prior to July 15, 1986 and, in addition to the notice required under Section (d) of the Act, businesses shall notify the Illinois Emergency Services and Disaster Agency of the principal executive officer's failure to respond to this request for information. The Illinois Emergency Services and Disaster Agency will contact those Principal Executive Officers who have failed to respond, and will attempt to determine if the local geographic jurisdiction is experiencing problems in the chemical emergency preparedness planning or emergency response area. If so the Agency will offer technical assistance to the local geographic jurisdiction.

(Source: Amended at 43 Ill. Reg. 13420, effective November 6, 2019)

Section 610.40 Communications and Coordination~~coordination~~

- a) Representatives of businesses~~business~~ subject to the provisions of the Act shall annually review their chemical safety contingency plan and, upon completion of

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this review process, request in writing a meeting with representatives of the ESDA and LEPC~~appropriate local emergency preparedness planning and emergency response agencies in local geographical jurisdictions~~ where the facility is located.

- b) These meetings are designed to bring representatives from the public and private sectors together to discuss current emergency response functions, and update all affected entities on the chemical emergency preparedness activities undertaken by both the public and private sectors over the course of the previous year. At a minimum, the meeting shall address:
- 1) Changes~~Any changes~~ in the facility's chemical safety contingency plan and its emergency system operations or response capabilities;
 - 2) Rationale~~the rationale~~ for listing and non-listing of chemical substances contained in the plan, including a review of why any substance is expected to be innocuous under the circumstances of its release;
 - 3) ~~changes in the facility emergency system operations or response capabilities;~~
 - 34) Any~~review of any~~ incidents of the previous year ~~that~~which resulted in a significant release as defined by the Act;
 - 45) Any~~discussion of any~~ on-going and future, joint chemical education or emergency response programs; and
 - 56) The~~a discussion of the~~ local jurisdictions'~~geographical jurisdiction's~~ chemical safety emergency planning and response activities, ~~and how the industry and the community may assist each other in their chemical safety preparedness efforts.~~
- c) If no authorized official~~official~~ of the ESDA or LEPC ~~respond~~appropriate emergency preparedness planning or emergency response agency responds within 20 working days following receipt of the business'~~business's~~ written request for the annual meeting, the annual meeting need not occur and the business has fulfilled its responsibility under this Section~~section~~.

(Source: Amended at 43 Ill. Reg. 13420, effective November 6, 2019)

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Section 610.50 Required Notifications~~Notice to the Emergency Services and Disaster Agency~~

- a) ~~Representatives of business subject to the provisions of the Act shall provide written notice to the Illinois Emergency Services and Disaster Agency no later than July 15, 1986. This written notice shall certify that business has prepared a chemical safety contingency plan, and also provided copies of this plan to the appropriate local geographical jurisdictions emergency preparedness planning and emergency response agencies. Forms for this purpose shall be provided by the Illinois Emergency Services and Disaster Agency.~~
- ab) Whenever a business creates a chemical safety contingency plan or its~~the~~ chemical safety contingency plan undergoes revision, the~~each~~ business shall provide the plan or the~~that~~ amended portion of the plan to the ESDA and LEPC and any other appropriate local agencies and departments that are included in the plan or needed for response.~~the appropriate local emergency preparedness planning and emergency response agencies, and shall within 20 working days of this revision notify the Illinois Emergency Services and Disaster Agency of this change. Forms for this purpose shall be provided by the Illinois Emergency Services and Disaster Agency.~~
- e) ~~After submission to the appropriate local geographical jurisdictions emergency preparedness planning and emergency response agencies, any member of the public wishing to review a business's chemical safety contingency plan may review such a plan and it shall be made available for inspection during the normal operating hours (Ill. Rev. Stat. 1985, ch. 111 1/2, pars. 951 et. seq.) of such agencies. The appropriate local emergency preparedness planning or emergency response agencies may at their option provide a copy of the chemical safety contingency plan to the local public library.~~
- bd) Notifications to IEMA~~Notices~~ required by the Act or questions regarding requirements should be directed to ema.tier2@illinois.gov or to IEMA, ATTN: Hazardous Materials Section, 2200 S. Dirksen Parkway, Springfield, IL 62703.~~under this section and requests for necessary forms shall be forwarded to:~~

The Hazardous Materials Section

Illinois Emergency Services and Disaster Agency

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~~110 East Adams~~

~~Springfield, IL 62706~~

(Source: Amended at 43 Ill. Reg. 13420, effective November 6, 2019)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Freedom of Information
- 2) Code Citation: 2 Ill. Adm. Code 1201
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1201.110	Repealed
1201.120	Repealed
1201.210	Repealed
1201.220	Repealed
1201.310	Repealed
1201.320	Repealed
1201.410	Repealed
1201.420	Repealed
1201.510	Repealed
1201.520	Repealed
1201.530	Repealed
1201. APPENDIX A	Repealed
1201. APPENDIX B	Repealed
1201. APPENDIX C	Repealed
- 4) Statutory Authority: Implementing and authorized by The Freedom of Information Act [5 ILCS 140] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].
- 5) Effective Date of Repealer: November 12, 2019
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: As this is a Title 2 internal rulemaking, First Notice publication was not required.
- 10) Has JCAR issued a Statement of Objection to this repealer? No

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NOTICE OF ADOPTED REPEALER

- 11) Differences between Proposal and Final Version: As this is a Title 2 internal rulemaking, First Notice publication was not required.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? As this is a Title 2 internal rulemaking, this was not required.
- 13) Will this repealer replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Repealer: Repealing rules in order to adopt new rules to reflect statutory changes.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Jerilynn Troxell Gorden
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Access to Records of the Department of Revenue
- 2) Code Citation: 2 Ill. Adm. Code 1201
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
1201.100	New Section
1201.110	New Section
1201.200	New Section
1201.210	New Section
1201.220	New Section
1201.300	New Section
1201.310	New Section
1201.320	New Section
1201.400	New Section
1201.410	New Section
1201.420	New Section
1201.430	New Section
1201.440	New Section
1201.450	New Section
1201.460	New Section
1201.470	New Section
1201.500	New Section
1201.510	New Section
1201.520	New Section
1201.APPENDIX A	New Section
- 4) Statutory Authority: Implementing and authorized by The Freedom of Information Act [5 ILCS 140] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].
- 5) Effective Date of Rules: November 12, 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.

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- 9) Notice of Proposal published in the *Illinois Register*: As this is a Title 2 internal rulemaking, First Notice publication was not required.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: As this is a Title 2 internal rulemaking, First Notice publication was not required.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? As this is a Title 2 internal rulemaking, this was not required.
- 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: Adopting new rules to reflect statutory changes.
- 16) Information and questions regarding these adopted rules shall be directed to:

Jerilynn Troxell Gorden
Deputy General Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

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

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NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE D: CODE DEPARTMENTS
CHAPTER XXI: DEPARTMENT OF REVENUE

PART 1201

ACCESS TO RECORDS OF THE DEPARTMENT OF REVENUE

SUBPART A: INTRODUCTION

Section	
1201.100	Summary and Purpose
1201.110	Definitions

SUBPART B: CLASSIFICATION OF RECORDS

Section	
1201.200	Records that Will Be Disclosed
1201.210	Records that Will Be Withheld from Disclosure
1201.220	Statutory Exemptions

SUBPART C: PROCEDURES FOR REQUESTING
RECORDS FROM THE AGENCY

Section	
1201.300	Submittal of Requests for Records
1201.310	Information To Be Provided in Requests for Records
1201.320	Requests for Records for Commercial Purposes

SUBPART D: AGENCY RESPONSE TO REQUESTS FOR RECORDS

Section	
1201.400	Timeline for Agency Response
1201.410	Requests for Records that the Agency Considers Unduly Burdensome
1201.420	Recurrent Requesters
1201.430	Requests for Records that Require Electronic Retrieval
1201.440	Denials of Requests for Records
1201.450	Requests for Review of Denials – Public Access Counselor
1201.460	Circuit Court Review
1201.470	Administrative Review

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SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section

- 1201.500 Inspection and Copying of Records
- 1201.510 Fees for Records
- 1201.520 Reduction and Waiver of Fees

1201.APPENDIX A Fee Schedule for Duplication and Certification of Records

AUTHORITY: Implementing and authorized by the Freedom of Information Act [5 ILCS 140] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted at 8 Ill. Reg. 14290, effective July 25, 1984; amended at 20 Ill. Reg. 7949, effective July 1, 1996; amended at 26 Ill. Reg. 8159, effective May 15, 2002; former Part repealed at 43 Ill. Reg. 13431, and new Part adopted at 43 Ill. Reg. 13433, effective November 12, 2019.

SUBPART A: INTRODUCTION

Section 1201.100 Summary and Purpose

- a) This Part states the policy of Department of Revenue (Agency) for making its records available for reasonable public inspection while, at the same time, protecting legitimate interests in confidentiality.
- b) This Part:
 - 1) Establishes the following classifications for records in the Agency's possession:
 - A) Records that shall be disclosed; and
 - B) Records that shall be withheld from disclosure.
 - 2) Contains the procedures by which requesters may obtain records in the Agency's possession; and

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

Section 1201.110 Definitions

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

"Act" means the Department of Revenue Law [20 ILCS 2505/2505].

"Agency" means the Department of Revenue as established by the Act.

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

to access and disseminate information concerning news and current or passing events;

for articles or opinion or features of interest to the public; or

for the purpose of academic, scientific, or public research or education. (Section 2(c-10) of FOIA)

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

"Director" means the Director of the Agency.

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

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

"News media" means a newspaper or other periodical issued at regular intervals, news service in paper or electronic form, radio station, television station, television network,

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community antenna television service, or person or corporation engaged in making news reels or other motion picture news for public showing. (Section 2(f) of FOIA)

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

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

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

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

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

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

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

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

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

SUBPART B: CLASSIFICATION OF RECORDS

Section 1201.200 Records that Will Be Disclosed

Upon request meeting the requirements of this Part, the Agency shall disclose to the requester all records requested except that it shall not disclose certain records as provided in Section 1201.202 or 1201.203. Records covered under this Section shall include, but are not limited to:

- a) *Records of funds. All records relating to the obligation, receipt and use of public funds of the Agency are records subject to inspection and copying by the public. (Section 2.5 of FOIA)*
- b) *Payrolls. Certified payroll records submitted to the Agency under Section 5(a)(2) of the Prevailing Wage Act [820 ILCS 130] are records subject to inspection and copying in accordance with the provisions of FOIA; except that contractors' and employees' addresses, telephone numbers, and Social Security numbers will be redacted by the Agency prior to disclosure. (Section 2.10 of FOIA)*
- c) *Criminal history records. The following documents maintained by the Agency pertaining to criminal history record information are records subject to inspection and copying by the public pursuant to FOIA:*
 - 1) *Court records that are public;*

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- 2) *Records that are otherwise available under State or local law; and*
- 3) *Records in which the requesting party is the individual identified, except as provided under Section 1201.202(a)(5)(F) of this Part. (Section 2.15(b) of FOIA)*
- d) *Settlement agreements. All settlement agreements entered into by or on behalf of the Agency are records subject to inspection and copying by the public, provided that information exempt from disclosure under Section 1201.202 or 1201.203 of this Part may be redacted. (Section 2.20 of FOIA)*

Section 1201.210 Records that Will Be Withheld from Disclosure

When a request is made to inspect or copy a record that contains information that is otherwise exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the Agency may elect to redirect the information that is exempt. The Agency shall make the remaining information available for inspection and copying. (Section 7(1) of FOIA)

- a) *Subject to this requirement and Section 7 of FOIA, the following shall be exempt from inspection and copying:*
 - 1) *Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law; (Section 7(1)(a) of FOIA)*
 - 2) *Private information, unless disclosure is required by another provision of FOIA, a State or federal law or a court order; (Section 7(1)(b) of FOIA)*
 - 3) *Files, documents, and other data or databases maintained by one or more law enforcement agencies and specifically designed to provide information to one or more law enforcement agencies regarding the physical or mental status of one or more individual subjects; (Section 7(1)(b-5) of FOIA)*
 - 4) *Personal information contained within records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means*

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the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy; (Section 7(1)(c) of FOIA)

- 5) *Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:*
- A) *Interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;*
 - B) *Interfere with active administrative enforcement proceedings conducted by the public body that is the recipient of the request;*
 - C) *Create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;*
 - D) *Unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the Agency will provide traffic accident reports, the identities of witnesses to traffic accidents, and rescue reports, except when disclosure would interfere with an active criminal investigation;*
 - E) *Disclose unique or specialized investigative techniques other than those generally used and known, or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the Agency;*
 - F) *Endanger the life or physical safety of law enforcement personnel or any other person; or*

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- G) *Obstruct an ongoing criminal investigation by the Agency;*
(Section 7(1)(d) of FOIA)
- 6) *Records that relate to or affect the security of correctional institutions and detention facilities;* (Section 7(1)(e) of FOIA)
- 7) *Records requested by persons committed to the Department of Corrections if those materials are available in the library of the correctional facility where the inmate is confined;* (Section 7(1)(e-5) of FOIA)
- 8) *Records requested by persons committed to the Department of Corrections if those materials include records from staff members' personnel files, staff rosters, or other staffing assignment information;* (Section 7(1)(e-6) of FOIA)
- 9) *Records requested by persons committed to the Department of Corrections if those materials are available through an administrative request to the Department of Corrections;* (Section 7(1)(e-7) of FOIA)
- 10) *Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the Agency. The exemption provided in this subsection (a)(10) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents;* (Section 7(1)(f) of FOIA)
- 11) *Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested. All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing*

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or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this subsection (a)(11) does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this subsection (a)(11) does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm. Nothing in this subsection (a)(11) shall be construed to prevent a person or business from consenting to disclosure; (Section 7(1)(g) of FOIA)

- 12) *Proposals and bids for any contract, grant, or agreement, including information that if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contract or agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made; (Section 7(1)(h) of FOIA)*
- 13) *Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by the Agency when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this subsection (a)(13) does not extend to requests made by news media as defined in Section 1201.102 when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public; (Section 7(1)(i) of FOIA)*
- 14) *The following information pertaining to educational matters:*
 - A) *Test questions, scoring keys, and other examination data used to administer an academic exam;*
 - B) *Information received by a primary or secondary school, college, or university under its procedure for the evaluation of faculty members by their academic peers;*

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- C) *Information concerning a school's or university's adjudication of student disciplinary cases, but only to the extent that disclosure would unavoidably reveal the identity of the student; and*
- D) *Course materials or research materials used by faculty members; (Section 7(1)(j) of FOIA)*
- 15) *Architects' plans and engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and for projects constructed or developed with public funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security; (Section 7(1)(k) of FOIA)*
- 16) *Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act [5 ILCS 120] until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act; (Section 7(1)(l) of FOIA)*
- 17) *Communications between the Agency and an attorney or auditor representing the Agency that would not be subject to discovery in litigation, and materials prepared or compiled by or for the Agency in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the Agency, and materials prepared or compiled with respect to internal audits of the Agency; (Section 7(1)(m) of FOIA)*
- 18) *Records relating to the Agency's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed; (Section 7(1)(n) of FOIA)*
- 19) *Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all*

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logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section; (Section 7(1)(o) of FOIA)

- 20) *Records relating to collective negotiating matters between the Agency and its employees or representatives, except that any final contract or agreement shall be subject to inspection and copying; (Section 7(1)(p) of FOIA)*
- 21) *Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment; (Section 7(1)(q) of FOIA)*
- 22) *The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act [735 ILCS 30], records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt only until a sale is consummated; (Section 7(1)(r) of FOIA)*
- 23) *Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool. Insurance or self-insurance (including any intergovernmental risk management association or self-insurance pool) claims, loss or risk management information, records, data, advice or communications; (Section 7(1)(s) of FOIA)*
- 24) *Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an Agency responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law; (Section 7(1)(t) of FOIA)*

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- 25) *Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act [5 ILCS 175]; (Section 7(1)(u) of FOIA)*
- 26) *Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this subsection (a)(26) may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations; (Section 7(1)(v) of FOIA)*
- 27) *Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency; (Section 7(1)(x) of FOIA)*
- 28) *Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act [20 ILCS 3855] and Section 16-111.5 of the Public Utilities Act [220 ILCS 5] that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission; (Section 7(1)(y) of FOIA)*
- 29) *Information about students exempted from disclosure under Section 10-20.38 or 34-18.29 of the School Code, and information about undergraduate students enrolled at an institution of higher education exempted from disclosure under Section 25 of the Illinois Credit Card Marketing Act of 2009 [110 ILCS 26]; (Section 7(1)(z) of FOIA)*
- 30) *Information the disclosure of which is exempted under the Viatical Settlements Act of 2009 [215 ILCS 159]; (Section 7(1)(aa) of FOIA)*

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- 31) *Records and information provided to the mortality review team and records maintained by mortality review team appointed under the Department of Juvenile Justice Mortality Review Team Act [730 ILCS 195]. (Section 7(1)(bb) of FOIA)*
 - 32) *Information regarding interments, entombments, or inurnments of human remains that are submitted to the Cemetery Oversight Database under the Cemetery Care Act [760 ILCS 100] or the Cemetery Oversight Act [225 ILCS 411], whichever is applicable. (Section 7(1)(cc) of FOIA)*
 - 33) *Correspondence and records that may not be disclosed under Section 11-9 of the Public Aid Code or that pertains to appeals under Section 11-8 of the Public Aid Code [305 ILCS 5]. (Section 7(1)(dd) of FOIA)*
 - 34) *The names addresses, or other personal information of persons who are minors and are also participants and registrants in programs of park districts, forest preserve districts, conservation districts, recreation agencies, and special recreation associations. (Section 7(1)(ee) of FOIA)*
 - 35) *The names, addresses, or other personal information of participants and registrants in programs of park districts, forest preserve districts, conservation districts, recreation agencies, and special recreation associations where such programs are targeted primarily to minors. (Section 7(1)(ff) of FOIA)*
 - 36) *Confidential information described in Section 1-100 of the Illinois Independent Tax Tribunal Act of 2012 [35 ILCS 1010]. (Section 7(1)(gg) of FOIA)*
- b) *A record that is not in the possession of the Agency but is in the possession of a party with whom the Agency has contracted to perform a governmental function on behalf of the Agency, and that directly relates to the governmental function and is not otherwise exempt under FOIA, shall be considered a record of the Agency for purposes of Subpart C. (Section 7(2) of FOIA)*

Section 1201.220 Statutory Exemptions

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

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- a) *All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act [20 ILCS 700].*
- b) *Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act [75 ILCS 70].*
- c) *Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.*
- d) *Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act [410 ILCS 325].*
- e) *Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act [420 ILCS 44].*
- f) *Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535].*
- g) *Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act [110 ILCS 979].*
- h) *Information the disclosure of which is exempted under the State Officials and Employees Ethics Act [5 ILCS 430] and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.*
- i) *Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code [65 ILCS 5].*
- j) *Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act [50 ILCS 751].*

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- k) *Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code [625 ILCS 5].*
- l) *Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act [210 ILCS 28].*
- m) *Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act [765 ILCS 77], except to the extent authorized under that Article.*
- n) *Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act [725 ILCS 124]. This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.*
- o) *Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act [410 ILCS 525].*
- p) *Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act [70 ILCS 3615] or the St. Clair County Transit District under the Bi-State Transit Safety Act [45 ILCS 111].*
- q) *Information prohibited from being disclosed by the Personnel Record Review Act [820 ILCS 40].*
- r) *Information prohibited from being disclosed by the Illinois School Student Records Act [105 ILCS 10].*
- s) *Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act [220 ILCS 5].*
- t) *All identified or deidentified health information in the form of health data or medical records contained in, stored in, submitted to, transferred by, or released*

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from the Illinois Health Information Exchange, and identified or deidentified health information in the form of health data and medical records of the Illinois Health Information Exchange in the possession of the Illinois Health Information Exchange Authority due to its administration of the Illinois Health Information Exchange. The terms "identified" and "deidentified" shall be given the same meaning as the Health Insurance Accountability and Portability Act of 1996, Public Law 104-191, or any subsequent amendments thereto, and any regulations promulgated thereunder.

- u) *Records and information provided to an independent team of experts under Brian's Law (the Developmental Disability and Mental Health Safety Act or [405 ILCS 82).*
- v) *Names and information of people who have applied for or received Firearm Owner's Identification Cards under the Firearm Owners Identification Card Act [430 ILCS 65] or applied for or received a concealed carry license under the Firearm Concealed Carry Act [430 ILCS 66], unless otherwise authorized by the Firearm Concealed Carry Act; and databases under the Firearm Concealed Carry Act, records of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act, and law enforcement agency objections under the Firearm Concealed Carry Act.*
- w) *Personally identifiable information which is exempted from disclosure under subsection (g) of Section 19.1 of the Toll Highway Act [605 ILCS 10].*
- x) *Information which is exempted from disclosure under Section 5-1014.3 of the Counties Code [55 ILCS 5] or Section 8-11-21 of the Illinois Municipal Code [65 ILCS 5].*
- y) *Confidential information under the Adult Protective Services Act [320 ILCS 20] and its predecessor enabling statute, the Elder Abuse and Neglect Act, including information about the identity and administrative finding against any caregiver of a verified and substantiated decision of significant abuse, neglect, or financial exploitation of an eligible adult maintained in the Department of Public Health's Health Care Worker Registry.*
- z) *Records and information provided to an at-risk adult fatality review team or the Illinois At-Risk Adult Fatality Review Team Advisory Council under Section 15 of the Adult Protective Services Act. (Section 7.5 of FOIA)*

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SUBPART C: PROCEDURES FOR REQUESTING RECORDS FROM THE AGENCY

Section 1201.300 Submittal of Requests for Records

- a) Any request for public records should be submitted in writing to the FOI Officer at the Agency.
- b) The Agency has one FOI Officer, located in the Springfield office.
- c) Contact information for each FOI Officer can be found online at <https://www2.illinois.gov/Pages/FOIA-Contacts.aspx>.
- d) FOIA requests may be submitted via mail, e-mail, fax, or hand delivery. Requests should be mailed or hand delivered to:

Illinois Department of Revenue
101 West Jefferson Street, MC 6-595
Springfield IL 62702
Attn: FOI Officer

- e) E-mailed requests should be sent to Rev.FOIA@illinois.gov, contain the request in the body of the e-mail, and indicate in the subject line of the e-mail that it contains a FOIA request. Faxed FOIA requests should be faxed to 217/524-3402, Attn: FOI Officer.

Section 1201.310 Information To Be Provided in Requests for Records**A request for records should include:**

- a) The complete name, mailing address and telephone number of the requester;
- b) As specific a description as possible of the records sought. Requests that the Agency considers unduly burdensome or categorical may be denied. (See Section 3(g) of FOIA and Section 1201.402 of this Part.);
- c) A statement as to the requested medium and format for the Agency to use in providing the records sought: for example, paper, specific types of digital or magnetic media, or videotape;

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- d) A statement as to the requested manner for the Agency to use in providing the records sought: for example, inspection at Agency headquarters or providing paper or electronic copies;
- e) A statement as to whether the requester needs certified copies of all or any portion of the records, including reference to the specific documents that require certification; and
- f) A statement as to whether the request is for a commercial purpose.

Section 1201.320 Requests for Records for Commercial Purposes

- a) *It is a violation of FOIA for a person to knowingly obtain a record for a commercial purpose without disclosing that it is for a commercial purpose if requested to do so by the Agency. (Section 3.1(c) of FOIA)*
- b) *The Agency shall respond to a request for records to be used for a commercial purpose within 21 working days after receipt. The response shall:*
 - 1) *Provide to the requester an estimate of the time required by the Agency to provide the records requested and an estimate of the fees to be charged, which the Agency may require the person to pay in full before copying the requested documents;*
 - 2) *Deny the request pursuant to one or more of the exemptions set out in Section 1201.202 or 1201.203;*
 - 3) *Notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*
 - 4) *Provide the records requested. (Section 3.1(a) of FOIA)*
- c) *Unless the records are exempt from disclosure, the Agency shall comply with a request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes. (Section 3.1(b) of FOIA)*

SUBPART D: AGENCY RESPONSE TO REQUESTS FOR RECORDS

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Section 1201.400 Timeline for Agency Response

- a) Except as stated in subsection (b) or (c), the Agency will respond to any written request for records within 5 business days after its receipt of the request. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. If the Agency fails to respond to a request within the requisite periods in this subsection (a) but thereafter provides the requester with copies of the requested records, it will not impose a fee for such copies. If the Agency fails to respond to a request received, it will not treat the request as unduly burdensome as provided under Section 1201.402. (Section 3(d) of FOIA) A written request from the Agency to provide additional information shall be considered a response to the FOIA request.
- b) *The time limits prescribed in subsection (a) may be extended for not more than 5 business days from the original due date for any of the following reasons:*
- 1) *The requested records are stored in whole or in part at locations other than the office having charge of the requested records;*
 - 2) *The request requires the collection of a substantial number of specified records;*
 - 3) *The request is couched in categorical terms and requires an extensive search for the records responsive to it;*
 - 4) *The requested records have not been located in the course of routine search and additional efforts are being made to locate them;*
 - 5) *The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 or 7.5 of FOIA or should be revealed only with appropriate deletions;*
 - 6) *The request for records cannot be complied with by the Agency within the time limits prescribed by subsection (a) without unduly burdening or interfering with the operations of the Agency; or*

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- 7) *There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request. (Section 3(e) of FOIA)*
- c) *The person making a request and the Agency may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the Agency agree to extend the period for compliance, a failure by the Agency to comply with any previous deadlines shall not be treated as a denial of the request for the records. (Section 3(e) of FOIA)*
- d) *When additional time is required for any of the reasons set forth in subsection (b), the Agency will, within 5 business days after receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming. Failure to respond within the time permitted for extension shall be considered a denial of the request. If the Agency fails to respond to a request within the time permitted for extension but thereafter provides the requester with copies of the requested public records, it may not impose a fee for those copies. If the Agency issues an extension and subsequently fails to respond to the request, it will not treat the request as unduly burdensome under Section 1201.402. (Section 3(f) of FOIA)*

Section 1201.410 Requests for Records that the Agency Considers Unduly Burdensome

- a) *The Agency will fulfill requests calling for all records falling within a category unless compliance with the request would unduly burden the Agency, there is no way to narrow the request, and the burden on the Agency outweighs the public interest in the information. Before invoking this exemption, the Agency will extend to the requester an opportunity to confer with it in an attempt to reduce the request to manageable proportions. (Section 3(g) of FOIA) The amended request must be in writing.*
- b) *If the Agency determines that a request is unduly burdensome, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the Agency. The response shall be treated as a denial of the request for information. (Section 3(g) of FOIA)*

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

Section 1201.420 Recurrent Requesters

- a) *Notwithstanding any provision of this Part to the contrary, the Agency will respond to a request from a recurrent requester, as defined in Section 1201.102, within 21 business days after receipt. The response shall:*
- 1) *provide to the requester an estimate of the time required by the Agency to provide the records requested and an estimate of the fees to be charged, which the Agency may require the person to pay in full before copying the requested documents;*
 - 2) *deny the request pursuant to one or more of the exemptions set out in this Part;*
 - 3) *notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*
 - 4) *provide the records requested.*
- b) *Within 5 business days after receiving a request from a recurrent requester, the Agency will notify the requestor that the Agency is treating the request as a recurrent request, of the reasons why the Agency is treating the request as a recurrent request, and that the Agency will send an initial response within 21 business days after receipt in accordance with subsection (a). The Agency will also notify the requester of the proposed responses that can be asserted pursuant to subsection (a).*
- c) *Unless the records are exempt from disclosure, the Agency will comply with a request within a reasonable period considering the size and complexity of the request. (Section 3.2 of FOIA)*

Section 1201.430 Requests for Records that Require Electronic Retrieval

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- a) A request for records that requires electronic retrieval will be treated the same as any other request for records, with the same timeline and extensions as allowed for other records.
- b) The Agency will retrieve and provide electronic records only in a format and medium that is available to the Agency.

Section 1201.440 Denials of Requests for Records

- a) The Agency will deny requests for records when:
 - 1) Compliance with the request would unduly burden the Agency, as determined pursuant to Section 1201.402, and the requester has not reduced the request to manageable proportions; or
 - 2) The records are exempt from disclosure pursuant to Section 7 or 7.5 of FOIA or Section 1201.202 or 1201.203 of this Part.
- b) The denial of a request for records must be in writing.
 - 1) The notification shall include a description of the records denied; *the reason for the denial, including a detailed factual basis for the application of any exemption claimed; and the names and titles or positions of each person responsible for the denial* (Section 9(a) of FOIA);
 - 2) *Each notice of denial shall also inform such person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor* (Section 9(a) of FOIA); and
 - 3) *When a request for records is denied on the grounds that the records are exempt under Section 7 or 7.5 of FOIA, the notice of denial shall specify the exemption claimed to authorize the denial and the specific reasons for the denial, including a detailed factual basis and a citation to the supporting legal authority* (Section 9(b) of FOIA).
- c) A requester may treat the Agency's failure to respond to a request for records within 5 business days after receipt of the written request as a denial for purposes of the right to review by the Public Access Counselor.

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- d) If the Agency has given written notice pursuant to Section 1201.401(d), failure to respond to a written request within the time permitted for extension may be treated as a denial for purposes of the right to review by the Public Access Counselor.
- e) *Any person making a request for records shall be deemed to have exhausted his or her administrative remedies with respect to that request if the Agency fails to act within the time periods provided in Section 1201.401. (Section 9(c) of FOIA)*

Section 1201.450 Requests for Review of Denials – Public Access Counselor

- a) *A person whose request to inspect or copy a record is denied by the Agency may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial. The request for review shall be in writing, be signed by the requester, and include a copy of the request for access to records and any response from the Agency. (Section 9.5(a) of FOIA)*
- b) *A person whose request to inspect or copy a record is made for a commercial purpose may not file a request for review with the Public Access Counselor. A person whose request to inspect or copy a record was treated by the Agency as a request for a commercial purpose may file a request for review with the Public Access Counselor for the limited purpose of reviewing whether the Agency properly determined that the request was made for a commercial purpose. (Section 9.5(b) of FOIA)*
- c) *Within 7 business days after the Agency receives a request for review from the Public Access Counselor, the Agency shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor. (Section 9.5(c) of FOIA)*
- d) *Within 7 business days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the Agency may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy. (Section 9.5(d) of FOIA)*

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- e) *The requester may, but is not required to, respond in writing to the answer within 7 business days and shall provide a copy of the response to the Agency. (Section 9.5(d) of FOIA)*
- f) *In addition to the request for review, and the answer and response to the request, if any, a requester or the Agency may furnish affidavits or records concerning any matter germane to the review. (Section 9.5(e) of FOIA)*
- g) *A binding opinion from the Attorney General shall be binding upon both the requester and the Agency, subject to administrative review under Section 1201.408. (Section 9.5(f) of FOIA)*
- h) *If the Attorney General decides to exercise his or her discretion to resolve a request for review by mediation or by a means other than issuance of a binding opinion, the decision not to issue a binding opinion shall not be reviewable. (Section 9.5(f) of FOIA)*
- i) *Upon receipt of a binding opinion concluding that a violation of FOIA has occurred, the Agency will either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under Section 1201.408. If the opinion concludes that no violation of FOIA has occurred, the requester may initiate administrative review under Section 1201.408. (Section 9.5(f) of FOIA)*
- j) *If the Agency discloses records in accordance with an opinion of the Attorney General, the Agency is immune from all liabilities by reason thereof and shall not be liable for penalties under FOIA. (Section 9.5(f) of FOIA)*
- k) *If the requester files suit under Section 1201.407 with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor. (Section 9.5(g) of FOIA)*
- l) *The Attorney General may also issue advisory opinions to the Agency regarding compliance with FOIA. A review may be initiated upon receipt of a written request from the Director of the Agency or the Agency's Chief Legal Counsel, which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the Agency in order to assist in the review. If the Agency relies in good faith on an advisory opinion of the Attorney General in responding to a request, the Agency*

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is not liable for penalties under FOIA, so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor.
(Section 9.5(h) of FOIA)

Section 1201.460 Circuit Court Review

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

Section 1201.470 Administrative Review

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

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section 1201.500 Inspection and Copy of Records

- a) The Agency may make available records for personal inspection at the Agency's headquarters office located at 101 West Jefferson, Springfield, or at another location agreed to by both the Agency and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record. The Agency may provide records in duplicate forms, including, but not limited to, paper copies, data processing printouts, videotape, microfilm, audio tape, reel to reel microfilm, photographs, computer disks and diazo.
- b) *When a person requests a copy of a record maintained in an electronic format, the Agency shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the records in the specified electronic format, then the Agency shall furnish it in the format in which it is maintained by the Agency, or in paper format at the option of the requester.* (Section 6(a) of FOIA)

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- c) A requester may inspect records by appointment only, scheduled subject to space availability. The Agency will schedule inspection appointments to take place during normal business hours, which are 8:30 a.m. to 5:00 p.m. Monday through Friday, exclusive of State holidays. If the requester must cancel the viewing appointment, the requester shall so inform the Agency as soon as possible before the appointment.
- d) In order to maintain routine Agency operations, the requester may be asked to leave the inspection area for a specified period of time.
- e) The requester will have access only to the designated inspection area.
- f) Requesters shall not be permitted to take briefcases, folders or similar materials into the room where the inspection takes place. An Agency employee may be present during the inspection.
- g) The requester shall segregate and identify the documents to be copied during the course of the inspection.

Section 1201.510 Fees for Records

- a) In accordance with Section 1201.503, unless a fee is otherwise fixed by statute, the Agency will provide copies of records and certifications of records in accordance with the fee schedule set forth in Appendix A.
- b) *In calculating its actual cost for reproducing records or for the use of the equipment of the Agency to reproduce records, the Agency will not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records. (Section 6(b) of FOIA)*
- c) In order to expedite the copying of records that the Agency cannot copy, due to the volume of the request or the operational needs of the Agency, in the timelines established in Section 1201.401, the requester may provide, at the requester's expense, the copy machine, all necessary materials, and the labor to copy the public records at the Agency headquarters in Section 1201.501, or at another location agreed to by both the Agency and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record.

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- d) Copies of records will be provided to the requester only upon payment of any fees due. *The Agency may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium, but the Agency will not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records.* (Section 6(a) of FOIA) Payment must be by check or money order sent to the Agency, payable to "Treasurer, State of Illinois".
- e) If a contractor is used to inspect or copy records, the following procedures shall apply:
- 1) The requester, rather than the Agency, must contract with the contractor;
 - 2) The requester is responsible for all fees charged by the contractor;
 - 3) The requester must notify the Agency of the contractor to be used prior to the scheduled on-site inspection or copying;
 - 4) Only Agency personnel may provide records to the contractor;
 - 5) The Agency must have verification that the requester has paid the Agency, if payment is due, for the copying of the records before providing the records to the contractor; and
 - 6) The requester must provide to the Agency the contractor's written agreement to hold the records secure and to copy the records only for the purpose stated by the requester.
- f) *The Agency may charge up to \$10 for each hour spent by personnel in searching for and retrieving a requested record. No fees shall be charged for the first 8 hours spent by personnel in searching for or retrieving a requested record. The Agency may charge the actual cost of retrieving and transporting public records from an off-site storage facility when the public records are maintained by a third-party storage company under contract with the Agency. If the Agency imposes a fee pursuant to this subsection (f), it must provide the requestor with an accounting of all fees, costs, and personnel hours in connection with the request for public records. The provisions of this subsection (f) apply only to commercial requests.* (Section 6(f) of FOIA)

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Section 1201.520 Reduction and Waiver of Fees

- a) *Fees may be reduced or waived by the Agency if the requester states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. In making this determination, the Agency will consider the following:*
- 1) *Whether the principal purpose of the request is to disseminate information regarding the health, safety, welfare or legal rights of the general public; and*
 - 2) *Whether the principal purpose of the request is personal or commercial benefit. For purposes of this subsection (a), "commercial benefit" shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public. (Section 6(c) of FOIA)*
- b) *In setting the amount of the waiver or reduction, the Agency will take into consideration the amount of materials requested and the cost of copying them. (Section 6(c) of FOIA)*
- c) *The Agency will provide copies of records without charge to federal, State and municipal agencies, Constitutional officers and members of the General Assembly, and not-for-profit organizations providing evidence of good standing with the Secretary of State's Office.*
- d) *Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of records when furnished in a paper format will not be applicable to those records when furnished to a requester in an electronic format. (Section 6(a) of FOIA)*

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Section 1201.APPENDIX A Fee Schedule for Duplication and Certification of Records

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

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

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- 1) Heading of the Part: Video Gaming (General)
- 2) Code Citation: 11 Ill. Adm. Code 1800
- 3) Section Number: 1800.340 Emergency Action:
New Section
- 4) Statutory Authority: Implementing and authorized by Section 5-45 of the Illinois Administrative Procedure Act [5 ILCS 100/5-45].
- 5) Effective Date of Rule: November 8, 2019
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: The emergency amendments will expire at the end of the 150-day period or upon adoption of permanent rules, whichever comes first.
- 7) Date Filed with the Index Department: November 8, 2019
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the Illinois Gaming Board's principal office and is available for public inspection.
- 9) Reason for Emergency: Section 5-45 of the Illinois Administrative Procedure Act authorizes an Agency to adopt an emergency rule if it finds that a situation exists constituting a threat to the public interest, safety, or welfare. The present emergency rule addresses such a situation.

Under existing Video Gaming Act rules, and in contrast to the rules governing riverboat and casino gambling, there is no current requirement for Illinois Gaming Board ("IGB" or "Board") approval of the transfer of ownership interests of a terminal operator. Instead, a licensed terminal operator merely has a continuing duty to report sales of ownership interests to the IGB within 21 days after they occur. [11 Ill. Adm. Code 1800.220 (Continuing Duty to Report Information)]. Thus, for a period of three weeks following such a sale, the IGB – the State regulator tasked with protecting the safety and integrity of Illinois gaming – is not entitled to any information whatsoever about, and has no ability to intervene in, a sale involving one of its licensees. Such tardy and after-the-fact disclosures create an emergency under IAPA Section 5-45 (a) by impairing public confidence and trust in the credibility and integrity video gaming operations – a statutory requirement under Section 2 (b) of the Illinois Gambling Act [230 ILCS 10/2 (b) as

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incorporated into the Video Gaming Act by Section 80 of that act [230 ILCS 40/80]. The urgency of closing this gaping loophole is magnified by recent news reports of alleged illegality in the industry.

The present rule rectifies the situation by generally providing that an ownership interest in a terminal operator may only be transferred with leave of the Board, thereby bringing needed transparency, disclosure, oversight, and accountability to the process. First, the rule's pre-transfer disclosure requirement precludes a terminal operator licensee or owner facing probable disciplinary Board action (including license revocation, suspension or nonrenewal) from evading liability from wrongdoing by effectuating a quick ownership or assets transfer without Board knowledge or approval. Without the present rule, such a person, who has acted unethically and in violation of statutory and administrative requirements, can still earn a potentially large profit derived from the license or ownership. Further, the current lack of a prior disclosure requirement regarding transfers of terminal operator ownership and assets means that a person holding an interest in a terminal operator has the opportunity to unload the interest even before the Board is cognizant that a disciplinary situation exists. The current absence of real time Board oversight over terminal operator ownership and asset sales deprives the public of confidence that video gaming business in Illinois operates in an ethical or transparent manner. The present rule, by imposing a prior disclosure requirement upon terminal operator licensees and owners, will enhance public confidence in the integrity of video gaming by providing assurance that those who violate video gaming law will not profit from unethical or illegal conduct.

Second, unregulated transfers of terminal operator ownership and assets will tend to diminish economic competition. Section 25 (i) of the Video Gaming Act [230 ILCS 40/25 (i)] declares that "[t]he Board shall not allow a terminal operator to operate video gaming terminals if the Board determines such operation will result in undue economic concentration". To further the implementation of this statutory directive, the Board has adopted 11 Ill. Adm. Code 1800.440 (Undue Economic Concentration), which establishes criteria for evaluating whether a situation of undue economic concentration exists, and gives the Board "authority to place any restrictions or qualifications on the terms of a terminal operator license that it deems necessary to prevent or eliminate undue economic concentration, including, but not limited to, setting a limit on the maximum amount of use agreements a terminal operator may have" [11 Ill. Adm. Code 1800.440 (d)].

If the Board lacks advance knowledge of terminal operator ownership and asset transfers, it cannot effectively limit these transfers so as to prevent undue economic concentration. This is a real and pressing concern. During State Fiscal Year (FY) 2018, the five largest

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terminal operators (out of a current total of 75) had combined Net Terminal Income (NTI) amounting to 56.0% of the total NTI of all Illinois terminal operators. The share of total NTI held by these top five terminal operators has been rapidly increasing, as shown below:

<u>Fiscal Year</u>	<u>Percentage of total NTI held by the five largest terminal Operators</u>
2017	49.2%
2016	46.6%
2015	45.1%
2014	40%

If the IGB is provided with advance notification of terminal operator asset transfers, it can act to curb the increasing levels of economic concentration in the industry under its present statutory and regulatory authority. But without such notification, the Board cannot effectively address the concentration trend and protect economic competition in the industry.

Third, the Board's current lack of timely information regarding ownership transfers and asset sales also raises major related concerns pertaining to the financial stability of many terminal operators. Deprived of prior notice, the Board cannot act to prevent sales of use agreements (in which a terminal operator agrees to install and maintain video gaming terminals in a licensed video gaming location) to those terminal operators whose financial circumstances may be precarious and that are therefore unable to handle the additional financial requirements that the sales will bring upon them. Without financial stability within the key terminal operator sector of the video gaming industry, video gaming in Illinois will prove incapable of completely fulfilling its statutory purpose of "assisting economic development and promoting Illinois tourism" [230 ILCS 10/2 (a).]

Finally, no rational basis exists to justify the inconsistent treatment of transfers of ownership interests among riverboats/casinos and video gaming terminal operators. The same regulatory, integrity and public safety concerns are implicated in both gaming contexts and these compelling interests should be treated the same way in the Board's rules.

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For all of the above reasons, an emergency within the definition of Section 5-45 (b) exists so as to justify immediate adoption of the present rule. This rule will provide needed transparency and consistency with respect to terminal operator transactions and ensure that ethical standards are maintained. The very foundation of gaming regulation is knowledge of who holds ownership of gaming interests. Without it, the pyramid of effective regulation tumbles. The present rule will provide both the Board and general public with this knowledge and the accountability and confidence that flow from it.

- 10) A Complete Description of the Subjects and Issues Involved: The rulemaking contains the following specific provisions:

Subsection (a) provides that an ownership interest in a licensed terminal operator may only be transferred with leave of the Board unless all material terms of the prospective transaction were fully disclosed to the Board on or before November 7, 2019. Leave of the Board is also required for the transfer of any ownership interest in a business entity (other than a publicly traded company) that has an interest in a licensed terminal operator unless all material terms of the prospective transaction were fully disclosed to the Board on or before November 7, 2019.

Under subsection (a), the type of information that must be provided to the Board in connection with the acquisition of an ownership interest depends on whether it is a terminal operator or another type of business entity that is seeking to acquire a terminal operator interest. A business entity other than a terminal operator that is seeking to acquire an interest in a terminal operator of less than 100% must complete either a Business Entity or a Personal Disclosure form as appropriate, as well as any other information specifically requested by the Board. If the business entity seeks 100% ownership of a terminal operator, it must complete a terminal operator application. A licensed terminal operator seeking to acquire ownership in another licensed terminal operator must provide any information requested by the Board.

The subsection requires the Board to investigate persons acquiring an ownership interest in a licensed terminal operator, with the costs of the investigation to be borne by the person seeking to acquire the ownership interest.

The Board shall grant leave for a transfer of ownership interest only after it is satisfied that the transaction:

Does not adversely affect public confidence and trust in gaming;

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Does not pose a threat to the public interests of the State or to the security and integrity of video gaming; and

Does not discredit or tend to discredit the gaming industry or the State of Illinois.

The subsection establishes standards to guide the Board in deciding whether to grant a transfer of ownership interest among terminal operators. In making this determination, the Board shall consider:

Licensing criteria contained in the Video Gaming Act;

Section 1800.420 of the video gaming rules (Qualifications for Licensure); and

Undue economic concentration.

If the Board denies a transfer of ownership interests, it shall issue a Notice of Denial and the denied entity may request a hearing under Subpart F (Denials of Applications for Licensure).

Subsection (b) deals with the transfer of video gaming assets. It provides that, except for equipment, no video gaming asset, including the right to place video gaming terminals at a licensed establishment, may be assigned or transferred to another terminal operator without prior approval from the Administrator.

Subsection (c) establishes standards to be followed by the Administrator in denying a licensed terminal operator's request to transfer or assign a video gaming asset to another licensed terminal operator. The Administrator shall issue such a denial only if the Administrator finds that the request is not in the best interest of gaming in the State. In making this determination, the Administrator shall consider all relevant factors, including but not limited to:

Undue economic concentration;

Integrity of the State's video gaming industry; and

Status of licensee with the Board.

Subsection (d) requires the Administrator to notify the parties in writing whenever he or she denies a request to transfer or assign a video gaming asset.

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Finally, subsection (e) provides that following a denial by the Administrator of a request to transfer or assign a video gaming asset, the terminal operator may only transfer or assign the asset with leave from the Board.

11) Are there any other rulemakings pending to this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
1800.110	Amendment	43 Ill. Reg. 9209, August 30, 2019
1800.250	Amendment	43 Ill. Reg. 9209, August 30, 2019
1800.260	Amendment	43 Ill. Reg. 9209, August 30, 2019
1800.420	Amendment	43 Ill. Reg. 9209, August 30, 2019
1800.430	Amendment	43 Ill. Reg. 9209, August 30, 2019
1800.540	Amendment	43 Ill. Reg. 9209, August 30, 2019
1800.580	Amendment	43 Ill. Reg. 9209, August 30, 2019
1800.1810	New Section	43 Ill. Reg. 9209, August 30, 2019
1800.1910	New Section	43 Ill. Reg. 9312, September 6, 2019
1800.1920	New Section	43 Ill. Reg. 9312, September 6, 2019
1800.1930	New Section	43 Ill. Reg. 9312, September 6, 2019
1800.1940	New Section	43 Ill. Reg. 9312, September 6, 2019
1800.2010	New Section	43 Ill. Reg. 12767, November 1, 2019
1800.2020	New Section	43 Ill. Reg. 12767, November 1, 2019
1800.2030	New Section	43 Ill. Reg. 12767, November 1, 2019
1800.2040	New Section	43 Ill. Reg. 12767, November 1, 2019
1800.2050	New Section	43 Ill. Reg. 12767, November 1, 2019
1800.2060	New Section	43 Ill. Reg. 12767, November 1, 2019

12) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under 30 ILCS 805.

13) Information and questions regarding this rulemaking shall be directed to:

Agostino Lorenzini
 General Counsel
 Illinois Gaming Board
 160 North LaSalle Street
 Chicago IL 60601

fax: 312/814-7253

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Agostino.lorenzini@igb.illinois.gov

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

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TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE D: VIDEO GAMING
CHAPTER I: ILLINOIS GAMING BOARD

PART 1800
VIDEO GAMING (GENERAL)

SUBPART A: GENERAL PROVISIONS

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1800.110	Definitions
1800.115	Gender
1800.120	Inspection
1800.130	Board Meetings

SUBPART B: DUTIES OF LICENSEES

Section	
1800.210	General Duties of All Video Gaming Licensees
1800.220	Continuing Duty to Report Information
1800.230	Duties of Licensed Manufacturers
1800.240	Duties of Licensed Distributors
1800.250	Duties of Licensed Video Terminal Operators
1800.260	Duties of Licensed Technicians and Licensed Terminal Handlers
1800.270	Duties of Licensed Video Gaming Locations

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section	
1800.310	Grounds for Disciplinary Actions
1800.320	Minimum Standards for Use Agreements
1800.330	Economic Disassociation
1800.340	Change in Ownership of Terminal Operators and Assets Held by Terminal Operators

[EMERGENCY](#)

SUBPART D: LICENSING QUALIFICATIONS

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1800.410	Coverage of Subpart
1800.420	Qualifications for Licensure
1800.430	Persons with Significant Influence or Control
1800.440	Undue Economic Concentration

SUBPART E: LICENSING PROCEDURES

Section

1800.510	Coverage of Subpart
1800.520	Applications
1800.530	Submission of Application
1800.540	Application Fees
1800.550	Consideration of Applications by the Board
1800.555	Withdrawal of Applications and Surrender of Licenses
1800.560	Issuance of License
1800.570	Renewal of License
1800.580	Renewal Fees and Dates
1800.590	Death and Change of Ownership of Video Gaming Licensee

SUBPART F: DENIALS OF APPLICATIONS FOR LICENSURE

Section

1800.610	Coverage of Subpart
1800.615	Requests for Hearing
1800.620	Appearances
1800.625	Appointment of Administrative Law Judge
1800.630	Discovery
1800.635	Subpoenas
1800.640	Motions for Summary Judgment
1800.650	Proceedings
1800.660	Evidence
1800.670	Prohibition on Ex Parte Communication
1800.680	Sanctions and Penalties
1800.690	Transmittal of Record and Recommendation to the Board
1800.695	Status of Applicant for Licensure Upon Filing Request for Hearing

SUBPART G: DISCIPLINARY ACTIONS AGAINST LICENSEES

Section

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1800.710	Coverage of Subpart
1800.715	Notice of Proposed Disciplinary Action Against Licensees
1800.720	Hearings in Disciplinary Actions
1800.725	Appearances
1800.730	Appointment of Administrative Law Judge
1800.735	Discovery
1800.740	Subpoenas
1800.745	Motions for Summary Judgment
1800.750	Proceedings
1800.760	Evidence
1800.770	Prohibition on Ex Parte Communication
1800.780	Sanctions and Penalties
1800.790	Transmittal of Record and Recommendation to the Board
1800.795	Persons Subject to Proposed Orders of Economic Disassociation

SUBPART H: LOCATION OF VIDEO GAMING TERMINALS IN
LICENSED VIDEO GAMING LOCATIONS

Section	
1800.810	Location and Placement of Video Gaming Terminals
1800.815	Licensed Video Gaming Locations Within Malls
1800.820	Measurement of Distances from Locations
1800.830	Waivers of Location Restrictions

SUBPART I: SECURITY INTERESTS

Section	
1800.910	Approvals Required, Applicability, Scope of Approval
1800.920	Notice of Enforcement of a Security Interest
1800.930	Prior Registration

SUBPART J: TRANSPORTATION, REGISTRATION,
AND DISTRIBUTION OF VIDEO GAMING TERMINALS

Section	
1800.1010	Restriction on Sale, Distribution, Transfer, Supply and Operation of Video Gaming Terminals
1800.1020	Transportation of Video Gaming Terminals into the State
1800.1030	Receipt of Video Gaming Terminals in the State

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- 1800.1040 Transportation of Video Gaming Terminals Between Locations in the State
- 1800.1050 Approval to Transport Video Gaming Terminals Outside of the State
- 1800.1060 Placement of Video Gaming Terminals
- 1800.1065 Registration of Video Gaming Terminals
- 1800.1070 Disposal of Video Gaming Terminals

SUBPART K: STATE-LOCAL RELATIONS

- Section
- 1800.1110 State-Local Relations

SUBPART L: FINGERPRINTING OF APPLICANTS

- Section
- 1800.1210 Definitions
- 1800.1220 Entities Authorized to Perform Fingerprinting
- 1800.1230 Qualification as a Livescan Vendor
- 1800.1240 Fingerprinting Requirements
- 1800.1250 Fees for Fingerprinting
- 1800.1260 Grounds for Revocation, Suspension and Denial of Contract

SUBPART M: PUBLIC ACCESS TO INFORMATION

- Section
- 1800.1310 Public Requests for Information

SUBPART N: PAYOUT DEVICES AND REQUIREMENTS

- Section
- 1800.1410 Ticket Payout Devices
- 1800.1420 Redemption of Tickets Following Removal or Unavailability of Ticket Payout Devices

SUBPART O: NON-PAYMENT OF TAXES

- Section
- 1800.1510 Non-Payment of Taxes

SUBPART P: CENTRAL COMMUNICATIONS SYSTEM

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Section

1800.1610 Use of Gaming Device or Individual Game Performance Data

SUBPART Q: RESPONSIBLE GAMING

Section

1800.1710 Conversations About Responsible Gaming

1800.1720 Responsible Gaming Education Programs

1800.1730 Problem Gambling Registry

1800.1740 Utilization of Technology to Prevent Problem Gambling

AUTHORITY: Implementing and authorized by the Video Gaming Act [230 ILCS 40].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 14793, effective October 19, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 2893, effective February 22, 2010; emergency amendment at 34 Ill. Reg. 8589, effective June 15, 2010, for a maximum of 150 days; emergency expired November 11, 2010; amended at 35 Ill. Reg. 1369, effective January 5, 2011; emergency amendment at 35 Ill. Reg. 13949, effective July 29, 2011, for a maximum of 150 days; emergency expired December 25, 2011; amended at 36 Ill. Reg. 840, effective January 6, 2012; amended by emergency rulemaking at 36 Ill. Reg. 4150, effective February 29, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 5455, effective March 21, 2012; amended at 36 Ill. Reg. 10029, effective June 28, 2012; emergency amendment at 36 Ill. Reg. 11492, effective July 6, 2012, for a maximum of 150 days; emergency expired December 2, 2012; emergency amendment at 36 Ill. Reg. 12895, effective July 24, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13178, effective July 30, 2012; amended at 36 Ill. Reg. 15112, effective October 1, 2012; amended at 36 Ill. Reg. 17033, effective November 21, 2012; expedited correction at 39 Ill. Reg. 8183, effective November 21, 2012; amended at 36 Ill. Reg. 18550, effective December 14, 2012; amended at 37 Ill. Reg. 810, effective January 11, 2013; amended at 37 Ill. Reg. 4892, effective April 1, 2013; amended at 37 Ill. Reg. 7750, effective May 23, 2013; amended at 37 Ill. Reg. 18843, effective November 8, 2013; emergency amendment at 37 Ill. Reg. 19882, effective November 26, 2013, for a maximum of 150 days; emergency amendment suspended by the Joint Committee on Administrative Rules at 38 Ill. Reg. 3384, effective January 14, 2014; suspension withdrawn at 38 Ill. Reg. 5897; emergency repeal of emergency amendment at 38 Ill. Reg. 7337, effective March 12, 2014, for the remainder of the 150 days; amended at 38 Ill. Reg. 849, effective December 27, 2013; amended at 38 Ill. Reg. 14275, effective June 30, 2014; amended at 38 Ill. Reg. 19919, effective October 2, 2014; amended at 39 Ill. Reg. 5401, effective March 27, 2015; amended at 39 Ill. Reg. 5593, effective April 1, 2015; amended at 40 Ill. Reg. 2952, effective January 27, 2016; amended at 40 Ill. Reg. 8760, effective June 14, 2016; amended at 40

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Ill. Reg. 12762, effective August 19, 2016; amended at 40 Ill. Reg. 15131, effective October 18, 2016; emergency amendment at 41 Ill. Reg. 2696, effective February 7, 2017, for a maximum of 150 days; amended at 41 Ill. Reg. 2939, effective February 24, 2017; amended at 41 Ill. Reg. 4499, effective April 14, 2017; amended at 41 Ill. Reg. 10300, effective July 13, 2017; amended at 42 Ill. Reg. 3126, effective February 2, 2018; amended at 42 Ill. Reg. 3735, effective February 6, 2018; emergency amendment at 43 Ill. Reg. 9261, effective August 13, 2019, for a maximum of 150 days; emergency amendment at 43 Ill. Reg. 9788, effective August 19, 2019, for a maximum of 150 days; emergency amendment at 43 Ill. Reg. 11688, effective September 26, 2019, for a maximum of 150 days; emergency amendment at 43 Ill. Reg. 13464, effective November 8, 2019, for a maximum of 150 days; emergency amendment suspended by the Joint Committee on Administrative Rules at 43 Ill. Reg. 13479, effective November 12, 2019.

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section 1800.340 Change in Ownership of Terminal Operators and Assets Held by Terminal Operators
EMERGENCY

- a) Notwithstanding any other Subpart, any ownership interest in a licensed terminal operator may only be transferred with leave of the Board unless all material terms of the prospective transaction were fully disclosed to the Board on or before November 7, 2019. Any ownership interest in a business entity, other than a publicly traded corporation, which has an interest in a licensed terminal operator, may only be transferred with leave of the Board unless all material terms of the prospective transaction were fully disclosed to the Board on or before November 7, 2019.
- 1) Any person, other than a licensed terminal operator, seeking to acquire less than a 100% ownership interest in a licensed terminal operator must complete either a Business Entity or Personal Disclosure Form, whichever is applicable, and provide any other information specifically requested by the Board.
 - 2) Any person, other than a licensed terminal operator, seeking to acquire a 100% ownership interest in a licensed terminal operator must complete a terminal operator application.

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- 3) Any licensed terminal operator seeking to acquire an ownership interest in another licensed terminal operator must provide any information requested by the Board.
 - 4) The Board shall investigate persons seeking to acquire an ownership interest in a licensed terminal operator. The licensed terminal operator shall bear the costs for all investigations relating to the person seeking to acquire the ownership interest.
 - 5) The Board shall grant leave to transfer an ownership interest in a terminal operator only after the Board is satisfied that the transaction does not adversely affect public confidence and trust in gaming, does not pose a threat to the public interests of the State or to the security and integrity of video gaming, and does not discredit or tend to discredit the Illinois gaming industry or the State of Illinois. The Board shall consider, without limitation, the licensing criteria found in the Act, Section 1800.420, and undue economic concentration in deciding whether to grant leave to transfer an ownership interest.
 - 6) If the Board denies a request to transfer an ownership interest of a licensed terminal operator, the Board shall issue a Notice of Denial in accordance with Subpart F. The denied person may request a hearing under Subpart F.
- b) Except for equipment, no video gaming asset, including the right to place video gaming terminals at a licensed establishment, held by a licensed terminal operator may be transferred or assigned to another licensed terminal operator without prior approval from the Administrator.
 - c) The Administrator may deny any licensed terminal operator's request to transfer or assign a video gaming asset to another licensed terminal operator if the Administrator finds that the request is not in the best interest of gaming in the State. The Administrator shall determine whether a request to transfer or assign a video gaming asset is in the best interest of gaming in the State after considering all relevant factors, including but not limited to:
 - 1) Undue economic concentration;
 - 2) The integrity of the State's video gaming industry; and

ILLINOIS GAMING BOARD

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- 3) The status of the licensees with the Board.
- d) If the Administrator denies a request to transfer or assign a video gaming asset, the Administrator shall notify the parties in writing.
- e) If the Administrator denies a request to transfer or assign a video gaming asset, the terminal operator may only transfer or assign the video gaming asset with leave from the Board.

(Source: Added by emergency rulemaking at 43 Ill. Reg. 13464, effective November 8, 2019, for a maximum of 150 days; suspended by the Joint Committee on Administrative Rules at 43 Ill. Reg. 13479, effective November 12, 2019)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

OBJECTION TO AND SUSPENSION OF EMERGENCY RULE

ILLINOIS GAMING BOARD

Heading of the Part: Video Gaming (General)

Code Citation: 11 Ill. Adm. Code 1800

Section Numbers: 1800.340

Date Related Proposed Rulemaking Published in the *Illinois Register*: 11/22/19

Date Emergency Rule Published in the *Illinois Register*: 11/22/19

At its meeting on November 12, 2019, the Joint Committee on Administrative Rules voted to Object to and Suspend the above-referenced emergency rule titled Video Gaming (General) (11 Ill. Adm. Code 1800; adopted 11/8/19) and to notify the Secretary of State of the Suspension of the emergency rule. The reasons for the Suspension are as follows:

With regard to the emergency rule of the Illinois Gaming Board titled Video Gaming (General) (11 Ill. Adm. Code 1800; adopted 11/8/19), JCAR objected to and suspended the emergency rule. IGB has failed to adequately show the existence of an emergency that warrants immediate adoption of the rule changes without the public comment and review opportunities afforded by the use of proposed rulemaking. JCAR finds that this use of emergency rulemaking constitutes a threat to the public interest.

The suspended emergency rule may not be enforced by the Illinois Gaming Board for any reason, nor may the Department file with the Secretary of State any rule having substantially the same purpose and effect as the suspended rule, for as long as the Suspension remains in effect.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SECOND NOTICES RECEIVED

The following second notices were received during the period of November 5, 2019 through November 12, 2019. These rulemakings are scheduled for the December 17, 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.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
12/20/19	<u>Revenue</u> , Liquor Control Act (86 Ill. Adm. Code 420)	9/6/19 43 Ill. Reg. 9334	12/17/19
12/20/19	<u>Healthcare and Family Services</u> , Medical Assistance Programs (89 Ill. Adm. Code 120)	7/12/19 43 Ill. Reg. 7599	12/17/19
12/21/19	<u>Financial and Professional Regulation</u> , Illinois Public Accounting Act (68 Ill. Adm. Code 1420)	9/20/19 43 Ill. Reg. 10233	12/17/19
12/21/19	<u>Financial and Professional Regulation</u> , Real Estate Appraiser Licensing (68 Ill. Adm. Code 1455)	9/20/19 43 Ill. Reg. 10260	12/17/19
12/21/19	<u>Secretary of State</u> , Illinois State Library, Government Documents Section (23 Ill. Adm. Code 3020)	9/20/19 43 Ill. Reg. 10404	12/17/19
12/21/19	<u>Secretary of State</u> , Illinois State Library Grant Programs (23 Ill. Adm. Code 3035)	9/20/19 43 Ill. Reg. 10408	12/17/19

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SECOND NOTICES RECEIVED

12/21/19	<u>Secretary of State, Public Library Non-Resident Services (23 Ill. Adm. Code 3050)</u>	9/20/19 43 Ill. Reg. 10430	12/17/19
12/21/19	<u>Guardianship and Advocacy Commission, Human Rights Authority (59 Ill. Adm. Code 310)</u>	8/16/19 43 Ill. Reg. 8610	12/17/19
12/26/19	<u>Financial and Professional Regulation, Physician Assistant Practice Act of 1987 (68 Ill. Adm. Code 1350)</u>	7/5/19 43 Ill. Reg. 7335	12/17/19

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PUBLIC INFORMATION

- 1) Heading of the Part: Accrediting Persons in the Practice of Medical Radiation Technology
- 2) Code Citation: 32 Ill. Adm. Code 401
- 3) Illinois Register Citation to Notice of Proposed Rules: 43 Ill Reg. 12939; November 8, 2019
- 4) Date, Time and Location of Public Information:

Tuesday, December 3, 2019
10 a.m. to 11 a.m.
Instructions and the link for accessing the webinar are provided on IEMA's Proposed Regulations webpage (under the Legal tab) at
<https://www2.illinois.gov/iema/laws/Pages/Regs-Proposed.aspx>
- 5) Other Pertinent Information: Written comments may be submitted at any time to the Illinois Emergency Management Agency, ATTN: Legal Office, 1035 Outer Park Dr., Springfield, IL 62704. The Agency will consider fully all written comments submitted as part of the First Notice public comment period.

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 43, Issue 47 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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